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Monday, 15 March 2021

To: The Members of the **Licensing Committee**  
(Councillors: Rodney Bates (Chairman), Vivienne Chapman (Vice Chairman), Dan Adams, Peter Barnett, Richard Brooks, Paul Deach, Ben Leach, David Lewis, David Mansfield, John Skipper, Pat Tedder, Helen Whitcroft and Valerie White)

**In accordance with the Substitute Protocol at Part 4 of the Constitution, Members who are unable to attend this meeting should give their apologies and arrange for one of the appointed substitutes, as listed below, to attend. Members should also inform their group leader of the arrangements made.**

Dear Councillor,

A meeting of the **Licensing Committee** will be held at Virtually - Public Meeting on **Wednesday, 24 March 2021 at 7.00 pm**. The agenda will be set out as below.

Please note that this meeting will be recorded and live streamed on <https://www.youtube.com/user/SurreyHeathBC>

Yours sincerely

Damian Roberts

Chief Executive

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## AGENDA

|  | <b>Pages</b> |
|--|--------------|
| <b>1 Apologies for Absence</b>   |              |
| <b>2 Minutes</b>   | <b>3 - 6</b> |
| To confirm and sign the minutes of the meeting held on 21 October 2021.  |              |
| <b>3 Declarations of Interest</b>  |              |
| Members are invited to declare any Disclosable Pecuniary Interests and non-pecuniary interests they may have with respect to matters which are to be considered at this meeting. Members who consider they may have an interest are invited to consult the Monitoring Officer or the Democratic Services Officer prior to the meeting. |              |

|          |   |                  |
|----------|---|------------------|
| <b>4</b> | <b>Statement of Licensing Policy</b>  | <b>7 - 114</b>   |
| <b>5</b> | <b>Hackney Carriage (Taxi) and Private Hire (PH) Licensing Policy 2021-2026</b> | <b>115 - 234</b> |
| <b>6</b> | <b>Business and Planning Act 2020: Licensing Implications</b>                   | <b>235 - 250</b> |
| <b>7</b> | <b>Amendment to Taxi Rank o/s No 72 to 84 High Street Camberley</b>             | <b>251 - 254</b> |
| <b>8</b> | <b>Licensing Act 2003 - Summary of Decisions</b>                                | <b>255 - 258</b> |

**Minutes of a Meeting of the Licensing Committee held at Virtually on 21 October 2020**

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+ Cllr Rodney Bates (Chairman)  
 + Cllr Vivienne Chapman (Vice Chairman)

- |                       |                        |
|-----------------------|------------------------|
| + Cllr Dan Adams      | + Cllr David Mansfield |
| + Cllr Peter Barnett  | + Cllr John Skipper    |
| + Cllr Richard Brooks | + Cllr Pat Tedder      |
| - Cllr Paul Deach     | + Cllr Helen Whitcroft |
| + Cllr Ben Leach      | + Cllr Valerie White   |
| + Cllr David Lewis    |                        |

+ Present  
 - Apologies for absence presented

Members in Attendance: Cllr Cliff Betton

Officers Present: Paula Barnshaw, Helen Lolley, Tim Pashen and Frances Soper

**10/L Minutes**

The minutes of the meeting held on 29 July 2020 were confirmed and would be signed by the Chairman when possible.

**11/L Proposed Statement of Licensing Policy**

The Committee considered a proposed draft of the Statement of Licensing Policy 2021-2026 with a view to consultation, before the Licensing Committee would consider the final draft Policy, including any amendments arising from the consultation, for recommendation to Full Council in early 2021.

As the local Licensing Authority, the Council was required to prepare and publish a Licensing Policy at least every 5 years. The current Statement of Licensing Policy 2016-2021 was now due to be reviewed and updated. It was noted that the proposed draft policy reflected the Revised Guidance issued under Section 182 of the Licensing Act, published in April 2018.

Before determination of the Statement of Licensing Policy the Council was required to consult on the revised policy by virtue of section 5 of the Licensing Act 2003. The consultation on the policy would last for a period of 6 weeks commencing on 28 October 2020. An additional published supplement listed the proposed consultees which included the statutory consultees as listed in Section 5 (3) of the Licensing Act 2003.

Members were advised that as part of the consultation all Ward Councillors would be invited to respond. Members of the Licensing Committee were invited to comment on the draft updated policy.

It was highlighted that the new proposed Statement of Policy included the current Cumulative Impact Policy (CIP) and that there was a statutory requirement to consult on the CIP every three years to determine whether there was current evidence and support for the CIP to remain in place. The statutory consultees for the CIP were the same as for the Statement of Licensing Policy it was therefore proposed that both consultations would be carried out simultaneously.

**RESOLVED that**

- I. The contents of the agenda report be noted;**
- II. The draft Statement of Licensing Policy 2021-2026 be approved for consultation as per the agenda pack; and**
- III. The requirements in respect of the Cumulative Impact Special Policy be noted.**

**12/L Licensing Act - Summary of Delegated Decisions.**

The Committee received the numbers of decisions taken under delegated powers in respect of licence applications where no representations had been received from the responsible authorities or any other persons.

**13/L Coronavirus Regulations Enforcement**

Members were given an update in respect of the powers which had been given to Local Councils and delegated to officers that sought to control the spread of COVID-19.

Local authorities were expected to take proportionate action by seeking to achieve compliance by an educative approach, but if necessary with fixed penalty notices which had been made available as an enforcement tool.

Whilst the Police had continued to lead on enforcement in relation to breaches of requirements on individuals for example with regard to the wearing of face coverings in public and the Rule of 6, local authorities were leading on the obligations placed on businesses. These obligations included business closure, restrictions on opening hours, as well the maintenance of social distancing and the rule of 6 within premises. It was noted that businesses were obligated to display notices communicating the need for face coverings and make available a QR code for customer scanning. There was also a requirement to provide a means of manual contact tracing. It was noted that some businesses such as nightclubs were required to remain fully closed.

Environmental Health and Licensing Officers were responding to large volumes of correspondence in respect of levels of observance to the new requirements, whilst also proactively monitoring adherence whilst on Camberley Town Centre night visits. There was also ongoing work being undertaken to communicate the new rules via the Economic Development Team; and to recruit and deploy Covid Ambassadors and Marshals.

There was confusion in the hospitality industry in respect of the 2 metre rule and the associated use of social distancing screens; and there was an identified need for some premises to move furniture to maintain social distancing.

It was reported that whilst on their in person inspections, the Environmental Health and Licensing Teams had identified a number of premises which required follow up actions. These existing issues had included Quick Response (QR) codes and mask wearing posters not being displayed in prominent positions and slow customer responses to the 10pm closure.

Members were informed that the Borough's Covid Ambassadors would be working closely with Collectively Camberley and local businesses to promote mask wearing and social distancing in The Square and in other retail premises. It was also noted that the Council were also planning to deploy the Town Centre's former Taxi Marshalls as Covid Marshalls. Members expressed concerns in respect of the perceived lack of mask-wearing in Camberley Town Centre. It was hoped that the promotion of face coverings and the presence of Covid Marshalls would encourage adherence to the social distancing measures. In addition Members were also advised that there was funding available for the recruitment of an additional Environmental Health Officer, which would add to the resources available for enforcement.

**RESOLVED that the verbal update on the enforcement of the Coronavirus Regulations be noted.**

**14/L Committee Work Programme**

The Committee noted its Work Programme for the rest of the municipal year.

Chairman

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## Statement of Licensing Policy and Guidance 2021-2026

### **Purpose**

To consider the revised draft Statement of Licensing Policy 2021-2026 in relation to exercising functions under the Licensing Act 2003.

### **Wards Affected: All**

### **Recommendation**

The Licensing Committee is advised to note the contents of this report and to approve the attached revised draft Statement of Licensing Policy 2021-2026 for adoption.

The Committee is also asked to consider the options available to Members with regards to the Cumulative Impact- Special Policy (CIP) and to choose the preferred option together with the actions required by officers to move the preferred option forward.

## **1. Background**

- 1.1 As the Licensing Authority under the Licensing Act 2003 we are required to prepare and publish a licensing policy at least every 5 years. We are also required to keep the policy under review and update it as appropriate.
- 1.2 Our current Statement of Licensing Policy (SOLP) took effect from 24<sup>th</sup> February 2016 for the period 2016-2021. Acknowledging that the life of the policy is due to end in February 2021 it has been reviewed and updated.
- 1.3 As part of this review we have had regard to the changes introduced by the Revised Guidance issued under section 182 of the Licensing Act 2003 which was published in April 2018.
- 1.4 Following consideration of the revised Policy at the Licensing Committee on the 21 October 2020 approval was given to put the revised SOLP out to consultation.
- 1.5 In accordance with section 5 of the Licensing Act 2003 we consulted widely on the revised SOLP. This included consulting the persons listed in section 5(3) of the Licensing Act 2003 as given below:
  - a) The Chief Officer of Police for our area
  - b) The Fire Authority

- c) Persons/bodies representative of local holders of premises licences
  - d) Persons/bodies representative of local holders of club premises certificates
  - e) Persons/bodies representative of local holders of personal licences
  - f) Persons/bodies representative of business and residents in the area.
- 1.6 As part of our consultation we contacted all Ward Councillors to give them an opportunity to comment.
- 1.7 The consultation period ended at the beginning of December and we are now in a position to consider the results.
- 1.8 We received three representations on the SOLP as outlined in 3 below.

## **2. Cumulative Impact – Special Policy**

- 2.1 Our current Statement of Licensing Policy 2016-2021 includes a Cumulative Impact Policy (CIP). When revising our Statement of Licensing Policy we must have regard to our CIP.
- 2.2 Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. For example the impact on surrounding areas of the behaviour of customers of all premises will be greater than the impact of customers of individual premises. The CIP recognises this and is a tool that helps us to minimise the impact.
- 2.2.1 Following Revised Guidance issued under section 182 of the Licensing Act in April 2018 we are required to review the CIP every three years. It seemed appropriate to carry out both consultations simultaneously.
- 2.3 As part of our consultation on the SOLP we asked for comments on the CIP to allow us to consider its future.
- 2.4 The list of consultees on the CIP was the same as for the SOLP as required by section 5(3) of The Act.
- 2.5 We received two representations on the CIP, details of both is provided later in this report. Both representations were in support of retaining the CIP.
- 2.6 If the Licensing Committee make a decision to remove the CIP we must publish a statement to that effect, including the fact that any reference to a CIP no longer applies.
- 2.7 Alternatively if the decision is made that the CIP remains it will be revised to update the evidence that supports why it continues to be relevant. This information will be published on our website.



### **3. Results of the Consultation**

#### **3.1 a) Statement of Licensing Policy**

During the consultation period we received three representations on the SOLP. Copies of the representations are attached, Annex B.

Representations were received from:

- Councillor Cliff Betton
- The Fire Authority and
- The Venue Manager, Camberley Theatre

The draft SOLP presented to the Licensing Committee in October has been amended to reflect the comments and recommendations made in the representations.

A copy of the revised SOLP is attached, Annex A. No further changes have been made to the Policy.

#### **b) Cumulative Impact – Special Policy**

Two representations were made on the CIP both in support of retaining the CIP. Copies of these representations are attached, Annex B

Representations were received from:

- Councillor Alan McClafferty and
- Inspector Alick James on behalf of the Police as a Responsible Authority under the Licensing Act 2003.

The Licensing Committee is now in a position to consider the future of the CIP.

The options available are as follows:

- Keep as existing
- Amend to reflect current situation
- Or
- Remove

Whichever option is chosen there is a formal process to be followed, this is outlined in section 5A of the Licensing Act 2003. Further details are included in the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003.

If the decision is made to retain the CIP, we must revise the CIP to include a statement to the effect that the Licensing Authority remain of the opinion that:

'the number of relevant authorisations in respect of premises within the area covered by the CIP is such that it would be likely that it would be inconsistent with the authority's duty under section 4(1) to grant any further relevant authorisations in respect of premises within the CIP'.

We must also set out the evidence as to why the authority remains of that opinion. We must then publish any revision of the CIP.

The process outlined above also applies where a decision is made to amend the CIP.

If a decision is made to remove the CIP we must:

Publish a statement to the effect that the Licensing Authority is no longer of the opinion set out above.

### 3.2 Consideration of the Options

At an informal meeting with Councillor Rodney Bates, on the 22<sup>nd</sup> of February, attended by Councillor Alan McClafferty and Inspector Alick James details of the representations were discussed.

Both Councillor Alan McClafferty and Inspector James presented compelling reasons why the CIP should in their opinion be retained.

Following the discussion Councillor Bates indicated his support for retaining the CIP. The advantages of retaining the CIP could outweigh any disadvantages as it could act as a tool both now and in the future by allowing us to potentially control the impact of licensed premises within the CIP.

As there were no representations in support of removing the CIP it appears appropriate to retain it in light of available evidence. We would however monitor the impact of the CIP on the Town Centre development, in particular future prosperity. We would respond appropriately if the evidence indicates we should adopt a different approach.

## 4. Resource Implications

- 4.1 There are no resource implications arising from changes to the SOLP, however publicising the decision to either retain, amend or remove the CIP is likely to cost in the region of £500.

## 5. Covid-19

- 5.1 This continues to be a challenging time and it is likely that restrictions will continue in one form or another for some time. In response to the pandemic the Government introduced new legislation

and guidance, which continues to be updated, to protect people and to support businesses.

- 5.2 The revised draft Statement of Licensing Policy reflects some of the changes which have had an impact on licensing. This includes the provision of Remote Hearings and Pavement Licensing.

## 6. Recommendation

- 6.1 The Committee is advised to approve the revised draft Statement of Licensing Policy 2021-2026 as outlined in this report for adoption at Full Council.
- 6.2 The Committee is advised to approve the option of retaining the CIP with a recommendation that the impact of the CIP is kept under review as we emerge from current restrictions imposed as a result of COVID-19.

|                               |  |
|-------------------------------|--|
| <b>Annexes</b>                | Annex A: Revised draft Statement of Licensing Policy and Guidance 2021-2026<br><br>Annex B: Representations made following consultation on the revised SOLP and CIP. |
| <b>Background Papers</b>      | Revised Guidance issued under section 182 of the Licensing Act 2003.   |
| <b>Author/Contact Details</b> | Helen Lolley<br>Helen.lolley@surreyheath.gov.uk  |
| <b>Head of Service</b>        | Tim Pashen - Executive Head of Community   |

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# STATEMENT OF LICENSING POLICY AND GUIDANCE

## 2021-2026

Licensing Act 2003

Section 5

**Surrey Heath Borough Council**  
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## SUMMARY

This licensing policy has been determined by the Council for the five year period commencing xx/xx/2021 with a view to promoting the four licensing objectives set out in section 4(2) of the Licensing Act, 2003.

These objectives are:

1. the prevention of crime and disorder;
2. public safety;
3. the prevention of public nuisance; and
4. The protection of children from harm.

In carrying out our licensing functions we will have regard to:

- This statement of licensing policy published under section 5 of the Licensing Act 2003 and
- Home Office Guidance issued under section 182 of the Licensing Act 2003 (as revised April 2018)

The Council as licensing authority when determining applications that have been the subject of representations will only refuse the grant of a licence or impose conditions if this is necessary to achieve or promote the licensing objectives.

During the five year period the policy will be kept under review and the Council will if necessary, after appropriate consultations, make such revisions to it as may be considered appropriate. Any amendments will be incorporated in the licensing statement after each review. The statement of licensing policy will be reviewed and published with amendments, if any, at least once every five years.



# I. INTRODUCTION

- 1.1 Surrey Heath is located in the northwest corner of Surrey and is home to over 89,000 people. Camberley Town Centre is the largest shopping and business area within the Borough and the largest cluster of entertainment venues is situated in the town including shopping facilities, restaurants, theatre, a multiscreen cinema and a ten pin bowling complex. Areas of the Borough remain undeveloped and parts are covered by 'Green Belt'. Most areas are primarily residential in nature but there are large tracts of heathland and open green spaces. The agriculture and farming element of the area is now virtually non-existent and areas formerly used for these purposes are now often used in connection with open air recreational activities. Licensable activities are often complementary to these recreational activities.
- 1.2 There are approximately 250 public houses, restaurants, clubs, community centres and halls in the Borough where alcohol is sold or where entertainment is provided on a regular or occasional basis and there are retail outlets for the sale of alcohol. Under the terms of the Licensing Act, the retail sale of alcohol and the provision of regulated entertainment can only take place in suitable premises that have been licensed by the Council and the people operating and managing these premises must also hold appropriate licences.
- 1.3 Surrey Heath Borough Council is the Licensing Authority pursuant to the Licensing Act 2003, being responsible for considering all applications for licensable activities, as defined in section 1 of the Act, within the Borough and determining licence applications in accordance with the provisions of the Act. The purpose of licensing is to regulate licensable activities in licensed premises, qualifying clubs and at temporary events.
- 1.4 The Council has had regard to the revised Home Office guidance issued under section 182 of the Licensing Act 2003 when formulating our policies.
- 1.5 The latest version of this guidance was published in April 2018.
- 1.6 In the interests of speed, efficiency and cost-effectiveness the Council has, where possible, delegated licensing decisions and functions to officers of the Council. No matters will be determined under delegated powers if the matter to be decided is controversial, nor if the interests of any person, body or organisation would be jeopardised in the absence of a hearing or the determination of the matter under delegated powers is precluded by law.
- 1.7 Reference is made in the policy to the current Covid-19 pandemic. Whilst we recognise that this will hopefully come to an end sometime in the future we acknowledge the impact this has had and continues to have on the work of the Council and in particular the Licensing Authority. We recognise the need to be flexible in our approach as the Government issues updated or new guidance in response to Covid-19.
- 1.8 All references to "the Act" in this document shall be deemed to mean "The Licensing Act 2003". The Licensing Committee and Sub-Committee may both consider licence applications on behalf of the Council and where reference is made to the Sub-Committee undertaking a function, that function may be undertaken by the Licensing Committee. All references to

guidance are reference to the Revised Guidance issued under Section 182 of the Act (April 2018) and references to premises also apply to club premises.

## 2. SCOPE OF THE STATEMENT OF LICENSING POLICY

2.1 The Licensing Act 2003 sets out the legal framework for the Licensing Authority to licence the following activities:

- Retail sale of alcohol
- The supply of alcohol by or on behalf of a club
- Regulated entertainment
- Late night refreshment

2.2 These activities are controlled through a system of:

- Premises licences
- Club premises certificates
- Personal licences
- Temporary event notices

2.3 For definitions of these activities and information on the different types of licences available further information may be found on the Government website.

<https://www.gov.uk/guidance/alcohol-licensing>

2.4 The Act requires the Licensing Authority to carry out its licensing functions to promote the licensing objectives. Surrey Heath Borough Council as the Licensing Authority takes its responsibilities under the Licensing Act seriously and will use all available powers to promote the four licensing objectives;

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

2.5 Further detail and explanation of the licensing objectives may be found within the Revised Guidance which may be found on the Government website.

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

2.6 The Act requires the Licensing Authority to prepare and publish a statement of its licensing policy every five years. This Statement of Licensing Policy fulfils this requirement.

## 3. RESPONSIBLE AUTHORITIES (RA'S)

3.1 The Act sets out a requirement to consult a number of interested parties and responsible authorities on applications received under the Act

The Council will as required notify 'responsible authorities' of relevant applications made under the Act. The responsible authorities are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence. All representations must be considered 'relevant' by the Licensing Authority and relate to one or more of the licensing objectives.

For all premises, responsible authorities include:

- The Licensing Authority
- The Chief Officer of Police
- The local fire and rescue authority
- The relevant enforcing authority under The Health and Safety at Work etc. Act 1974
- Environmental Health
- Planning
- Social Services- responsible for, or interested in, matters relating to the protection of children from harm
- The Director of Public Health
- Trading Standards; and
- Home Office Immigration Enforcement \*( on behalf of the Secretary of State)

*\*The Immigration Act 2016 amended The Act with effect from 6 April 2017 so that an application made on or after that date by someone who is not entitled to work in the UK must be rejected.*

*The contact details for the Responsible Authorities are listed in Appendix B.*

## **4. POLICY CONSULTATION**

- 4.1 In determining this policy the Licensing Authority will undertake full, formal consultation with members of the public, community stakeholders, specific groups and individuals as listed in section 5(3) of the Licensing Act 2003.

These are;

- The Chief Officer of Surrey Police
- Surrey Fire & Rescue Authority
- Director of Public Health
- Persons / bodies representative of local premises licence holders
- Persons / bodies representative of local club premises certificate holders
- Persons / bodies representative of local personal licence holders
- Persons / bodies representative of businesses and residents in its area

- 4.2 In addition the Licensing Authority will consult with Surrey Trading Standards, Surrey Safeguarding Children Board, Surrey Heath Borough Council Environmental Health (Pollution Control), Surrey Heath Borough Council Environmental Health (Health & Safety) and Surrey Heath Borough Council Planning Department. The draft policy will also be published on Surrey Heath Borough Council's website.

- 4.3 The views of all these bodies and the evidence presented will be given due weight in the determination of the final policy.

## **5. PARTNERSHIP WORKING AND INTEGRATING STRATEGIES**

- 5.1 The revised Home Office Guidance issued under section 182 of The Act recommends that Statements of Licensing Policies (the Policy) should provide clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and other relevant plans. While many local strategies are not directly related to the promotion of the licensing objectives, they indirectly impact upon them.
- 5.2 We will therefore in conjunction with Surrey's Licensing Forum endeavour to:
- Work with partner agencies that are involved either directly or indirectly in delivering the Policy, including responsible authorities, local businesses and the local community.
  - Identify and galvanise new and existing opportunities to develop, strengthen and foster partnership in order to improve delivery of the Policy.
  - Undertake consultation and communication on licensing issues with all licensees, communities and their representatives.
  - Ensure pro-active enforcement in line with the council's Corporate Enforcement Policy in order to achieve the licensing objectives.
  - Work to reduce crime and disorder where it exists in close proximity to licensed premises.

## **6. FUNDAMENTAL PRINCIPLES**

- 6.1 This policy statement sets out a general approach to making licensing decisions and acknowledges the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
- 6.2 Similarly, this policy statement does not override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 6.3 Licensing is about the control of licensed premises, qualifying clubs, temporary events and individuals within the terms of the Act. Any conditions or restrictions attached to a premises licence or club premises certificate will be focused on matters which are within the control of individual licensees.
- 6.4 These matters centre on the premises and places being used for licensable activities and any impact of those activities in the vicinity of those premises and places. The Licensing Authority will primarily focus on the direct impact 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.

- 6.5 Licensing law is not a mechanism for the general control of nuisance or anti-social behaviour by individuals once they are beyond the boundaries of the licensed premises.
- 6.6 The controls exercised through the provisions of the Act are however key aspects in the control of nuisance and antisocial behavior, where this behavior can be directly linked to the licensed premises, this forms part of the Council's holistic approach to licensing.
- 6.7 In addition, the Licensing Authority recognises that, apart from the licensing function, there are a number of other partnership mechanisms available for addressing issues arising out of the operation of licensed premises. We will work closely with our partners to achieve the licensing objectives.
- 6.8 The Licensing Authority will, so far as possible, avoid duplication with other regulatory regimes and does not intend to use the Licensing Act to achieve outcomes that can be achieved by other legislation. It is important that we work together with other agencies to identify the most appropriate legislation in each case.
- 6.9 In particular, the licensing functions will be carried out separately from the Council's functions as the Planning Authority.
- 6.10 It will normally be expected that applications for premises licences in respect of permanent commercial premises should be from businesses with the appropriate planning consent for the activity concerned in place.
- 6.11 Where representations are made with respects to a particular application which relate to the licensing objectives, either from a Responsible Authority or from any interested other person, a hearing will be held at which the applicant and those making representation will have the opportunity to comment on the representations made.
- 6.12 In all cases, applicants and those making representations in respect of applications made to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority. Any appeal must be lodged within 21 days of the date upon which written notice of the decision is given by the Licensing Authority.

## **7. HEALTH**

- 7.1 Health leads have been given a role in the licensing process as a Responsible Authority creating a recognised role in considering and making representations to licensing applications on health grounds.
- 7.2 The Licensing Authority welcomed this change and the ongoing development of a multi-agency collaborative approach towards licensing matters, recognising the significant scope for participation to reduce alcohol related violence and harm, as well as promoting and advising on sensible drinking whilst providing evidence on the impact of alcohol outlet density and its effect on health, crime and children. We particularly recognise the importance of their involvement in relation to the current on-going situation with regards to Covid- 19.

- 7.3 The licensing process is focused on controlling the immediate harms associated with alcohol sales at particular premises, with all licensing decisions relating specifically to the premises in question and their promotion of the four statutory licensing objectives.
- 7.4 The Licensing Authority recognise that there is further development work being undertaken to maximise the use of health data in the licensing process by improving the collection and distribution of both data and intelligence from Surrey's NHS trust by relevant partners. This is recognised as a priority within Surrey's Substance Misuse Strategy and as a fundamental method of preventing escalating alcohol-related harm throughout Surrey. The Licensing Authority will consider health-related evidence that directly links to a premises after receiving representation(s) where it is considered to impact on one or more of the licensing objectives.

## **8. PREMISES LICENCES & CLUB PREMISES CERTIFICATES**

- 8.1 A Premises Licence is required for the sale of alcohol, provision of regulated entertainment or the provision of late night refreshment (sale of hot food and drink to the public between 11.00 pm and 5.00 am).
- 8.2 Some activities carried out by clubs need to be licensed under the Act but generally clubs are treated differently to commercial premises.
- 8.3 In determining applications for Premises Licences and Club Premises Certificates the Licensing Authority will have regard to the guidance and any secondary legislation.
- 8.4 It is important that applications for Premises Licences and Club Premises Certificates properly address the four licensing objectives by providing as much detail as possible on the application form.
- 8.5 The application must be supported by a comprehensive operating schedule. This schedule must specify the steps which the applicant proposes to take in order to promote each of the licensing objectives.
- 8.6 A club is an organisation where members have joined together for a particular reason i.e. social, sporting or political and have combined to buy alcohol in bulk as members of the organisation for supply to their members. In order to apply for a Club Premises Certificate the club needs to be a 'Qualifying Club'.
- 8.7 A Qualifying Club;
- Has rules whereby membership is not instant. There must be a minimum of 2 days between applications for membership and admission which includes the privileges of membership (i.e. use of facilities and the consumption of alcohol)
  - Has not less than 25 members
  - Must be conducted in good faith and have full accountability to its members
  - Must not supply alcohol to members, otherwise than by or on behalf of the club.
- 8.8 A Qualifying Club is entitled to certain benefits unlike a licensed premises;
- No need for Personal Licence Holders on the premises

- No need for Designated Premises Supervisors
- More limited rights of entry for the Police and other Authorised Persons (Licensing Officers) as the premises is considered private and not generally open to the public
- No instant closure powers by the Police for disorder or noise
- Permitted to sell hot food and drink between 11pm and 5am to members and their guests without the requirement for a licence.

8.9 Where applications for Premises Licences or Club Premises Certificates have attracted representations from a Responsible Authority or any other person, the application will be scheduled for a hearing before a Licensing Sub-Committee where the applicant and those making representations may be heard.

8.10 The Licensing Sub-Committee will give full and written reasons for the decision made for each application that proceeds to a hearing.

## **8.1. Application Consultation**

8.1.1 The consultation process required for applications for Premises Licences, Club Premises Certificates and Full Variations of existing licences or certificates allows for representations to be made by various bodies and individuals. Responsibility for undertaking the advertisement of the application in accordance with the requirements lies with the applicant.

8.1.2 The Council will publish details of all new applications on its website, updated weekly, details can be found on our Public Notice web page.

## **8.2. Making Representations**

8.2.1 Representations about an application must be made in writing to the Council's Licensing Team within the time period prescribed. Written representations may include letters whether posted or faxed and emails. Any representations received after the end of the public consultation period cannot legally be accepted, unless shown to have been submitted within the time limit.

8.2.2 When making a Representation the Council requests that a contact phone number and email address are provided. These help the Licensing Authority to quickly contact respondents if the details of the application are altered as a result of the representations received in connection with arrangements for the hearing.

8.2.3 Representations should contain;

- The name, full address & post code of the person making them.
- The reasons for their representation and
- Which of the four Licensing Objectives the representations relate to;
  - The prevention of crime and disorder
  - Public Nuisance
  - Public safety
  - Protection of children from harm

- 8.2.4 A representation would be ‘irrelevant’ if it is not about the likely effect of the grant of the application on the promotion of the licensing objectives. Irrelevant representations cannot be accepted.
- 8.2.5 A representation made by a person other than a Responsible Authority will not be accepted if the Licensing Authority decides that it is frivolous or vexatious.
- 8.2.6 Vexation may arise where, for example, there is a dispute between rival businesses, or a repetitive complaint from another person which has already been subject of investigation and no new evidence provided.
- 8.2.7 Frivolous representations would be categorised by a lack of seriousness.
- 8.2.8 Such judgments will be made by officers following such enquiries as may be necessary.
- 8.2.9 Where a representation is found to be irrelevant, vexatious or frivolous, the person making it will be informed in writing that the representation will be disregarded. All valid representations will form part of a committee report that will become a public document. It will be provided to the applicant, his agent and persons who have made representations as well as the Licensing Sub-Committee 10 days prior to the hearing.
- 8.2.10 Whilst representations may not be made anonymously, in exceptional circumstances, such as when the objector has a genuine and well-founded fear of intimidation or violence, some or all of the objectors personal details may be removed from the representation before it is given to the applicant.

Anyone making a representation will be given the opportunity to explain why they would like to remain anonymous. Each request for anonymity will be taken on its merits, where the request is denied they will then be given the option of withdrawing their representation. The decision to deny anonymity will be discussed with the case officer’s line manager who will make the decision.

## **9. PERSONAL LICENCES**

- 9.1 To sell alcohol in licensed premises at least one person needs to hold a ‘Personal Licence’ which has been granted by the Licensing Authority where they live. This requirement does not apply to ‘qualifying clubs’.
- 9.2 Holders of a ‘Personal Licence’ must hold a recognised licensing qualification, be over 18 years of age and not have certain types of criminal conviction. Proof of a licensing qualification together with a Basic Disclosure certificate less than two months old and endorsed photographs of the holder are required as part of an application for a Personal Licence.
- 9.3 Where an applicant is found to have an unspent conviction for a relevant offence as defined in the Act or for a foreign offence, the Licensing Authority will notify the police. Where the police do not object and the application otherwise meets the requirements the Licensing Authority must grant it. If the police do object, a hearing will be held before the Licensing Sub-Committee to determine the application.



- 9.4 The Policing and Crime Act 2017 gave Licensing Authorities the power to revoke or suspend personal licences, with effect from 6 April 2017. This is a discretionary power.
- 9.5 When the Licensing Authority has granted a Personal Licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, we may revoke the licence or suspend it for a period of up to six months.
- 9.6 In exercising its duties, the Council will normally seek to suspend or revoke a Personal Licence when it is made aware that a licence holder has been found guilty of a relevant offence, foreign offence or civil penalty for immigration matters.
- 9.7 Full details relating to [Personal Licence applications](#) can be found on the Government website.

<https://www.gov.uk/guidance/alcohol-licensing>

## 10. FEES & CHARGES

- 10.1 [Licensing fees and charges](#) are set by Government and are the same across the Country. Full details can be found on the Home Office website.
- <https://www.legislation.gov.uk/ukxi/2005/79/contents/made>
- <https://www.gov.uk/government/publications/alcohol-licensing-fee-levels>
- 10.2 Once granted, a Premises Licence or Club Premises Certificate does not expire but the licence holder is required to pay an annual fee. Failure to pay the annual fee within the prescribed time will result in the Licensing Authority suspending the operation of the Premises Licence or Club Premises Certificate until all outstanding fees are paid.
- 10.3 Where the annual fee is paid the licence will remain in force even if the premises are not used for a licensable purpose.
- 10.4 Pre-application advice is available free of charge from the Council Licensing Team.
- 10.5 The service is available to assist applicants in preparing applications with a view to diminishing issues which may arise during the licence application process as a result of an incomplete or inadequately drafted application.
- 10.6 Applicants would be under no duty to use the Council's service, and the Licensing Authority cannot predetermine the outcome of any application submitted but can provide expert advice and highlight any potential issues and advise on how applications may be approached to comply with legal requirements and local Policy.
- 10.7 For details on the pre-application service, and fees please see the Council's website.
- 10.8 Applicants are advised that if applications are submitted incorrectly, applications will be rejected with applicants directed to re-apply, including paying the required fee.

## 11. VARIATIONS (FULL AND MINOR)

- 11.1 Both Premises Licences and Club Premises Certificates may be varied under the Act.
- 11.2 A minor variation is a simplified process with a set statutory fee applicable to all premises and clubs. There is a requirement to advertise the application by displaying a notice on the premises. Decisions on a minor variation are delegated to officers and there is no right to a hearing. The Licensing Authority must consult all relevant Responsible Authorities on an application for a minor variation and take their views into account.
- 11.3 Minor variations are those which cannot adversely impact on the licensing objectives and generally fall into four categories which are:-
- Minor changes to the structural layout which does not;
    - Increase the capacity for drinking (increasing floor area for patrons drinking etc.)
    - Affecting access or egress (blocking fire exits or escape routes)
    - Impede or remove noise reduction measures at the premises (removing acoustic lobbies etc.)
  - Small adjustments to licensing hours
  - Removal of out of date, irrelevant or unenforceable conditions or the addition of volunteered conditions
  - Addition of a licensable activity where similar activities already exist.
- 11.4 Full guidance on [minor variation applications](https://www.gov.uk/government/publications/minor-variations-to-premises-licence-application-form) can be found on the Government website.  
<https://www.gov.uk/government/publications/minor-variations-to-premises-licence-application-form>
- 11.5 Full variations follow the same procedure as that for a new Premises Licence with the need for advertisement on the premises and in the newspaper in addition to the statutory consultation.
- 11.6 The areas in which a premises licence may be varied include;
- Varying the hours during which a licensable activity is permitted
  - Adding or removing licensable activities
  - Amending, adding or removing conditions within a licence
  - Altering any aspect of the layout of the premises which is shown on the plan.
- 11.7 Where the changes proposed are substantial or involve completely changing the nature of the business, it may be more appropriate to apply for a new premises licence. Advice may be sought from the licensing team in this instance.

## 12. TEMPORARY EVENT NOTICES

- 12.1 Anyone over the age of eighteen may serve the Licensing Authority with a Temporary Event Notice. This permits people to hold an event involving licensable activities without having to apply for a Premises Licence or Club Premises Certificate.
- 12.2 Applicants must provide a clear description of the area in which they propose to carry on licensable activities and must describe the event taking place at the premises for example, a wedding with a pay bar, the supply of alcohol at a particular event, a discotheque, the performance of a string quartet, a folk group or a rock band. This is not an exhaustive list.
- 12.3 Where applicants are uncertain whether or not the activities that they propose are licensable or require assistance with an application, they should contact the licensing team for further advice.
- 12.4 Temporary Event Notices may be obtained for the sale of alcohol
- The provision of regulated entertainment
  - The sale of hot food or drink between 11.00 pm and 5.00 am.
- 12.5 Part 16 of the Revised Guidance provides an overview of circumstances in which entertainment activities are not licensable.
- 12.6 We will have regard to these when considering applications for TENs. These changes were introduced by the Live Music Act 2012 which resulted in deregulatory changes that amended the Licensing Act 2003.
- The Live Music Act 2012 deregulated the performance of live music between the hours of 08:00 and 23:00 to an audience of less than 500.
- 12.7 A Temporary Event Notice should be submitted to the Licensing Authority a minimum of 10 working days before the proposed event (Standard TENs), however a limited number of applications may be made giving no less than 5 working days' notice (Late TENs). If objections are received from either the police or Environmental Health a hearing will be held to decide whether the event can go ahead in the case of Standard TENs. Late TENs will not be valid following an objection and the event will not be able to go ahead.
- 12.8 There are certain limitations to Temporary Event Notices, current limits are listed below, (subject to change) for confirmation of limits please refer to the Government website;
- The maximum number of people attending must not exceed 499 at any one time
  - The event cannot last longer than 168 hours
  - No premises may host more than 15 events in a year
  - The maximum number of days covered by Temporary Event Notices cannot exceed 21 days in a year
  - A personal licence holder may apply for up to 50 temporary events with 10 of these being late
  - Any other person may apply for 5 temporary events with 2 of those being late.
- 12.9 Further details and comprehensive guidance on [Temporary Event Notices](https://www.gov.uk/temporary-events-notice) may be found on the Government website.

<https://www.gov.uk/temporary-events-notice>

## 13. LICENSING HOURS

- 13.1 Many representations submitted in response to licensing applications for the sale of alcohol for consumption on premises relate to public concern about the hours of operation proposed. The Licensing Authority recognises there is opportunity for significant detrimental impact for local residents where licensed premises operate late. It also recognises that longer licensing hours for the sale of alcohol may avoid large numbers of people leaving premises at the same time, which in turn may reduce disorder and disturbance.
- 13.2 Where representations are made against the grant of a new licence for the sale of alcohol for consumption off the premises such as shops, garages and supermarkets, the Licensing Authority may consider restricting those hours only where there are good and justifiable reasons for doing so and if this would promote the licensing objectives.

Currently all licensed premises are allowed off-sales by virtue of section 11 of the Business and Planning Act 2020. These are temporary arrangements which aim to boost the economy during the Covid-19 pandemic and are due to come to an end September 2021.

- 13.3 The Licensing Authority notes the guidance of the Secretary of State on hours of trading contained within the Revised Guidance which states that;

*10.13 “The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.”*

*10.14 “Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.”*

*10.15 “Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.”*

- 13.4 The Licensing Authority can use powers to control the hours of operation of any licensed premises where it has received a representation against an application and there are reasonable and proportionate grounds to believe that if the licence was granted as applied for without restriction, nuisance, antisocial behaviour or crime and disorder might arise. Such situations are most likely to arise where licensed premises are located close to residential areas.

- 13.5 Where representations are received, the application will be referred to a Licensing Sub-Committee in accordance with the scheme of delegation included in this Policy. When hearing an application the Sub-Committee will seek information and assurances from the applicant that the four Licensing Objectives will not be undermined by the grant of the application. Where the Sub-Committee considers it appropriate to do so it may apply licensing conditions, including limiting the hours of operation.
- 13.6 Fixed trading hours within designated areas will not be considered as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, with the attendant concentration of disturbance and noise.
- 13.7 Not all regulated entertainment will be associated with the sale of alcohol. There may be licence applications when alcohol is not provided for many reasons or in other circumstances it would be unnecessary or unlawful to have alcohol available, for example, events exclusively for children. In other circumstances regulated entertainment could finish earlier or later than the sale of alcohol.
- 13.8 The provision of Late Night Refreshment covers the supply of hot food or hot drink to members of the public at any time between the hours of 11.00pm and 5.00am. This includes takeaway food premises but also applies to restaurants and mobile vehicles.
- 13.9 In each case, the hours being sought for regulated entertainment or late night refreshment must be set out in the application and operating schedule. Where representations are received the Licensing Sub-Committee will consider each application, determining the hours of operation on its own merits taking into account the licensing objectives. We recognise that hours of operation may be restricted by separate legislation during the Covid-19 pandemic.

## **14. PROMOTING THE FOUR LICENSING OBJECTIVES**

- 14.1 The promotion of the four objectives is fundamental to the Act. Every applicant for a Premises Licence must provide a fully completed and detailed operating schedule. This schedule must be in the prescribed format.
- 14.2 The most effective means for an applicant to assess what measures are needed to promote the licensing objectives is by risk assessment.
- 14.3 The operating schedule forms the basis of any conditions placed on a licence other than those which are mandatory. It provides valuable information to interested parties and Responsible Authorities assisting their assessment of the impact of the licensed activity on the licensing objectives and provides information about how the applicant will address these issues. It is likely to form the basis of any decision to submit a representation against the application.
- 14.4 Providing as much information as possible in the operating schedule demonstrates that the applicant has seriously considered the issues, is aware of their duty to promote the licensing objectives at all times and is aware of how this may be best achieved.
- 14.5 The Licensing Authority considers the effective and responsible management of the premises, including instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of the licensing objectives.

For this reason, these measures should be specifically considered, detailed and addressed within an applicant's operating schedule.

## **14.1 Prevention of Crime and Disorder**

- 14.1.1 Licensed premises of any description, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people can be a source of crime and disorder. The Licensing Authority expect operating schedules to satisfactorily address these and any other potential issues, from the design of the premises through to the daily operation of the business.
- 14.1.2 Applicants are recommended to engage with and seek advice from the Police and other Responsible Authorities taking into account, as appropriate, local planning and transport policies in addition to tourism and crime prevention strategies when preparing their operating plans and schedules prior to submission.
- 14.1.3 When addressing crime and disorder, the applicant should identify any particular issues that are likely to adversely affect the promotion of the crime and disorder objective before including in the operating schedule how they propose to mitigate those matters.
- 14.1.4 Where objections are received and the Licensing Sub-Committee considers it appropriate to do so, conditions may be attached to licences to prevent crime and disorder both inside and in the vicinity of the premises.
- 14.1.5 The Licensing Authority considers the orderly dispersal of customers from licensed premises to be an important factor in promoting the licensing objectives. In considering applications for the grant or variation of a licence, serious consideration will be given to the dispersal arrangements, the potential effect that granting the licence might have on dispersal arrangements from other licensed premises or the cumulative impact in the area.
- 14.1.6 Recognising that illegal drug use is not an issue in all licensed premises, the Licensing Authority is committed to the reduction and eradication of illegal drugs from licensed premises as part of its role promoting the prevention of crime and disorder licensing objective. All licence holders are expected to actively support this objective by the way they plan, manage and operate their premises.
- 14.1.7 Where relevant representations are received following an application for the grant or variation of a licence, conditions may be imposed to support the prevention of the sale, supply and use of drugs. In premises where drug misuse is problematic and where the police or others apply for a 'Review' of the licence, the Licensing Sub-Committee will consider this as serious criminal activity and give appropriate consideration to the options available, including the suspension or revocation of the licence in accordance with the Guidance. The Licensing Authority recognises that each case must be decided on individual facts and its specific merits.

## **14.2 Summary Reviews**

- 14.2.1 Where the police consider that a premises licensed for the sale of alcohol by virtue of a premises licence, are associated with serious crime, disorder or both they may make an application for a summary review of a premises licence.
- 14.2.2 Where this is the case, the Licensing Sub-Committee will determine what interim steps are appropriate to address the immediate risk of serious crime or serious disorder occurring.
- 14.2.3 The Licensing Authority will not normally give the premises licence holder an opportunity to make representations prior to determining the interim steps, however may do so where it considers it is appropriate and feasible to do so in the circumstances.
- 14.2.3 Where the Sub-Committee determine that the interim steps must take immediate effect, the Licensing Authority will normally notify the premises holder in the first instance by the most expedient means possible e.g. telephone. Following this, the premises licence holder will also be notified in writing.
- 14.2.4 Following notification of the interim steps the Premises Licence holder may make written representations at any time between being notified of the interim steps and a subsequent review hearing. The hearing will be held to consider any representation, together with the senior police officer's certificate that accompanied the original application for a summary review and the chief police officer's representations (if any). The Licensing Sub-Committee will consider whether the interim steps are appropriate for the promotion of the licensing objective, and determine whether to confirm, modify or withdraw the steps taken. The hearing will be held within 28 days of the day after the original application is received.

A Summary Review flowchart is attached as Appendix C.

### **14.3. Public Safety**

- 14.3.1 The Licensing Authority is committed to ensuring, as far as practicable that the safety of any person visiting or working in licensed premises is not compromised. Applicants must demonstrate in their operating schedule that suitable and sufficient measures have been identified, implemented and maintained to ensure public safety specific to the characteristics of their premises and events.
- 14.3.2 Applicants are encouraged to contact the Council's Environmental Health Service with draft proposals including plans and operating schedules. Where applicable applicants should consider safe capacity, the safety of those with special needs and the first aid requirements of customers.
- 14.3.3 Licence holders should have clear documented policies and procedures in place which identify all public safety risks associated with the premises and the measures to prevent, manage, mitigate and respond to those risks.

These may include risk assessments covering the risk of Covid-19 and mitigation in place to minimise risk.

- 14.3.4 Where representations are received and the Licensing Sub-Committee considers it appropriate to do so, they may attach conditions to licences and certificates to ensure public safety.
- 14.3.5 For advice on compliance with health and safety legislation see the Council's Environmental Health Service website pages.

<https://www.surreyheath.gov.uk/search/search-results/Health%20and%20safety%20advice>

## **14.4. Prevention of a Public Nuisance**

- 14.4.1 Licensing Sub-Committees are mindful that 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. When addressing public nuisance the applicant should identify any particular issues that are likely to affect adversely the promotion of the licensing objective to prevent public nuisance, including in the operating schedule how they propose to mitigate and manage those issues.
- 14.4.2 Where an application includes provision of a smoking area or shelter, the Licensing Authority expects these to be situated as far as possible from neighbouring residential premises. It is expected that suitable receptacles be provided and maintained to dispose of cigarette litter in any area used for smoking outside licensed premises. Licensees must take all reasonable steps to discourage smoking on the public highway close to residential premises, considering measures such as a ban on customers taking drinks outside on to the public highway, the use of door supervisors or imposing a time after which readmission to the premises will not be permitted. Licence holders and applicants are reminded to consider compliance with noise nuisance legislation under the Environmental Protection Act 1990 when considering smoking locations.
- 14.4.3 The Licensing Authority expects all licence holders to consider the impact of noise on neighbours or those otherwise impacted. This may include undertaking simple measures such as not emptying glass into external bins at night, arranging deliveries wherever possible during the day or clearing garden areas at a reasonable time preventing nuisance to neighbouring residents.
- 14.4.4 There is a distinct separation between a public nuisance under the licensing objectives and statutory nuisance relating to noise, light and odour under Section 79 Environmental Protection Act 1990, which is dealt with by Environmental Health. Further information can be provided by the Council Environmental Health Service or from the Government website.
- 14.4.5 Applicants are encouraged to contact the Council's Environmental Health Service with draft proposals and where applicable, their plans and operating schedules as to how they intend to control noise emanating from the premises from openings to the building (doors, fans, windows, ventilation). Consideration should be given to the provision of attenuating material and if suitable building attenuation cannot be achieved, or no other appropriate measures can be taken to attenuate noise, then consideration to the installation, calibration and operation of a noise limiting device may have to be given.



14.4.6 Where representations are received and the Licensing Sub-Committee considers it appropriate to do so, they may attach conditions to licences and certificates to prevent public nuisance.

## **14.5. Protection of Children from Harm**

The Child Protection Committee acts as the Responsible Authority for the Protection of Children from Harm.

14.5.1 The wide range of different premises that require licensing under the Act means that children may be expected to visit many of these, often on their own, for food and / or entertainment. Where no representations are received and an applicant's operating schedule details restrictions in relation to the admission of children, these may become conditions attached to the licence. Apart from the specific restrictions set out in the Act, there is no presumption of either permitting or refusing access to licensed premises. Each application and its unique circumstances must be considered on its own merits.

14.5.2 The Licensing Authority is committed to protecting children from harm.

14.5.3 The Licensing Authority will only seek to limit the access of children to licensed premises where it is necessary for the prevention of physical, moral or psychological harm. The Licensing Authority will consult the Surrey Safeguarding Children Partnership for advice on any application that indicates there may be concerns over access for children. In the event of representations, the Licensing Sub-Committee will consider the merits of each application before deciding whether to impose conditions limiting the access of children.

14.5.4 The following are examples of premises that are likely to raise concern;

- Where entertainment or services of an adult or sexual nature are commonly provided.
- Where there have been convictions of the current staff at the premises for serving alcohol to minors or premises with a reputation for underage drinking.
- Where a remote delivery service for alcohol is offered, with the potential for minors to order/be delivered alcohol
- Where age restricted films are shown
- A known association with drug taking or drug dealing
- Where there is a strong element of gambling on the premises
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

14.5.5 Examples of entertainment or services of an adult or sexual nature might include;

- Topless bar staff, striptease, lap, table or pole dancing
- Performances involving feigned violence or horrific incidents
- Feigned or actual sexual acts or fetishism
- Entertainment involving strong or offensive language.

14.5.6 The Licensing Sub-Committee may consider any of the following options when dealing with a licence application where limiting the access of children is considered appropriate to prevent harm to children;

- Limitations on the hours when children may be present
- Limitations on the presence of children under certain ages when particular specified activities are taking place
- Limitations on the parts of premises to which children might be given access
- Limitations on ages below 18
- Requirements for an accompanying adult
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

14.5.7 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee. The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police to ensure the appropriate compliance with the law, especially relating to the sale and supply of alcohol to children.

14.5.8 Consideration will be given to promoting initiatives which may assist in preventing the sale of alcohol to children such as Home Office campaigns. The Licensing Authority is supportive of and actively encourages recognised proof of age schemes and 'Challenge 25' policies in all licensed premises as a fundamental means of preventing under age sales. The Licensing Authority has an expectation that all licence holders will maintain accurate record keeping of refusals and ensure that all staff are suitably trained.

14.5.9 Where premises offer a delivery service which includes the delivery of alcohol, the Licensing Authority has an expectation that the licence holder will ensure suitable and appropriate measures are in place at the point of sale and/or point of delivery to verify that underage sales are not taking place as per the mandatory conditions.

14.5.10 Many children go to see and/or take part in entertainment arranged especially for them, for example children's film shows, discos, dance or drama school productions and additional arrangements are required to safeguard them while at the premises.

14.5.11 Where an application for a Premises Licence or Club Premises Certificate includes the provision of entertainment for children or by children, the Licensing Authority will expect the operating schedule to include arrangements for protecting children.

14.5.12 Where representations are made and the Licensing Sub-Committee consider it appropriate to do so, they may make full use of Licensing Conditions to secure the protection of children from harm.

14.5.13 The Licensing Authority is committed to protecting children from harm and supports the programme of underage test purchases arranged by the Surrey Trading Standards Service, the Licensing Team and Police. Where underage sales are found, the Licensing Authority supports the appropriate and proportionate use of warnings, reviews and prosecution as a means of promoting the licensing objectives and enforcing the Licensing Act proportionately.

- 14.5.14 In keeping with the Guidance the Licensing Sub-Committee will treat underage sales as serious criminal activity and will give consideration to the suspension or revocation of a licence if a review is brought in respect of underage sales. It is likely that a review will be requested by either the Police or Trading Standards in their role as a responsible authority.

## **15. TABLES AND CHAIRS OUTSIDE PREMISES**

- 15.1 The provision of tables and chairs outside the premises either on the highway or on private land can enhance the attractiveness of the venue by encouraging a continental style café culture. Late at night people sitting at these tables can however contribute to noise problems by encouraging patrons and passers-by to loiter rather than disperse.
- 15.2 The placing of tables and chairs on the public highway will need the consent of the Surrey County Council. On private land no consent is needed.
- 15.3 Temporary arrangements introduced by the Business and Planning act 2020 allow for an application for a 'Pavement Licence' to place tables and chairs on the public highway adjacent to a premises to be made to this Council.
- 15.4 Details of how applications can be made can be found on our [licensing page](#) of the website.  
<https://www.surreyheath.gov.uk/pavement-licences>
- These temporary arrangements are in place until the end of September 2021 unless extended.
- 15.5 We are required to consult the Highways Authority on any applications received.
- 15.6 In the case of tables and chairs on private land the Council will expect the applicant to indicate in their operating plan the hours when these tables and chairs will be in use. The use of outside areas after 23:00 hours is likely to be unacceptable although this will depend upon the location of the premises. Again each application will be considered on its merits.

## **16. LARGE SCALE EVENTS**

- 16.1 Organisers of large events (in particular, major festivals and carnivals) are strongly advised to contact the Licensing Authority and Responsible Authorities at the earliest opportunity to discuss licensing matters, providing as much advance notice as reasonably practicable.
- 16.2 Large scale open air events require significant planning and organisation with potential to impact on the licensing objectives. The Licensing Authority and other Responsible Authorities expect to be satisfied well in advance of any such event that appropriate measures are in place to safeguard the licensing objectives.
- 16.3 It is expected that all other appropriate authorisations will be in place prior to an application and organisers must be mindful that a premises licence application may take up to two months to be determined should representations be received.

- 16.4 Careful consideration should be given by the applicant to the Public Safety objective when organising large scale events and how this will be met.

The Licensing Authority is aware that in January 2020 the Government announced its backing of the 'Martyr's Law' campaign to improve security at venues and public spaces in light of the terrorist attacks in Manchester and London in 2017.

- 16.5 The Licensing Authority would expect that those who operate the places and spaces in which people live, work and socialise must take greater steps to ensure the security of their users.
- 16.6 We recognise that although there is limited opportunity for large scale events in the Borough, where these are planned it is important that applicants demonstrate in their application that they are prepared for all risks. Consequently, the Licensing Authority would expect large capacity venues and organisers of large events to consider, where appropriate, the following measures.

A requirement that those responsible for spaces and places to which the public have access:

- engage with freely available counter-terrorism advice and training
- conduct vulnerability assessments of their operating places and spaces
- to mitigate the risks created by the vulnerabilities
- to have a counter-terrorism plan if appropriate.

## 17. FILMS

- 17.1 The screening or display of films covers a vast range of subjects, some of which deal with adult themes and/or contain, for example, strong language, scenes of horror, violence or a sexual nature that may be considered unsuitable for children within certain age groups.
- 17.2 Premises or Club Premises which are licensed for the exhibition of films are required by a mandatory licence condition to restrict admission to screenings in accordance with any age recommendation made by a film classification body, or by the Licensing Authority. Where recommendations have been made by both bodies, and the Licensing Authority has notified licence-holders of this, the Licensing Authority's recommendation will take precedence.
- 17.3 For the purposes of sections 20 and 74 of the Act, the Licensing Authority recognises the British Board of Film Classification (BBFC) as the film classification body, and will specify this body within the licences and certificates it issues.
- 17.4 The Licensing Authority views as good practice the inclusion within publicity materials of age-related admission restrictions arising from recommendations made by the BBFC or Licensing Authority. In any event, licence-holders must take appropriate measures to verify the age of persons being admitted to films which are subjected to age restrictions.
- 17.5 Details of the applicable recommendation in respect of a particular film should be exhibited prior to the commencement of that film. In the case of a BBFC recommendation this may be displayed on screen for at least 5 seconds prior to the feature. Details of a Licensing Authority recommendation should be displayed at or near the entrance to the screening.

- 17.6 The Licensing Authority anticipates that the BBFC's recommendations will apply to the vast majority of films shown at licensed premises within the borough. However in a small number of cases, the Licensing Authority may be called upon to exercise its powers and issue an overriding recommendation, which would only apply to licensed premises within the borough. Such situations can be approximately characterised in one of three groups:
- In cases where the Licensing Authority has concerns about a particular film, and has of its own volition made an alternate recommendation. This may allow admission of persons of a higher or lower age than the recommendation made by the BBFC, or in extreme circumstances may prevent the showing of a particular film. This power will be rarely, if ever, utilised.
  - In cases where a film has not been classified by the BBFC. This is likely to be the case with small, local, independent films, or foreign films, where a wider UK release is not intended.
  - In cases where the Licensing Authority is approached by a third party, asking the authority to override a recommendation made by the BBFC.
- 17.7 The third of these groups may include films intended to be shown at 'parent and baby' screenings, which have increased in popularity in recent years. The Act and Guidance are silent on the admission of babies to a film which is subject to an age-related recommendation – therefore on a strict interpretation of the Act, babies must be excluded from such screenings. The Licensing Authority is aware that some cinemas across the country have agreed schemes whereby the applicable licensing authority makes an alternate recommendation in respect of a specified film, expressly permitting the admission of babies and very young children to special screenings of that film with only parents of such children in attendance.
- 17.8 It is recommended that any premises considering the provision of such screenings should first contact the Licensing Authority to discuss the proposals. The Authority will typically only depart from BBFC Classification in exceptional circumstances and would expect special provisions to be made for such screenings, including higher light levels and reduced sound levels, in order that parents can better ensure the safety of their children.
- 17.9 When exercising powers under section 20 to issue an admission recommendation for a previously unclassified film, the Authority will adhere to the BBFC's Classification Guidelines, and where possible will issue a recommendation which is in accordance with one of the standard classification bands. This approach is preferred as audiences will be familiar with this particular classification scheme and the meaning of the 'certificates'.
- 17.10 In such circumstances, the Authority will require the organiser of the exhibition to provide a copy of the film for classification purposes, or to arrange a viewing for representatives of the Licensing Authority.
- 17.11 Where the Licensing Authority receives a request to override an existing recommendation made by the BBFC, or has concerns of its own in respect of a particular film, in the first instance the Authority shall have regard to the BBFC's original classification decision, and the BBFC Insight record which describes the content of the film that led to the classification.

decision. If satisfied that the content will not present any issues if viewed by children under 24 months of age, then the Authority may agree to issue an alternate recommendation, consistent with the BBFC's original classification but including a specific exemption for accompanied children below 24 months of age, at screenings advertised and restricted to 'parent and baby' only. Where concerns exist based on the BBFC Insight record that a film may not be suitable for viewing by young children below 24 months of age, the authority may request that the cinema facilitates a viewing of the film in question to make a full assessment of this. No alternate recommendation would be issued unless the authority is satisfied that allowing young children below 24 months of age to be admitted will not lead to the child protection licensing objective being undermined.

## **18. SAFEGUARDING**

- 18.1 The Licensing Authority is aware that alcohol use, misuse and abuse is one of the recurring key 'parental factors' in child protection and safeguarding, often contributing to parental neglect of children and domestic abuse and violence within families. The density of licensed premises, particularly off licences in deprived areas or areas where there are high rates of domestic abuse, is a cause for concern to the Authority.
- 18.2 The Authority expects that premises will operate in a responsible manner to ensure that children are not desensitised to the potential harm of alcohol. Desensitisation can occur by many ways. For example, through the manner in which the business operates, through the products that they offer for sale, the layout of their premises or through how promotional/advertising material is displayed. Matters that may be considered by the Authority if its discretion is engaged are:
- Whether due regard is paid to industry codes of good practice on the labelling and display of alcoholic products, such as not displaying these next to soft drinks, sweets or toys.
  - The likelihood of children being attracted to the premises; e.g. by the nature of activities or facilities provided whether or not these are licensed.
  - The use and display of promotional material for alcohol products.
- 18.3 Alcohol can be a factor in child sexual exploitation (CSE), where young people may be encouraged or coerced to drink, or alcohol may be a factor in risk-taking behaviour by young people who drink irresponsibly and then get involved in activities that otherwise they would not. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises and licensed premises being used for the purposes of grooming and enticement.
- 18.4 The Licensing Authority is also aware children may be attracted to takeaway and fast food restaurants and there is evidence nationally that this type of licensed premises has been used for the purpose of grooming and enticement.

- 18.5 The Licensing Authority encourages premises licence holders to make sure they are fully aware of the signs of CSE and to understand that the sexual exploitation of a child is sexual abuse and a crime. The Authority also expects licence holders to raise the awareness of their staff about CSE and provide intelligence for the appropriate authorities about concerns, including perpetrators who may be operating in their areas.
- 18.6 To support organisations that come into contact with the public, or which employ under 18s, the Licensing Authority expects staff to have access to safeguarding training and be briefed on local safeguarding initiatives.

## 19. LICENCE CONDITIONS

- 19.1 Where Responsible Authorities or other persons do not make any representations about an application, it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any relevant mandatory conditions prescribed by the Act.
- 19.2 Additional Home Office guidance on [Mandatory Licensing Conditions](#) may be found on the Government website.
- [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/350507/2014-08-29\\_MC\\_Guidance\\_v1\\_0.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/350507/2014-08-29_MC_Guidance_v1_0.pdf)
- 19.3 The Licensing Authority must avoid attaching conditions that duplicate other regulatory regimes as far as possible and may not impose conditions unless its discretion has been engaged following the making of relevant representations and the Licensing Sub-Committee has been satisfied at a hearing that it is appropriate to impose them.
- 19.4 It may then impose only those conditions appropriate to promote the licensing objectives arising out of the consideration of the representations.
- 19.5 To minimise problems and the necessity for hearings, the Licensing Authority would encourage applicants to consult with the Responsible Authorities when preparing their operating schedules so that they can offer appropriate conditions as part of their applications.
- 19.6 The Licensing Authority recognises that it is important to ensure that any conditions attached to a licence or certificate achieve the licensing objectives but are not disproportionate or overly burdensome. Therefore, where conditions are necessary they will be tailored to the individual style and characteristics of the particular premises and event concerned. Where appropriate, following a hearing the Licensing Sub-Committee will consider attaching conditions provided that they are proportionate, justifiable and capable of being met.
- 19.7 A committee or board with responsibility for managing a community premises where alcohol is sold such as a church or community hall, may apply to remove the mandatory condition requiring a designated premises supervisor (DPS) and personal licence holder and replace it with the condition that every supply of alcohol must be made or authorised by the management committee. Further information on the [community premises exemption for a DPS](#) can be found on the Government website.

<https://www.gov.uk/government/publications/alcohol-licensing-community-premises>

## 20. ADMINISTRATION & DELEGATION

- 20.1 The functions of the Licensing Authority under the Act 2003 are carried out by Surrey Heath Borough Council's Licensing Committee, by its Licensing Sub-Committee or by officers acting under delegated authority.
- 20.2 The Sub-Committee comprises three Councillors drawn on a panel basis from the membership of the Licensing Committee with each hearing chaired by a designated Licensing Sub-Committee Chairperson. Councillors may not sit on any Sub-committee to determine any application or review of a licence within their respective ward.
- 20.3 In the interests of efficiency and cost-effectiveness for all parties involved in the licensing process, the Licensing Authority has established a scheme of delegation to deal with applications received under the Act.
- 20.4 The table at paragraph 20.8 sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and officers. This form of delegation is without prejudice to officers referring an application to a Sub-Committee or to Full Committee if considered appropriate in the circumstances of any particular case. These delegations are as recommended by the Guidance.
- 20.5 Ward Councillors play an important role in the local community. They can make representations in writing and speak at the hearing on behalf of an interested party such as a local resident or local business if specifically requested to do so. They may also make representations as an interested party in their own right if they have concerns about the premises.
- They may apply for a review of a licence if problems at a specific premises justify intervention and are brought to their attention. Ward Councillors are informed of all new applications and any application to vary a licence in their ward.
- 20.6 Local residents and businesses may wish to contact their local ward Councillors in respect of a licence application. If a local resident or business makes a representation about an application it is recommended that a copy is sent to their Ward Councillors as this assists them to gain an understanding of local community feelings.
- 20.7 Ward Councillors may attend hearings of Licensing Sub-Committees considering applications and may speak on behalf of themselves or local residents and businesses if they have made a personal representation, they have made a representation on behalf of local residents or businesses as 'community advocates' or they have been nominated by an objector who cannot attend the hearing or prefers to be represented at the hearing.



## 20.8 Delegation of Decisions:

| <b>Matter to be dealt with</b>   | <b>Licensing Sub-Committee</b>             | <b>Officers</b>                                 |
|--|--|---|
| Application for personal licence with unspent convictions.                                   | If a Police objection has been made        | If no objections                                |
| Application for premises licence / club premises certificate                                 | If a relevant representation has been made | If no relevant representation made              |
| Application for provisional statement  | If relevant representation has been made   | If no relevant representation made              |
| Application to vary premises licence/ club premises certificate                              | If a relevant representation has been made | If no relevant representation made              |
| Application to vary designated premises supervisor   | If a Police objection has been made        | All other cases                                 |
| Request to be removed as a designated premises supervisor                                    |  | All cases                                       |
| Application for transfer of premises licence   | If a Police objection has been made        | All other cases                                 |
| Application for interim authorities  | If a Police objection has been made        | All other cases                                 |
| Application to review premises licence / club premises certificate                           | All cases                                  |   |
| Decision on whether a complaint is irrelevant frivolous vexatious                            |  | All cases                                       |
| Determination of a Police or Environmental Health representation to a temporary event notice | All cases                                  |   |
| Suspension of licence for non-payment of fees  |  | All cases                                       |
| Taking action as a Responsible Authority on behalf   |  | As delegated by the Executive Head of Community |

|   |  |           |
|---|--|-----------|
| of the Licensing Authority  |  |           |
| Minor variations and alternative conditions on community premises |  | All Cases |
| Classification of a film under sections 20 and 74                 |  | All Cases |

## 21. ENFORCEMENT

- 21.1 Where necessary, enforcement will be taken in accordance with the principles set out in the Council's Corporate Enforcement Policy.
- 21.2 The Council has established protocols with the local Police and Fire Authority to avoid duplication and to provide for the most efficient deployment of Council, Police and Fire Authority officers in respect of inspection of licensed premises and the use of appropriate enforcement tools.
- 21.3 The policy of the Council will always be a light touch inspection regime for well managed and maintained premises with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.
- 21.4 The Licensing Authority encourages licensees to seek advice from the Environmental Health and Licensing Services and/or the police for clarification, advice or assistance with issues which arise, but places the responsibility for effective management solely with licence holders.

## 22. CUMULATIVE IMPACT ASSESSMENTS

- 22.1 The Licensing Authority recognises that the number, type and concentration of licensed premises in any given area, may have a 'cumulative impact' on one or more of the licensing objectives (e.g. problems with nuisance, crime and disorder etc.) over and above the impact of the premises themselves. It also recognises that such problems may occur both in the vicinity of and at some distance from the premises concerned.

- 22.2 In recognition of the potential for cumulative impact, and by way of promoting the licensing objectives, the Licensing Authority may act on or otherwise consider any of the following.

The LA may, in its own right or, on receipt and consideration of relevant representations from any Responsible Authority or other person adopt a special policy to control any cumulative impact on the licensing objectives arising in the area. This is known as a Cumulative Impact Policy (CIP).

For these purposes, the CIP shall be limited to the restriction of future applications for relevant authorisations within any area where the number, type or density of licensed

premises may lead to, or is otherwise causing serious problems with nuisance, crime and disorder or other relevant problems, over and above the impact of individual premises in the area concerned. The CIP may be limited to areas in the vicinity of and/or at some distance from the premises concerned.

In deciding whether to adopt a CIP the Licensing Authority will ensure there is evidence to support it and would normally consider-

Whether serious and chronic concerns have been identified by a Responsible Authority or significant representations from other persons have been received about the levels of nuisance, crime and disorder or other relevant problems;

Whether it can be demonstrated that crime and disorder, nuisance or other relevant problems arise as a result of customers from licensed premises in an identified and specific area, or that the risk factors are such that the area is reaching a point where cumulative impact is imminent;

Health-related statistics such as alcohol-related emergency attendances and hospital admissions;

Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;

Evidence from local and parish councillors;

Whether the imposition of conditions to individual licences is (un)likely to address the wider problems concerned; and

Whether taking all relevant matters into account a policy about future licence applications from that area should be adopted (i.e. it is necessary and appropriate to control the cumulative impact claimed.)

- 22.3 The Licensing Authority implemented a CIP in 2008 and this is attached as Appendix A. Under current Guidance there is a requirement to review the CIP every three years, or more regular if appropriate. We will be reviewing the current policy as part of the overall review of this Statement of Licensing Policy.

Where necessary we will then review the CIP every three years or sooner if conditions dictate and the CIP remains in place.

## **22.1. Other Controls for Controlling Cumulative Impact**

- 22.1.1 Regardless of whether or not a special policy is in place, the Licensing Authority recognises and will, where appropriate, seek to promote the use and consideration of alternative mechanisms to control anti-social behaviour of customers after leaving licensed premises.

The Licensing Authority will work with other agencies and the Responsible Authorities to ensure compliance with a range of legislation which in turn will help to promote the four licensing objectives

These may include-

- a) Planning controls
- b) Positive measures and local initiatives to create a safe and clean town centre environment in partnership with local businesses, transport operators and other services in the local authority
- c) The provision of physical measures and services such as CCTV, surveillance systems, taxi ranks, provision of public conveniences, street cleaning and litter patrols
- d) 'Public Spaces Protection Orders' to control the drinking of alcohol in public spaces under the Anti-social Behaviour, Crime and Policing Act 2014
- e) Enforcement against disorder and anti-social behaviour including the issuing of fixed penalty notices
- f) The prosecution of any personal licence holder or member of staff at licensed premises who sells alcohol (whether or not by proxy) to people who are drunk or underage
- g) The power of the Police, Licensing Authority and other Responsible Authorities, Councillors and/ or any other person to seek a review of a relevant authorisation.

## 23. REMOTE HEARINGS:

- 23.1 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 apply to local authority meetings that are required to be held, or are held before 7 May 2021. This provides for the remote access of, and remote attendance at, local authority meetings. This includes and will apply to licensing hearings.

We will therefore arrange for hearings to be held remotely during this period and afterwards if there is a continuing need.

We will ensure that the hearing comply with these Regulations and the Licensing Act (Hearing) Regulations 2005.

For further details of how these remote meetings will be held please contact [licensing@surreyheath.gov.uk](mailto:licensing@surreyheath.gov.uk)

## 24. REVIEWS

- 24.1 Following the grant of a Premises Licence or a Club Premises Certificate, a Responsible Authority or any other person may ask the Licensing Authority to review it due to a matter arising in connection with any of the four licensing objectives.

- 24.2 Full details of the [review process](#) can be found on the Government website.

## 25. DIVERSITY & EQUALITY

- 25.1 The Licensing Authority wishes to encourage the provision of a culturally diverse range of regulated entertainment within the Borough, particularly live music and dance which are accessible to all people.
- 25.2 All licensed premises are subject to the Equality Act 2010 which lists a number of protected characteristics that must not be used as a reason to treat a person less favourably than another person, these are;
- Age
  - Disability
  - Gender reassignment
  - Marriage and civil partnerships
  - Pregnancy and maternity
  - Race (this includes colour; nationality; ethnic and national origins)
  - Religion or belief
  - Sex or sexual orientation.
- 25.3 Treating a person less favourably than someone else because that person has one or more of these characteristics is discriminatory.
- 25.4 The Equality Act 2010 also includes a duty on the Council as the Licensing Authority to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations, between people with different protected characteristics.
- 25.5 The Licensing Authority urges applicants and existing operators to plan ahead to meet their legal responsibilities under the [Equality Act 2010](#). Further information and guidance can be obtained from the Government.
- <https://www.gov.uk/guidance/equality-act-2010-guidance>
- 25.6 Duties imposed by the Equality Act 2010 provide that any person providing a service to the public must comply with the duty to make reasonable adjustments to enable disabled people to access the service, where a disabled person would be at a substantial disadvantage compared to a non-disabled person.
- 25.7 This applies to disabled people employed by or those who wish to obtain goods and services from licensed premises. No condition will be attached to a licence or certificate which conflicts with or duplicates this requirement.

- 25.8 Service providers have a duty to make reasonable adjustments to any physical features which put a disabled person at a substantial disadvantage in accessing a service, or they have to provide the service by a reasonable alternative means.
- 25.9 Access to buildings and their facilities is a matter addressed in Building Regulations and planned alterations affecting access may involve the need to apply for building control approval.
- 25.10 The Equality Act 2010 provides protection from three forms of disability discrimination;
1. Direct discrimination because of disability in relation to goods, facilities and services
  2. Indirect disability discrimination
  3. Discrimination arising from disability.
- 25.11 Businesses have an obligation to make reasonable adjustments to help disabled individuals access their goods, facilities and services.

## **26. USE AND EXCHANGE OF INFORMATION**

- 26.1 Information regarding how we will use, store and share your information, including our retention guidelines, is available at [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk) and on all relevant application forms.

<https://www.surreyheath.gov.uk/council/information-governance/data-protection>

- 26.2 Keeping personal information up-to-date

To allow for communications and ensure that authorisations remain valid, licence holders must keep the Licensing Authority advised (as soon as reasonably practicable) of any change of name, address or contact details (telephone, mobile, email address etc.). Where appropriate the Licensing Authority may check any change of details and require suitable proof of identity and evidence of the change(s) made.

## **27. LICENSING REGISTER AND PROVISION OF INFORMATION**

The Licensing Authority is required to maintain a public register of all authorisations that it issues, together with other information.

For ease of access, reference and transparency, all public registers are published on our website [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk).

<https://www.surreyheath.gov.uk/search/search-results/public%20registers>

We will also publish a redacted copy of any licence or application open to representations on our website [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk). Relevant applications will be published in this way for the duration of the relevant representation period.

## Further information may be obtained from:

- Licensing
- Surrey Heath Borough Council
- Email: [licensing@surreyheath.gov.uk](mailto:licensing@surreyheath.gov.uk)

## References:

- Licensing Act 2003
- Home Office-Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018)
- Licensing Act 2003(Hearing) Regulations 2005
- The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

## APPENDICES

### Appendix A - Cumulative Impact 2016-2021 - Special Policy

147. The Council will apply a special policy relating to cumulative impact as provided for by the guidance issued by the Home Office to the area of Camberley town centre bordered by High Street, Pembroke Broadway, Park Street and London Road (as shown on the attached plan). This area has been extended to encompass Southwell Park Road up to Southern Road and Lower Charles Street, back to the London Road, including the Atrium and surrounding premises.
- This area has been identified as being under stress because the cumulative impact of the concentration of late night and drink led premises in this area has led to serious problems of crime, disorder and/or public nuisance.
148. The evidence for this special policy is set out on the Licensing Act 2003, webpage.
149. This special policy creates a rebuttable presumption that applications within the town centre area for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations are received about the cumulative impact on the licensing objectives, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced.
150. For the purposes of this special policy material variation shall be a modification to the structure or use of the licensed premises which would be likely to exacerbate crime and disorder problems arising from the cumulative impact of licensed premises within the town centre area.
151. Applicants will need to address the special policy issues in their operating schedules in order to rebut such a presumption.
152. Despite the presumption against grant, responsible authorities and any other persons will still need to make a relevant representation before the Council may lawfully consider giving effect to its special policy i.e. if no representation is received, the application must be granted (subject to such conditions that are consistent with the operating schedule and any mandatory conditions required by the Act). However, responsible authorities or any other persons can make written representation maintaining that it is appropriate to refuse the application for the promotion of the crime and disorder objective and referring to information which had been before the Council when it developed its statement of licensing policy.
153. The absence of a special policy in relation to any other area of the Borough does not prevent any responsible authority or any other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
154. The Council will regularly review any special saturation policies to see whether they are still needed or should be expanded.



155. The Council will not take 'need' (of the commercial demand for premises offering a particular type of licensable activity) into account when considering an application, as this is a matter for the market. However, the impact on the promotion of the licensing objectives of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside and some distance from the premises. This is described as the 'cumulative impact', and is a proper matter for consideration by the Council.

# Special Cumulative Impact Policy

Produced: 15.02.2016

Scale 1:3,000



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- 156: The Council will not use this policy solely:
- as grounds for revoking a licence or certificate when representations are received about problems with an existing licensed premises (after a licence or certificate has been granted or varied, a complaint relating to a general (crime or disorder or nuisance) situation in a town centre would not generally be regarded as a relevant representation if it cannot be positively tied or linked by a causal connection to particular premises), or
  - to refuse applications to vary an existing licence or certificate except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits of a premise, and are strictly necessary for the promotion of the licensing objectives.
157. The Council recognises that there are other mechanisms both within and outside of licensing regime that are available for addressing the impact of unlawful and anti-social behaviour and nuisance once consumers are away from the premises e.g.
- positive measures to provide a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council
  - the provision of CCTV surveillance in the town centre, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
  - powers to designate parts of the Borough as places where alcohol may not be consumed publicly
  - police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices
  - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
  - the confiscation of alcohol from adults and children in designated areas e.g. use of the powers of confiscation contained in the Confiscation of Alcohol (Young Persons) Act 1997
  - police powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
  - the power of police, other responsible authorities, including the Licensing Authority or any other person to seek a review of the licence or certificate in question
  - Public Space Protection Orders which can be used by a Council to restrict the consumption of alcohol in a public place.
158. The Council will address these issues in line with the strategic objectives for crime and disorder reduction within the Borough.

Review date: October 2020 as part of consultation on Statement of Licensing Policy 2021-2026

## Appendix B - Contact Details for Responsible Authorities

### Police

Address: Licensing Officer, Camberley Police Station, Surrey Heath House, Knoll Road, Camberley, Surrey, GU15 3HD

Tel: 01483 631786

Fax: 01483 655270

Email: [11701@surrey.pnn.police.uk](mailto:11701@surrey.pnn.police.uk)

### Fire Authority

Address: Surrey Fire and Rescue Service, SFRS Business Support, Croydon Road, Reigate, Surrey, RH2 0EJ

Tel: 01483-517600

### Child Protection Committee

Address: County Child Employment & Strategy Manager, Quadrant Court, 35 Guildford Road, Woking, Surrey, GU22 7QQ

Tel: 0300 123 1630

Email: [nwcpproc.duty@surreycc.gov.uk](mailto:nwcpproc.duty@surreycc.gov.uk)

### Environmental Health Services

Address: Senior Environmental Health Officer, Surrey Heath Borough Council Surrey Heath House, Knoll Road, Camberley, Surrey, GU15 3HD

Tel: 01276 707100 (Customer Services)

Email: [environmental.health@surreyheath.gov.uk](mailto:environmental.health@surreyheath.gov.uk)

### Trading Standards

Address: Surrey Trading Standards Service, Consort House, 5 – 7 Queens Way, Redhill, RH1 1YB

Tel: 01372 371700 (General Enquiries)

01372 371737 (Business Advice)

Email: [trading.standards@surreycc.gov.uk](mailto:trading.standards@surreycc.gov.uk)

### **Surrey Heath Clinical Commissioning Group**

Address: Surrey Heath House, Knoll Road, Camberley, Surrey, GU15 3HD

Tel: 01276 707572

Email: [SHCCG.Contactus@nhs.net](mailto:SHCCG.Contactus@nhs.net)

However, the villages of Bisley, Chobham and West End are served by;

### **North West Surrey Clinical Commissioning Group**

Address: Weybridge Primary Care Centre, Church Street, Weybridge, Surrey, KT13 8DW

Tel: 01372 201802

Email: [contactus2@nwsurreyccg.nhs.uk](mailto:contactus2@nwsurreyccg.nhs.uk)

### **Planning Authority**

Address: Regulatory Services, Surrey Heath Borough Council, Surrey Heath House, Knoll Road, Camberley, Surrey, GU15 3HD

Tel: 01276 707100 (Customer Services)

Email: [development.control@surreyheath.gov.uk](mailto:development.control@surreyheath.gov.uk)

In the case of any property that has strong involvement with, or is owned by the local authority, or any nursing home that may have a licence, a copy should be sent to;

### **The Health and Safety Enforcement Agency**

Address: Enforcement Liaison Officer, Council Offices, Station Road East, Oxted, RH8 0BT

Tel: 01883 732425

Email: None

### **Surrey Primary Care Trust**

Address: Lesley Hackney, Public Health Business Manager, Room G55 County Hall, Penrhyn Road, Kingston Upon Thames, KT1 2DN

Tel: 02085417976

### **Home Office (Immigration Enforcement)**

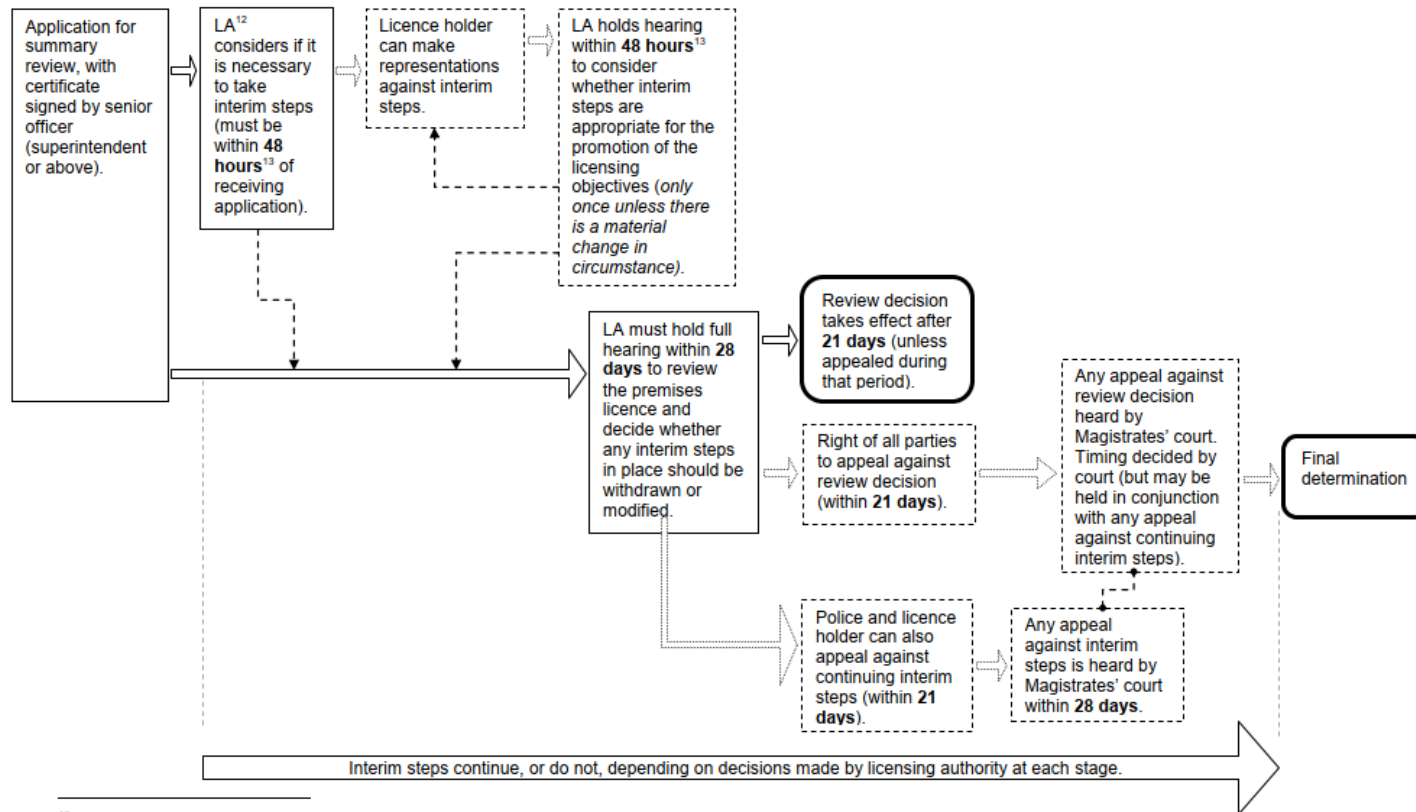
Address: Alcohol Licensing Team, Lunar House, 40 Wellesley Road, Croydon, CR9 2BY

Email: [Alcohol@homeoffice.gsi.gov.uk](mailto:Alcohol@homeoffice.gsi.gov.uk)

# Appendix C - Summary Review Flowchart

The [Summary Review Flowchart](#) can also be viewed or downloaded via [Box](#). If you need to view Appendix C in an accessible format, please contact [licensing@surreyheath.gov.uk](mailto:licensing@surreyheath.gov.uk).

Summary review flowchart



<sup>12</sup> Licensing authority

<sup>13</sup> Only working days count

102 | Revised Guidance issued under section 182 of the Licensing Act 2003

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**Subject:** Review of Statement Of Licensing Policy LAPREM/096/20

-----Original Message-----

From: Cllr Cliff Betton <Cliff.Betton@surreyheath.gov.uk>  
Sent: 27 October 2020 19:22  
To: Licensing Team <Licensing@surreyheath.gov.uk>  
Subject: Re: Review of Statement Of Licensing Policy LAPREM/096/20

Dear Licencing

I have reviewed the updated policy document and have made some comments in the form of Notes on the PDF. These are mostly editorial, but three are some issues that I did not fully follow as I read the document and in one instance - it will be obvious where - some statements appeared to be contradictory; and If I had trouble, so might others.

One common theme throughout the document is that use is made in the text of links to other (often Government) web pages. These are OK when looking on the screen and it is possible to hover the mouse and see the address or click and go there, but some people will print the document and they may - as the URL links are grey, lose sight of the possibility that there is more information. Would it be possible to have all URL links in a different colour (blue is standard I think) so that following links is more clearly indicated, even if a printed copy cannot actually work, the fact that it is there is obvious.

Clearly the document has been put together by several individuals and the lack of punctuation in some areas is a problem but that is not unique these days, but we should try and keep English as the greatest gift the UK has given the world as pure and thus unambiguous as possible.

The annotated document is attached.

Best regards,

Cliff Betton  
BSc, FRSB, CBiol, FIEMA, CEnv, FRSC.  
Chairman, Audit and Standards Committee, Surrey Heath Borough Council.  
Liberal Democrat Councillor,  
Frimley Green Ward  
07785 528787  
c.betton@delphichse.com

On 27/10/2020, 15:11, "licensing@surreyheath.gov.uk" <licensing@surreyheath.gov.uk> wrote:

Please find attached a consultation letter relating to the Review of Statement of Licensing Policy.

Kind regards,

Licensing  
Surrey Heath Borough Council  
Surrey Heath House  
Knoll Road  
Camberley  
Surrey  
GU15 3HD

# Summary of comments on SHBC Consultation Statement of Licensing Policy Oct 2020

## Page: 5

### Page: 5

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 17:12:35

Singular - remain

### Page: 5

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 17:14:33

Remove both "very"

### Page: 5

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 17:16:14

either - "where entertainment is provided"  
or - "which provide entertainment"

### Page: 5

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 17:18:34

also? It is not clear as written whether the people who run the premises must have a copy of the licence for those premises or whether the premises must be licenced and the individuals running the premises must also be licenced persons.

### Page: 5

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 17:22:42

add a comma

## Page: 6

### Page: 6

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:08:21

Could the URL reference be highlighted here to aid the search through the Government web pages? This is a PDF document and if people print it the link will be lost and the use of grey text may lose the significance of the link

### Page: 6

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 17:25:35

see above

## Page: 9

### Page: 9

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 17:43:42

This paragraph is not clear - to me - it took several readings to understand. Can it be worded more clearly to state (if my understanding is correct!) Licensing Law applies only on the premises and not once individuals have left the premises which were licenced?

### Page: 9

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 17:44:39

This seems to contradict 6.5

### Page: 9

Type: Highlight Author: Cliff Subject: Highlight Date: 27/10/2020, 17:45:09

### Page: 9

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**Page: 9**

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**Page: 9**

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Again contradicts 6.5

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**Page: 9**

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6.6 and 6.7 say that you will!

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**Page: 9**

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**Page: 10**

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**Page: 10**

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 Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 17:52:06

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I do not know what this means, is it possible to add a definition or explanation of "acute trust"?

---

**Page: 10**

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 Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 17:55:16

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"premises", as in the line below

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**Page: 12**

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**Page: 12**

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 Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:03:37

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Who decides? Should a statement be made here that objectors requiring anonymity should say so in their application, and in the event that such anonymity is denied, should there be a mechanism whereby the objection should be withdrawn? This is a practical issue that should be given serious thought, not all applicants for licences are going to be without malice and people objecting should be able to do so without fear that their objection may prompt acts of revenge by affronted applicants.

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**Page: 13**

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**Page: 13**

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Highlight link?

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**Page: 13**

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---

And again

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**Page: 13**

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Just to emphasize, add the "Council's" licensing team? it is stated twice below

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**Page: 14**

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**Page: 14**

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for or on, not both. Again emphasis on ~~the link~~ would help

**Page: 14**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:19:44

Is it only these 3, or should any live musical performance covered? For example Sir Cliff Richard with the LSO would not be covered, as it is written.

**Page: 15**

**Page: 15**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:20:02

Highlight?

**Page: 15**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:23:41

This is clearly linked to 12.2, yet it is not clear to me how or what differences are relevant. Could this be made clearer?

**Page: 18**

**Page: 18**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:35:37

I know what you mean, BUT the term Drugs includes alcohol and both prescribed and over the counter medications. For the sake of clarity and to remove ambiguity should this not refer to proscribed / recreational / Class A,B,C Drugs? As written, people could not take their angina tablets or aspirin or diabetics with an epi-pen could be in danger of stimulating concerns.

**Page: 19**

**Page: 19**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:38:08

Should this have a URL link similar to the Government sites referred to earlier?

**Page: 19**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:40:17

comma or perhaps ;

**Page: 19**

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comma

**Page: 20**

**Page: 20**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:45:06

comma. This is a long sentence / paragraph that would benefit from being broken into 2 or perhaps 3 separate sentences.

**Page: 20**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:45:16

comma

**Page: 20**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:45:42

comma

**Page: 20**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:46:24

comma

**Page: 20**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:46:39

comma

**Page: 22**

**Page: 22**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 18:51:56

If this is serious criminal activity, should there be a statement about involving the Police in addition to the revoking of the licence?

**Page: 22**

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highlight

**Page: 24**

**Page: 24**

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?! ....should first contact the Licensing Authority to discuss the proposals.

**Page: 26**

**Page: 26**

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highlight URL

**Page: 27**

**Page: 27**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 19:01:59

URL

**Page: 31**

**Page: 31**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 19:06:17

Clearly a URL but for consistency this should also be highlighted

**Page: 32**

**Page: 32**

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URL

**Page: 32**

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URL

**Page: 33**

**Page: 33**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 19:08:16

URL

**Page: 33**

Type: Text Author: Cliff Subject: Sticky Note Date: 27/10/2020, 19:08:23

URL

# STATEMENT OF LICENSING POLICY AND GUIDANCE (DRAFT FOR CONSULTATION)

2021-2026

Licensing Act 2003

Section 5

**Surrey Heath Borough Council**  
Knoll Road, Camberley, Surrey, GU15 3HD  
Licensing  
[Licensing@surreyheath.gov.uk](mailto:Licensing@surreyheath.gov.uk)  
01276 707100



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## SUMMARY

This licensing policy has been determined by the Council for the five year period commencing xx/xx/2021 with a view to promoting the four licensing objectives set out in section 4(2) of the Licensing Act, 2003.

These objectives are:

1. the prevention of crime and disorder;
2. public safety;
3. the prevention of public nuisance; and
4. The protection of children from harm.

In carrying out our licensing functions we will have regard to:

- This statement of licensing policy published under section 5 of the Licensing Act 2003 and
- Home Office Guidance issued under section 182 of the Licensing Act 2003 (as revised April 2018)

The Council as licensing authority when determining applications that have been the subject of representations will only refuse the grant of a licence or impose conditions if this is necessary to achieve or promote the licensing objectives.

During the five year period the policy will be kept under review and the Council will if necessary, after appropriate consultations, make such revisions to it as may be considered appropriate. Any amendments will be incorporated in the licensing statement after each review. The statement of licensing policy will be reviewed and published with amendments, if any, at least once every five years.

# I. INTRODUCTION

- 1.1 Surrey Heath is located in the northwest corner of Surrey and is home to over 89,000 people. Camberley Town Centre is the largest shopping and business area within the Borough and the largest cluster of entertainment venues is situated in the town including shopping facilities, restaurants, a multiscreen cinema and a ten pin bowling complex. Areas of the Borough remains undeveloped and parts are covered by 'Green Belt'. Most areas are primarily residential in nature but there are large tracts of heathland and open green spaces. The agriculture and farming element of the area is now virtually non-existent and areas formerly used for these purposes are now very often used in connection with open air recreational activities. Licensable activities are very often complementary to these recreational activities.
- 1.2 There are approximately 250 public houses, restaurants, clubs, community centres and halls in the Borough where alcohol is sold or entertainment is provided on a regular or occasional basis and there are retail outlets for the sale of alcohol. Under the terms of the Licensing Act, the retail sale of alcohol and the provision of regulated entertainment can only take place in suitable premises that have been licensed by the Council and the people operating and managing these premises must hold appropriate licences.
- 1.3 Surrey Heath Borough Council is the Licensing Authority pursuant to the Licensing Act 2003, being responsible for considering all applications for licensable activities, as defined in section 1 of the Act, within the Borough and determining licence applications in accordance with the provisions of the Act. The purpose of licensing is to regulate licensable activities in licensed premises, qualifying clubs and at temporary events.
- 1.4 The Council has had regard to the revised Home Office guidance issued under section 182 of the Licensing Act 2003 when formulating our policies.
- 1.5 The latest version of this guidance was published in April 2018.
- 1.6 In the interests of speed, efficiency and cost-effectiveness the Council has, where possible, delegated licensing decisions and functions to officers of the Council. No matters will be determined under delegated powers if the matter to be decided is controversial, nor if the interests of any person, body or organisation would be jeopardised in the absence of a hearing or the determination of the matter under delegated powers is precluded by law.
- 1.7 Reference is made in the policy to the current Covid-19 pandemic. Whilst we recognise that this will hopefully come to an end sometime in the future we acknowledge the impact this has had and continues to have on the work of the Council and in particular the Licensing Authority. We recognise the need to be flexible in our approach as the Government issues updated or new guidance in response to Covid-19.
- 1.8 All references to "the Act" in this document shall be deemed to mean "The Licensing Act 2003". The Licensing Committee and Sub-Committee may both consider licence applications on behalf of the Council and where reference is made to the Sub-Committee undertaking a function that function may be undertaken by the Licensing Committee. All references to

guidance are reference to the Revised Guidance issued under Section 182 of the Act (April 2018) and references to premises also apply to club premises.

## 2. SCOPE OF THE STATEMENT OF LICENSING POLICY

2.1 The Licensing Act 2003 sets out the legal framework for the Licensing Authority to licence the following activities:

- Retail sale of alcohol
- The supply of alcohol by or on behalf of a club
- Regulated entertainment
- Late night refreshment

2.2 These activities are controlled through a system of:

- Premises licences
- Club premises certificates
- Personal licences
- Temporary event notices

2.3 For definitions of [these activities and information on the different types of licences available](#) further information may be found on the Government website. 

2.4 The Act requires the Licensing Authority to carry out its licensing functions to promote the licensing objectives. Surrey Heath Borough Council as the Licensing Authority takes its responsibilities under the Licensing Act seriously and will use all available powers to promote the four licensing objectives;

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

2.5 Further detail and explanation of the [licensing objectives](#) may be found within the Revised Guidance which may be found on the Government website. 

2.6 The Act requires the Licensing Authority to prepare and publish a statement of its licensing policy every five years. This Statement of Licensing Policy fulfils this requirement.

## 3. RESPONSIBLE AUTHORITIES (RA'S)

3.1 The Act sets out a requirement to consult a number of interested parties and responsible authorities on applications received under the Act

The Council will as required notify 'responsible authorities' of relevant applications made under the Act. The responsible authorities are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a

premises licence. All representations must be considered 'relevant' by the Licensing Authority and relate to one or more of the licensing objectives.

For all premises, responsible authorities include:

- The Licensing Authority
- The Chief Officer of Police
- The local fire and rescue authority
- The relevant enforcing authority under The Health and Safety at Work etc. Act 1974
- Environmental Health
- Planning
- Social Services- responsible for, or interested in, matters relating to the protection of children from harm
- The Director of Public Health
- Trading Standards; and
- Home Office Immigration Enforcement \*( on behalf of the Secretary of State)

*\*The Immigration Act 2016 amended The Act with effect from 6 April 2017 so that an application made on or after that date by someone who is not entitled to work in the UK must be rejected.*

*The contact details for the Responsible Authorities are listed in Appendix B.*

## **4. POLICY CONSULTATION**

4.1 In determining this policy the Licensing Authority will undertake full, formal consultation with members of the public, community stakeholders, specific groups and individuals as listed in section 5(3) of the Licensing Act 2003.

These are;

- The Chief Officer of Surrey Police
- Surrey Fire & Rescue Authority
- Director of Public Health
- Persons / bodies representative of local premises licence holders
- Persons / bodies representative of local club premises certificate holders
- Persons / bodies representative of local personal licence holders
- Persons / bodies representative of businesses and residents in its area

4.2 In addition the Licensing Authority will consult with Surrey Trading Standards, Surrey Safeguarding Children Board, Surrey Heath Borough Council Environmental Health (Pollution Control), Surrey Heath Borough Council Environmental Health (Health & Safety) and Surrey Heath Borough Council Planning Department. The draft policy will also be published on Surrey Heath Borough Council's website.





4.3 The views of all these bodies and the evidence presented will be given due weight in the determination of the final policy.

## **5. PARTNERSHIP WORKING AND INTEGRATING STRATEGIES**

- 5.1 The revised Home Office Guidance issued under section 182 of The Act recommends that Statements of Licensing Policies (the Policy) should provide clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and other relevant plans. While many local strategies are not directly related to the promotion of the licensing objectives, they indirectly impact upon them.
- 5.2 We will therefore in conjunction with Surrey's Licensing Forum endeavour to:
- Work with partner agencies that are involved either directly or indirectly in delivering the Policy, including responsible authorities, local businesses and the local community.
  - Identify and galvanise new and existing opportunities to develop, strengthen and foster partnership in order to improve delivery of the Policy.
  - Undertake consultation and communication on licensing issues with all licensees, communities and their representatives.
  - Ensure pro-active enforcement in line with the council's Corporate Enforcement Policy in order to achieve the licensing objectives.
  - Work to reduce crime and disorder where it exists in close proximity to licensed premises.


## **6. FUNDAMENTAL PRINCIPLES**

- 6.1 This policy statement sets out a general approach to making licensing decisions and acknowledges the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
- 6.2 Similarly, this policy statement does not override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 6.3 Licensing is about the control of licensed premises, qualifying clubs, temporary events and individuals within the terms of the Act. Any conditions or restrictions attached to a premises licence or club premises certificate will be focused on matters which are within the control of individual licensees.
- 6.4 These matters centre on the premises and places being used for licensable activities and any impact of those activities in the vicinity of those premises and places. The Licensing Authority will primarily focus on the direct impact 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.


- 6.5 Licensing law is **not a mechanism for the general control of nuisance** or anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. 
- 6.6 The **controls exercised through the provisions of the Act** are **key aspects** in the **control of nuisance and antisocial behaviour** forming part of the Council's holistic approach to licensing. 
- 6.7 In this respect, the Licensing Authority recognises that, **apart from the licensing function**,  there are a number of other partnership mechanisms available for addressing issues arising out of the operation of licensed premises. We will work closely with our partners to achieve the licensing objectives.
- 6.8 The Licensing Authority will, so far as possible, avoid duplication with other regulatory regimes and does not intend to use the Licensing Act to achieve outcomes that can be achieved by other legislation. 
- 6.9 In particular, the licensing functions will be carried out separately from the Council's functions as the Planning Authority.
- 6.10 It will normally be expected that applications for premises licences in respect of permanent commercial premises should be from businesses with the appropriate planning consent for the activity concerned in place.
- 6.11 Where representations are made with respects to a particular application which relate to the licensing objectives, either from a Responsible Authority or from any interested other person, a hearing will be held at which the applicant and those making representation will have the opportunity to comment on the representations made.
- 6.12 In all cases, applicants and those making representations in respect of applications made to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority. Any appeal must be lodged within 21 days of the date upon which written notice of the decision is given by the Licensing Authority.

## 7. HEALTH

- 7.1 Health leads have been given a role in the licensing process as a Responsible Authority creating a recognised role in considering and making representations to licensing applications on health grounds.
- 7.2 The Licensing Authority welcomed this change and the ongoing development of a multi-agency collaborative approach towards licensing matters, recognising the significant scope for participation to reduce alcohol related violence and harm, as well as promoting and advising on sensible drinking whilst providing evidence on the impact of alcohol outlet density and its effect on health, crime and children. We particularly recognise the importance of their involvement in relation to the current on-going situation with regards to Covid- 19.
- 7.3 The licensing process is focused on controlling the immediate harms associated with alcohol sales at particular premises, with all licensing decisions relating specifically to the premises in question and their promotion of the four statutory licensing objectives.

- 7.4 The Licensing Authority recognise that there is further development work being undertaken to maximise the use of health data in the licensing process by improving the collection and distribution of both data and intelligence from Surrey's acute trusts  relevant partners. This is recognised as a priority within Surrey's Substance Misuse Strategy and as a fundamental method of preventing escalating alcohol-related harm throughout Surrey. The Licensing Authority will consider health-related evidence that directly links to a premises after receiving representation(s) where it is considered to impact on one or more of the licensing objectives.

## 8. PREMISES LICENCES & CLUB PREMISES CERTIFICATES

- 8.1 A Premises Licence is required for the sale of alcohol, provision of regulated entertainment or the provision of late night refreshment (sale of hot food and drink to the public between 11.00 pm and 5.00 am).
- 8.2 Some activities carried out by clubs need to be licensed under the Act but generally clubs are treated differently to commercial premises.
- 8.3 In determining applications for Premises Licences and Club Premises Certificates the Licensing Authority will have regard to the guidance and any secondary legislation.
- 8.4 It is important that applications for Premises Licences and Club Premises Certificates properly address the four licensing objectives by providing as much detail as possible on the application form.
- 8.5 The application must be supported by a comprehensive operating schedule. This schedule must specify the steps which the applicant proposes to take in order to promote each of the licensing objectives.
- 8.6 A club is an organisation where members have joined together for a particular reason i.e. social, sporting or political and have combined to buy alcohol in bulk as members of the organisation for supply to their members. In order to apply for a Club Premises Certificate the club needs to be a 'Qualifying Club'.
- 8.7 A Qualifying Club;
- Has rules whereby membership is not instant. There must be a minimum of 2 days between applications for membership and admission which includes the privileges of membership (i.e. use of facilities and the consumption of alcohol)
  - Has not less than 25 members
  - Must be conducted in good faith and have full accountability to its members
  - Must not supply alcohol to members, otherwise than by or on behalf of the club.
- 8.8 A Qualifying Club is entitled to certain benefits unlike a licensed premises;
- No need for Personal Licence Holders on the premise 
  - No need for Designated Premises Supervisors
  - More limited rights of entry for the Police and other Authorised Persons (Licensing Officers) as the premises is considered private and not generally open to the public

- No instant closure powers by the Police for disorder or noise
- Permitted to sell hot food and drink between 11pm and 5am to members and their guests without the requirement for a licence.

- 8.9 Where applications for Premises Licences or Club Premises Certificates have attracted representations from a Responsible Authority or any other person, the application will be scheduled for a hearing before a Licensing Sub-Committee where the applicant and those making representations may be heard.
- 8.10 The Licensing Sub-Committee will give full and written reasons for the decision made for each application that proceeds to a hearing.


## **8.1. Application Consultation**

- 8.1.1 The consultation process required for applications for Premises Licences, Club Premises Certificates and Full Variations of existing licences or certificates allows for representations to be made by various bodies and individuals. Responsibility for undertaking the advertisement of the application in accordance with the requirements lies with the applicant.
- 8.1.2 The Council will publish details of all new applications on its website, updated weekly, details can be found on our Public Notice web page.

## **8.2. Making Representations**


- 8.2.1 Representations about an application must be made in writing to the Council's Licensing Team within the time period prescribed. Written representations may include letters whether posted or faxed and emails. Any representations received after the end of the public consultation period cannot legally be accepted, unless shown to have been submitted within the time limit.
- 8.2.2 When making a Representation the Council requests that a contact phone number and email address are provided. These help the Licensing Authority to quickly contact respondents if the details of the application are altered as a result of the representations received in connection with arrangements for the hearing.
- 8.2.3 Representations should contain;
- The name, full address & post code of the person making them.
  - The reasons for their representation and
  - Which of the four Licensing Objectives the representations relate to;
    - The prevention of crime and disorder
    - Public Nuisance
    - Public safety
    - Protection of children from harm
- 8.2.4 A representation would be 'irrelevant' if it is not about the likely effect of the grant of the application on the promotion of the licensing objectives. Irrelevant representations cannot be accepted.



- 8.2.5 A representation made by a person other than a Responsible Authority will not be accepted if the Licensing Authority decides that it is frivolous or vexatious.
- 8.2.6 Vexation may arise where, for example, there is a dispute between rival businesses, or a repetitive complaint from another person which has already been subject of investigation and no new evidence provided.
- 8.2.7 Frivolous representations would be categorised by a lack of seriousness.
- 8.2.8 Such judgments will be made by officers following such enquiries as may be necessary.
- 8.2.9 Where a representation is found to be irrelevant, vexatious or frivolous, the person making it will be informed in writing that the representation will be disregarded. All valid representations will form part of a committee report that will become a public document. It will be provided to the applicant, his agent and persons who have made representations as well as the Licensing Sub-Committee 10 days prior to the hearing.
- 8.2.10 whilst representations may not be made anonymously, in exceptional circumstances, such as when the objector has a genuine and well-founded fear of intimidation or violence, some or all of the objectors personal details may be removed from the representation before it is given to the applicant. 


## 9. PERSONAL LICENCES

- 9.1 To sell alcohol in licensed premises at least one person needs to hold a 'Personal Licence' which has been granted by the Licensing Authority where they live. This requirement does not apply to 'qualifying clubs'.
- 9.2 Holders of a 'Personal Licence' must hold a recognised licensing qualification, be over 18 years of age and not have certain types of criminal conviction. Proof of a licensing qualification together with a Basic Disclosure certificate less than two months old and endorsed photographs of the holder are required as part of an application for a Personal Licence.
- 9.3 Where an applicant is found to have an unspent conviction for a relevant offence as defined in the Act or for a foreign offence, the Licensing Authority will notify the police. Where the police do not object and the application otherwise meets the requirements the Licensing Authority must grant it. If the police do object, a hearing will be held before the Licensing Sub-Committee to determine the application.
- 9.4 The Policing and Crime Act 2017 gave Licensing Authorities the power to revoke or suspend personal licences, with effect from 6 April 2017. This is a discretionary power.
- 9.5 When the Licensing Authority has granted a Personal Licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, we may revoke the licence or suspend it for a period of up to six months.

- 9.6 In exercising its duties, the Council will normally seek to suspend or revoke a Personal Licence when it is made aware that a licence holder has been found guilty of a relevant offence, foreign offence or civil penalty for immigration matters.
- 9.7 Full details relating to [Personal Licence applications](#) can be found on the Government website. 

## 10. FEES & CHARGES




- 10.1 [Licensing fees and charges](#) are set by Government and are the same across the Country. Full details can be found on the Home Office website.
- 10.2 Once granted, a Premises Licence or Club Premises Certificate does not expire but the licence holder is required to pay an annual fee. Failure to pay the annual fee within the prescribed time will result in the Licensing Authority suspending the operation of the Premises Licence or Club Premises Certificate until all outstanding fees are paid.
- 10.3 Where the annual fee is paid the licence will remain in force even if the premises are not used for a licensable purpose.
- 10.4 Pre-application advice is available free of charge from the Licensing Team. 
- 10.5 The service is available to assist applicants in preparing applications with a view to diminishing issues which may arise during the licence application process as a result of an incomplete or inadequately drafted application.
- 10.6 Applicants would be under no duty to use the Council's service, and the Licensing Authority cannot predetermine the outcome of any application submitted but can provide expert advice and highlight any potential issues and advise on how applications may be approached to comply with legal requirements and local Policy.
- 10.7 For details on the pre-application service, and fees please see the Council's website.
- 10.8 Applicants are advised that if applications are submitted incorrectly, applications will be rejected with applicants directed to re-apply, including paying the required fee.


## 11. VARIATIONS (FULL AND MINOR)



- 11.1 Both Premises Licences and Club Premises Certificates may be varied under the Act.
- 11.2 A minor variation is a simplified process with a set statutory fee applicable to all premises and clubs. There is a requirement to advertise the application by displaying a notice on the premises. Decisions on a minor variation are delegated to officers and there is no right to a hearing. The Licensing Authority must consult all relevant Responsible Authorities on an application for a minor variation and take their views into account.
- 11.3 Minor variations are those which cannot adversely impact on the licensing objectives and generally fall into four categories which are:-

- Minor changes to the structural layout which does not;
  - Increase the capacity for drinking (increasing floor area for patrons drinking etc.)
  - Affecting access or egress (blocking fire exits or escape routes)
  - Impede or remove noise reduction measures at the premises (removing acoustic lobbies etc.)
- Small adjustments to licensing hours
- Removal of out of date, irrelevant or unenforceable conditions or the addition of volunteered conditions
- Addition of a licensable activity where similar activities already exist.

- 11.4 Full guidance for  on [minor variation applications](#) can be found on the Government website.
- 11.5 Full variations follow the same procedure as that for a new Premises Licence with the need for advertisement on the premises and in the newspaper in addition to the statutory consultation.
- 11.6 The areas in which a premises licence may be varied include;
- Varying the hours during which a licensable activity is permitted
  - Adding or removing licensable activities
  - Amending, adding or removing conditions within a licence
  - Altering any aspect of the layout of the premises which is shown on the plan.
- 11.7 Where the changes proposed are substantial or involve completely changing the nature of the business, it may be more appropriate to apply for a new premises licence. Advice may be sought from the licensing team in this instance.

## 12. TEMPORARY EVENT NOTICES

- 12.1 Anyone over the age of eighteen may serve the Licensing Authority with a Temporary Event Notice. This permits people to hold an event involving licensable activities without having to apply for a Premises Licence or Club Premises Certificate.
- 12.2 Applicants must provide a clear description of the area in which they propose to carry on licensable activities and must describe the event taking place at the premises for example, a wedding with a pay bar, the supply of alcohol at a particular event, a discotheque, the performance of a string quartet, a folk group or a rock band. 
- 12.3 Where applicants are uncertain whether or not the activities that they propose are licensable or require assistance with an application, they should contact the licensing team for further advice.
- 12.4 Temporary Event Notices may be obtained for the sale of alcohol
- The provision of regulated entertainment
  - The sale of hot food or drink between 11.00 pm and 5.00 am.

- 12.5 Part 16 of the Revised Guidance provides an overview of circumstances in which entertainment activities are not licensable.
- 12.6 We will have regard to these when considering applications for TENs. These changes were introduced by the Live Music Act 2012 which resulted in deregulatory changes that amended the Licensing Act 2003. 
- 12.7 A Temporary Event Notice should be submitted to the Licensing Authority a minimum of 10 working days before the proposed event (Standard TENs), however a limited number of applications may be made giving no less than 5 working days' notice (Late TENs). If objections are received from either the police or Environmental Health a hearing will be held to decide whether the event can go ahead in the case of Standard TENs. Late TENs will not be valid following an objection and the event will not be able to go ahead.
- 12.8 There are certain limitations to Temporary Event Notices, current limits are listed below, (subject to change) for confirmation of limits please refer to the Government website;
- The maximum number of people attending must not exceed 499 at any one time
  - The event cannot last longer than 168 hours
  - No premises may host more than 15 events in a year
  - The maximum number of days covered by Temporary Event Notices cannot exceed 21 days in a year
  - A personal licence holder may apply for up to 50 temporary events with 10 of these being late
  - Any other person may apply for 5 temporary events with 2 of those being late.
- 12.9 Further details and comprehensive guidance on [Temporary Event Notices](#) may be found on the Government website. 

## 13. LICENSING HOURS

- 13.1 Many representations submitted in response to licensing applications for the sale of alcohol for consumption on premises relate to public concern about the hours of operation proposed. The Licensing Authority recognises there is opportunity for significant detrimental impact for local residents where licensed premises operate late. It also recognises that longer licensing hours for the sale of alcohol may avoid large numbers of people leaving premises at the same time, which in turn may reduce disorder and disturbance.
- 13.2 Where representations are made against the grant of a new licence for the sale of alcohol for consumption off the premises such as shops, garages and supermarkets, the Licensing Authority may consider restricting those hours only where there are good and justifiable reasons for doing so and if this would promote the licensing objectives.

Currently all licensed premises are allowed off-sales by virtue of section 11 of the Business and Planning Act 2020. These are temporary arrangements which aim to boost the economy during the Covid-19 pandemic and are due to come to an end September 2021.

- 13.3 The Licensing Authority notes the guidance of the Secretary of State on hours of trading contained within the Revised Guidance which states that;

*10.13 “The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.”*

*10.14 “Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.”*

*10.15 “Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.”*

- 13.4 The Licensing Authority can use powers to control the hours of operation of any licensed premises where it has received a representation against an application and there are reasonable and proportionate grounds to believe that if the licence was granted as applied for without restriction, nuisance, antisocial behaviour or crime and disorder might arise. Such situations are most likely to arise where licensed premises are located close to residential areas.
- 13.5 Where representations are received, the application will be referred to a Licensing Sub-Committee in accordance with the scheme of delegation included in this Policy. When hearing an application the Sub-Committee will seek information and assurances from the applicant that the four Licensing Objectives will not be undermined by the grant of the application. Where the Sub-Committee considers it appropriate to do so it may apply licensing conditions, including limiting the hours of operation.
- 13.6 Fixed trading hours within designated areas will not be considered as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, with the attendant concentration of disturbance and noise.
- 13.7 Not all regulated entertainment will be associated with the sale of alcohol. There may be licence applications when alcohol is not provided for many reasons or in other circumstances it would be unnecessary or unlawful to have alcohol available, for example, events exclusively for children. In other circumstances regulated entertainment could finish earlier or later than the sale of alcohol.
- 13.8 The provision of Late Night Refreshment covers the supply of hot food or hot drink to members of the public at any time between the hours of 11.00pm and 5.00am. This includes takeaway food premises but also applies to restaurants and mobile vehicles.
- 13.9 In each case, the hours being sought for regulated entertainment or late night refreshment must be set out in the application and operating schedule. Where representations are received the Licensing Sub-Committee will consider each application, determining the hours

of operation on its own merits taking into account the licensing objectives. We recognise that hours of operation may be restricted by separate legislation during the Covid-19 pandemic.

## **14. PROMOTING THE FOUR LICENSING OBJECTIVES**

- 14.1 The promotion of the four objectives is fundamental to the Act. Every applicant for a Premises Licence must provide a fully completed and detailed operating schedule. This schedule must be in the prescribed format.
- 14.2 The most effective means for an applicant to assess what measures are needed to promote the licensing objectives is by risk assessment.
- 14.3 The operating schedule forms the basis of any conditions placed on a licence other than those which are mandatory. It provides valuable information to interested parties and Responsible Authorities assisting their assessment of the impact of the licensed activity on the licensing objectives and provides information about how the applicant will address these issues. It is likely to form the basis of any decision to submit a representation against the application.
- 14.4 Providing as much information as possible in the operating schedule demonstrates that the applicant has seriously considered the issues, is aware of their duty to promote the licensing objectives at all times and is aware of how this may be best achieved.
- 14.5 The Licensing Authority considers the effective and responsible management of the premises, including instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of the licensing objectives. For this reason, these measures should be specifically considered, detailed and addressed within an applicant's operating schedule.

### **14.1 Prevention of Crime and Disorder**

- 14.1.1 Licensed premises of any description, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people can be a source of crime and disorder. The Licensing Authority expect operating schedules to satisfactorily address these and any other potential issues, from the design of the premises through to the daily operation of the business.
- 14.1.2 Applicants are recommended to engage with and seek advice from the Police and other Responsible Authorities taking into account, as appropriate, local planning and transport policies in addition to tourism and crime prevention strategies when preparing their operating plans and schedules prior to submission.
- 14.1.3 When addressing crime and disorder, the applicant should identify any particular issues that are likely to adversely affect the promotion of the crime and disorder objective before including in the operating schedule how they propose to mitigate those matters.
- 14.1.4 Where objections are received and the Licensing Sub-Committee considers it appropriate to do so, conditions may be attached to licences to prevent crime and disorder both inside and in the vicinity of the premises.


- 14.1.5 The Licensing Authority considers the orderly dispersal of customers from licensed premises to be an important factor in promoting the licensing objectives. In considering applications for the grant or variation of a licence, serious consideration will be given to the dispersal arrangements, the potential effect that granting the licence might have on dispersal arrangements from other licensed premises or the cumulative impact in the area.
- 14.1.6 Recognising that drug misuse is not an issue in all licensed premises, the Licensing Authority is committed to the reduction and eradication of drugs from licensed premises as part of its role promoting the prevention of crime and disorder licensing objective. All licence holders are expected to actively support this objective by the way they plan, manage and operate their premises.
- 14.1.7 Where relevant representations are received following an application for the grant or variation of a licence, conditions may be imposed to support the prevention of the sale, supply and use of drugs. In premises where drug misuse is problematic and where the police or others apply for a 'Review' of the licence, the Licensing Sub-Committee will consider this as serious criminal activity and give appropriate consideration to the options available, including the suspension or revocation of the licence in accordance with the Guidance. The Licensing Authority recognises that each case must be decided on individual facts and its specific merits.

## 14.2 Summary Reviews



- 14.2.1 Where the police consider that a premises licensed for the sale of alcohol by virtue of a premises licence, are associated with serious crime, disorder or both they may make an application for a summary review of a premises licence.
- 14.2.2 Where this is the case, the Licensing Sub-Committee will determine what interim steps are appropriate to address the immediate risk of serious crime or serious disorder occurring.
- 14.2.3 The Licensing Authority will not normally give the premises licence holder an opportunity to make representations prior to determining the interim steps, however may do so where it considers it is appropriate and feasible to do so in the circumstances.
- 14.2.3 Where the Sub-Committee determine that the interim steps must take immediate effect, the Licensing Authority will normally notify the premises holder in the first instance by the most expedient means possible e.g. telephone. Following this, the premises licence holder will also be notified in writing.
- 14.2.4 Following notification of the interim steps the Premises Licence holder may make written representations at any time between being notified of the interim steps and a subsequent review hearing. The hearing will be held to consider any representation, together with the senior police officer's certificate that accompanied the original application for a summary review and the chief police officer's representations (if any). The Licensing Sub-Committee will consider whether the interim steps are appropriate for the promotion of the licensing objective, and determine whether to confirm, modify or withdraw the steps taken. The hearing will be held within 28 days of the day after the original application is received.

A Summary Review flowchart is attached as Appendix C.

## 14.3. Public Safety

- 14.3.1 The Licensing Authority is committed to ensuring, as far as practicable that the safety of any person visiting or working in licensed premises is not compromised. Applicants must demonstrate in their operating schedule that suitable and sufficient measures have been identified, implemented and maintained to ensure public safety specific to the characteristics of their premises and events.
- 14.3.2 Applicants are encouraged to contact the Council's Environmental Health Service with draft proposals including plans and operating schedules. Where applicable applicants should consider safe capacity, the safety of those with special needs and the first aid requirements of customers.
- 14.3.3 Licence holders should have clear documented policies and procedures in place which identify all public safety risks associated with the premises and the measures to prevent, manage, mitigate and respond to those risks.
- These may include risk assessments covering the risk of Covid-19 and mitigation in place to minimise risk.
- 14.3.4 Where representations are received and the Licensing Sub-Committee considers it appropriate to do so, they may attach conditions to licences and certificates to ensure public safety.
- 14.3.5 For advice on compliance with health and safety legislation see the Council's Environmental Health Service website pages. 

## 14.4. Prevention of a Public Nuisance

- 14.4.1 Licensing Sub-Committees are mindful that 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. When addressing public nuisance the applicant should identify any particular issues that are likely to affect adversely the promotion of the licensing objective to prevent public nuisance including in the operating schedule how they propose to mitigate and manage those issues. 
- 14.4.2 Where an application includes provision of a smoking area or shelter the Licensing Authority expects these to be situated as far as possible from neighbouring residential premises. It is expected that suitable receptacles be provided and maintained to dispose of cigarette litter in any area used for smoking outside licensed premises. Licensees must take all reasonable steps to discourage smoking on the public highway close to residential premises, considering measures such as a ban on customers taking drinks outside on to the public highway, the use of door supervisors or imposing a time after which readmission to the premises will not be permitted. Licence holders and applicants are reminded to consider compliance with noise nuisance legislation under the Environmental Protection Act 1990 when considering smoking locations. 



- 14.4.3 The Licensing Authority expects all licence holders to consider the impact of noise on neighbours or those otherwise impacted undertaking simple measures such as not emptying glass into external bins at night, arranging deliveries wherever possible during the day or clearing garden areas at a reasonable time preventing nuisance to neighbouring residents.
- 14.4.4 There is a distinct separation between a public nuisance under the licensing objectives and statutory nuisance relating to noise, light and odour under Section 79 Environmental Protection Act 1990 which is dealt with by Environmental Health. Further information can be provided by the Council Environmental Health Service or from the Government website.
- 14.4.5 Applicants are encouraged to contact the Council's Environmental Health Service with draft proposals and where applicable their plans and operating schedules as to how they intend to control noise emanating from the premises from openings to the building (doors, fans, windows, ventilation). Consideration should be given to the provision of attenuating material and if suitable building attenuation cannot be achieved no other appropriate measures can be taken to attenuate noise then consideration to the installation, calibration and operation of a noise limiting device may have to be given.
- 14.4.6 Where representations are received and the Licensing Sub-Committee considers it appropriate to do so, they may attach conditions to licences and certificates to prevent public nuisance.

## 14.5. Protection of Children from Harm

The Child Protection Committee acts as the Responsible Authority for the Protection of Children from Harm.

- 14.5.1 The wide range of different premises that require licensing under the Act means that children may be expected to visit many of these, often on their own, for food and / or entertainment. Where no representations are received and an applicant's operating schedule details restrictions in relation to the admission of children, these may become conditions attached to the licence. Apart from the specific restrictions set out in the Act, there is no presumption of either permitting or refusing access to licensed premises. Each application and its unique circumstances must be considered on its own merits.
- 14.5.2 The Licensing Authority is committed to protecting children from harm.
- 14.5.3 The Licensing Authority will only seek to limit the access of children to licensed premises where it is necessary for the prevention of physical, moral or psychological harm. The Licensing Authority will consult the Surrey Safeguarding Children Partnership for advice on any application that indicates there may be concerns over access for children. In the event of representations, the Licensing Sub-Committee will consider the merits of each application before deciding whether to impose conditions limiting the access of children.
- 14.5.4 The following are examples of premises that are likely to raise concern;
- Where entertainment or services of an adult or sexual nature are commonly provided.

- Where there have been convictions of the current staff at the premises for serving alcohol to minors or premises with a reputation for underage drinking.
- Where a remote delivery service for alcohol is offered, with the potential for minors to order/be delivered alcohol
- Where age restricted films are shown
- A known association with drug taking or drug dealing
- Where there is a strong element of gambling on the premises
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

14.5.5 Examples of entertainment or services of an adult or sexual nature might include;

- Topless bar staff, striptease, lap, table or pole dancing
- Performances involving feigned violence or horrific incidents
- Feigned or actual sexual acts or fetishism
- Entertainment involving strong or offensive language.

14.5.6 The Licensing Sub-Committee may consider any of the following options when dealing with a licence application where limiting the access of children is considered appropriate to prevent harm to children;


- Limitations on the hours when children may be present
- Limitations on the presence of children under certain ages when particular specified activities are taking place
- Limitations on the parts of premises to which children might be given access
- Limitations on ages below 18
- Requirements for an accompanying adult
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

14.5.7 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee. The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police to ensure the appropriate compliance with the law, especially relating to the sale and supply of alcohol to children.


14.5.8 Consideration will be given to promoting initiatives which may assist in preventing the sale of alcohol to children such as Home Office campaigns. The Licensing Authority is supportive of and actively encourages recognised proof of age schemes and 'Challenge 25' policies in all licensed premises as a fundamental means of preventing under age sales. The Licensing Authority has an expectation that all licence holders will maintain accurate record keeping of refusals and ensure that all staff are suitably trained.

14.5.9 Where premises offer a delivery service which includes the delivery of alcohol, the Licensing Authority has an expectation that the licence holder will ensure suitable and appropriate

measures are in place at the point of sale and/or point of delivery to verify that underage sales are not taking place as per the mandatory conditions.

- 14.5.10 Many children go to see and/or take part in entertainment arranged especially for them, for example children's film shows, discos, dance or drama school productions and additional arrangements are required to safeguard them while at the premises.
- 14.5.11 Where an application for a Premises Licence or Club Premises Certificate includes the provision of entertainment for children or by children, the Licensing Authority will expect the operating schedule to include arrangements for protecting children.
- 14.5.12 Where representations are made and the Licensing Sub-Committee consider it appropriate to do so, they may make full use of Licensing Conditions to secure the protection of children from harm.
- 14.5.13 The Licensing Authority is committed to protecting children from harm and supports the programme of underage test purchases arranged by the Surrey Trading Standards Service, the Licensing Team and Police. Where underage sales are found, the Licensing Authority supports the appropriate and proportionate use of warnings, reviews and prosecution as a means of promoting the licensing objectives and enforcing the Licensing Act proportionately.
- 14.5.14 In keeping with the Guidance the Licensing Sub-Committee will treat underage sales as serious criminal activity and will give consideration to the suspension or revocation of a licence if a review is brought in respect of underage sales. 

## 15. TABLES AND CHAIRS OUTSIDE PREMISES

- 15.1 The provision of tables and chairs outside the premises either on the highway or on private land can enhance the attractiveness of the venue by encouraging a continental style café culture. Late at night people sitting at these tables can however contribute to noise problems by encouraging patrons and passers-by to loiter rather than disperse.
- 15.2 The placing of tables and chairs on the public highway will need the consent of the Surrey County Council. On private land no consent is needed.
- 15.3 Temporary arrangements introduced by the Business and Planning act 2020 allow for an application for a 'Pavement Licence' to place tables and chairs on the public highway adjacent to a premises to be made to this Council.
- 15.4 Details of how applications can be made can be found on our [licensing page](#) of the website.   
These temporary arrangements are in place until the end of September 2021 unless extended.
- 15.5 We are required to consult the Highways Authority on any applications received.
- 15.6 In the case of tables and chairs on private land the Council will expect the applicant to indicate in their operating plan the hours when these tables and chairs will be in use. The use of outside areas after 23:00 hours is likely to be unacceptable although this will depend upon the location of the premises. Again each application will be considered on its merits.

## 16. LARGE SCALE EVENTS

- 16.1 Organisers of large events (in particular, major festivals and carnivals) are strongly advised to contact the Licensing Authority and Responsible Authorities at the earliest opportunity to discuss licensing matters, providing as much advance notice as reasonably practicable.
- 16.2 Large scale open air events require significant planning and organisation with potential to impact on the licensing objectives. The Licensing Authority and other Responsible Authorities expect to be satisfied well in advance of any such event that appropriate measures are in place to safeguard the licensing objectives.
- 16.3 It is expected that all other appropriate authorisations will be in place prior to an application and organisers must be mindful that a premises licence application may take up to two months to be determined should representations be received.
- 16.4 Careful consideration should be given by the applicant to the Public Safety objective when organising large scale events and how this will be met.

The Licensing Authority is aware that in January 2020 the Government announced its backing of the 'Martyn's Law' campaign to improve security at venues and public spaces in light of the terrorist attacks in Manchester and London in 2017.

- 16.5 The Licensing Authority would expect that those who operate the places and spaces in which people live, work and socialise must take greater steps to ensure the security of their users.
- 16.6 We recognise that although there is limited opportunity for large scale events in the Borough, where these are planned it is important that applicants demonstrate in their application that they are prepared for all risks. Consequently, the Licensing Authority would expect large capacity venues and organisers of large events to consider, where appropriate, the following measures.


A requirement that those responsible for spaces and places to which the public have access:

- engage with freely available counter-terrorism advice and training
- conduct vulnerability assessments of their operating places and spaces
- to mitigate the risks created by the vulnerabilities
- to have a counter-terrorism plan if appropriate.

## 17. FILMS

- 17.1 The screening or display of films covers a vast range of subjects, some of which deal with adult themes and/or contain, for example, strong language, scenes of horror, violence or a sexual nature that may be considered unsuitable for children within certain age groups.
- 17.2 Premises or Club Premises which are licensed for the exhibition of films are required by a mandatory licence condition to restrict admission to screenings in accordance with any age recommendation made by a film classification body, or by the Licensing Authority. Where

recommendations have been made by both bodies, and the Licensing Authority has notified licence-holders of this, the Licensing Authority's recommendation will take precedence.

- 17.3 For the purposes of sections 20 and 74 of the Act, the Licensing Authority recognises the British Board of Film Classification (BBFC) as the film classification body, and will specify this body within the licences and certificates it issues.
- 17.4 The Licensing Authority views as good practice the inclusion within publicity materials of age-related admission restrictions arising from recommendations made by the BBFC or Licensing Authority. In any event, licence-holders must take appropriate measures to verify the age of persons being admitted to films which are subjected to age restrictions.
- 17.5 Details of the applicable recommendation in respect of a particular film should be exhibited prior to the commencement of that film. In the case of a BBFC recommendation this may be displayed on screen for at least 5 seconds prior to the feature. Details of a Licensing Authority recommendation should be displayed at or near the entrance to the screening.
- 17.6 The Licensing Authority anticipates that the BBFC's recommendations will apply to the vast majority of films shown at licensed premises within the borough. However in a small number of cases, the Licensing Authority may be called upon to exercise its powers and issue an overriding recommendation, which would only apply to licensed premises within the borough. Such situations can be approximately characterised in one of three groups:
- In cases where the Licensing Authority has concerns about a particular film, and has of its own volition made an alternate recommendation. This may allow admission of persons of a higher or lower age than the recommendation made by the BBFC, or in extreme circumstances may prevent the showing of a particular film. This power will be rarely, if ever, utilised.
  - In cases where a film has not been classified by the BBFC. This is likely to be the case with small, local, independent films, or foreign films, where a wider UK release is not intended.
  - In cases where the Licensing Authority is approached by a third party, asking the authority to override a recommendation made by the BBFC.
- 17.7 The third of these groups may include films intended to be shown at 'parent and baby' screenings, which have increased in popularity in recent years. The Act and Guidance are silent on the admission of babies to a film which is subject to an age-related recommendation – therefore on a strict interpretation of the Act, babies must be excluded from such screenings. The Licensing Authority is aware that some cinemas across the country have agreed schemes whereby the applicable licensing authority makes an alternate recommendation in respect of a specified film, expressly permitting the admission of babies and very young children to special screenings of that film with only parents of such children in attendance.
- 17.8 It is recommended that any premises considering the provision of such screenings contacts  the Licensing Authority to discuss the proposals firstly. The Authority will typically only depart from BBFC Classification in exceptional circumstances and would expect special

provisions to be made for such screenings, including higher light levels and reduced sound levels, in order that parents can better ensure the safety of their children.

- 17.9 When exercising powers under section 20 to issue an admission recommendation for a previously unclassified film, the Authority will adhere to the BBFC's Classification Guidelines, and where possible will issue a recommendation which is in accordance with one of the standard classification bands. This approach is preferred as audiences will be familiar with this particular classification scheme and the meaning of the 'certificates'.
- 17.10 In such circumstances, the Authority will require the organiser of the exhibition to provide a copy of the film for classification purposes, or to arrange a viewing for representatives of the Licensing Authority.
- 17.11 Where the Licensing Authority receives a request to override an existing recommendation made by the BBFC, or has concerns of its own in respect of a particular film, in the first instance the Authority shall have regard to the BBFC's original classification decision, and the BBFC Insight record which describes the content of the film that led to the classification decision. If satisfied that the content will not present any issues if viewed by children under 24 months of age, then the Authority may agree to issue an alternate recommendation, consistent with the BBFC's original classification but including a specific exemption for accompanied children below 24 months of age, at screenings advertised and restricted to 'parent and baby' only. Where concerns exist based on the BBFC Insight record that a film may not be suitable for viewing by young children below 24 months of age, the authority may request that the cinema facilitates a viewing of the film in question to make a full assessment of this. No alternate recommendation would be issued unless the authority is satisfied that allowing young children below 24 months of age to be admitted will not lead to the child protection licensing objective being undermined.


## **18. SAFEGUARDING**

- 18.1 The Licensing Authority is aware that alcohol use, misuse and abuse is one of the recurring key 'parental factors' in child protection and safeguarding, often contributing to parental neglect of children and domestic abuse and violence within families. The density of licensed premises, particularly off licences in deprived areas or areas where there are high rates of domestic abuse, is a cause for concern to the Authority.
- 18.2 The Authority expects that premises will operate in a responsible manner to ensure that children are not desensitised to the potential harm of alcohol. Desensitisation can occur by many ways. For example, through the manner in which the business operates, through the products that they offer for sale, the layout of their premises or through how promotional/advertising material is displayed. Matters that may be considered by the Authority if its discretion is engaged are:

- Whether due regard is paid to industry codes of good practice on the labelling and display of alcoholic products, such as not displaying these next to soft drinks, sweets or toys.
  - The likelihood of children being attracted to the premises; e.g. by the nature of activities or facilities provided whether or not these are licensed.
  - The use and display of promotional material for alcohol products.
- 18.3 Alcohol can be a factor in child sexual exploitation (CSE), where young people may be encouraged or coerced to drink, or alcohol may be a factor in risk-taking behaviour by young people who drink irresponsibly and then get involved in activities that otherwise they would not. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises and licensed premises being used for the purposes of grooming and enticement.
- 18.4 The Licensing Authority is also aware children may be attracted to takeaway and fast food restaurants and there is evidence nationally that this type of licensed premises has been used for the purpose of grooming and enticement.
- 18.5 The Licensing Authority encourages premises licence holders to make sure they are fully aware of the signs of CSE and to understand that the sexual exploitation of a child is sexual abuse and a crime. The Authority also expects licence holders to raise the awareness of their staff about CSE and provide intelligence for the appropriate authorities about concerns, including perpetrators who may be operating in their areas.
- 18.6 To support organisations that come into contact with the public, or which employ under 18s, the Licensing Authority expects staff to have access to safeguarding training and be briefed on local safeguarding initiatives.

## 19. LICENCE CONDITIONS

- 19.1 Where Responsible Authorities or other persons do not make any representations about an application, it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any relevant mandatory conditions prescribed by the Act.
- 19.2 Additional Home Office guidance on [!\[\]\(36f8637baaa56c4be44b454435949289\_img.jpg\) Mandatory Licensing Conditions](#) may be found on the Government website.
- 19.3 The Licensing Authority must avoid attaching conditions that duplicate other regulatory regimes as far as possible and may not impose conditions unless its discretion has been engaged following the making of relevant representations and the Licensing Sub-Committee has been satisfied at a hearing that it is appropriate to impose them.
- 19.4 It may then impose only those conditions appropriate to promote the licensing objectives arising out of the consideration of the representations.
- 19.5 To minimise problems and the necessity for hearings, the Licensing Authority would encourage applicants to consult with the Responsible Authorities when preparing their operating schedules so that they can offer appropriate conditions as part of their applications.

- 19.6 The Licensing Authority recognises that it is important to ensure that any conditions attached to a licence or certificate achieve the licensing objectives but are not disproportionate or overly burdensome. Therefore, where conditions are necessary they will be tailored to the individual style and characteristics of the particular premises and event concerned. Where appropriate, following a hearing the Licensing Sub-Committee will consider attaching conditions provided that they are proportionate, justifiable and capable of being met.
- 19.7 A committee or board with responsibility for managing a community premises where alcohol is sold such as a church or community hall, may apply to remove the mandatory condition requiring a designated premises supervisor (DPS) and personal licence holder and replace it with the condition that every supply of alcohol must be made or authorised by the management committee. Further information on the [community premises exemption for a DPS](#) can be found on the Government website. 

## 20. ADMINISTRATION & DELEGATION

- 20.1 The functions of the Licensing Authority under the Act 2003 are carried out by Surrey Heath Borough Council's Licensing Committee, by its Licensing Sub-Committee or by officers acting under delegated authority.
- 20.2 The Sub-Committee comprises three Councillors drawn on a panel basis from the membership of the Licensing Committee with each hearing chaired by a designated Licensing Sub-Committee Chairperson. Councillors may not sit on any Sub-committee to determine any application or review of a licence within their respective ward.
- 20.3 In the interests of efficiency and cost-effectiveness for all parties involved in the licensing process, the Licensing Authority has established a scheme of delegation to deal with applications received under the Act.
- 20.4 The table at paragraph 20.8 sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and officers. This form of delegation is without prejudice to officers referring an application to a Sub-Committee or to Full Committee if considered appropriate in the circumstances of any particular case. These delegations are as recommended by the Guidance.
- 20.5 Ward Councillors play an important role in the local community. They can make representations in writing and speak at the hearing on behalf of an interested party such as a local resident or local business if specifically requested to do so. They may also make representations as an interested party in their own right if they have concerns about the premises.
- They may apply for a review of a licence if problems at a specific premises justify intervention and are brought to their attention. Ward Councillors are informed of all new applications and any application to vary a licence in their ward.
- 20.6 Local residents and businesses may wish to contact their local ward Councillors in respect of a licence application. If a local resident or business makes a representation about an application



it is recommended that a copy is sent to their Ward Councillors as this assists them to gain an understanding of local community feelings.

20.7 Ward Councillors may attend hearings of Licensing Sub-Committees considering applications and may speak on behalf of themselves or local residents and businesses if they have made a personal representation, they have made a representation on behalf of local residents or businesses as 'community advocates' or they have been nominated by an objector who cannot attend the hearing or prefers to be represented at the hearing.

20.8 Delegation of Decisions:

| <b>Matter to be dealt with</b>  | <b>Licensing Sub-Committee</b>             | <b>Officers</b>                    |
|---|--|------------------------------------|
| Application for personal licence with unspent convictions.            | If a Police objection has been made        | If no objections                   |
| Application for premises licence / club premises certificate          | If a relevant representation has been made | If no relevant representation made |
| Application for provisional statement                                 | If relevant representation has been made   | If no relevant representation made |
| Application to vary premises licence/ club premises certificate       | If a relevant representation has been made | If no relevant representation made |
| Application to vary designated premises supervisor                    | If a Police objection has been made        | All other cases                    |
| Request to be removed as a designated premises supervisor             |  | All cases                          |
| Application for transfer of premises licence                          | If a Police objection has been made        | All other cases                    |
| Application for interim authorities                                   | If a Police objection has been made        | All other cases                    |
| Application to review premises licence / club premises certificate    | All cases                                  |                                    |
| Decision on whether a complaint is irrelevant frivolous vexatious     |  | All cases                          |
| Determination of a Police or Environmental Health representation to a | All cases                                  |                                    |

|   |  |   |
|---|--|---|
| temporary event notice  |  |   |
| Suspension of licence for non-payment of fees                                 |  | All cases                                       |
| Taking action as a Responsible Authority on behalf of the Licensing Authority |  | As delegated by the Executive Head of Community |
| Minor variations and alternative conditions on community premises             |  | All Cases                                       |
| Classification of a film under sections 20 and 74                             |  | All Cases                                       |

## 21. ENFORCEMENT

- 21.1 Where necessary, enforcement will be taken in accordance with the principles set out in the Council's Corporate Enforcement Policy.
- 21.2 The Council has established protocols with the local Police and Fire Authority to avoid duplication and to provide for the most efficient deployment of Council, Police and Fire Authority officers in respect of inspection of licensed premises and the use of appropriate enforcement tools.
- 21.3 The policy of the Council will always be a light touch inspection regime for well managed and maintained premises with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.
- 21.4 The Licensing Authority encourages licensees to seek advice from the Environmental Health and Licensing Services and/or the police for clarification, advice or assistance with issues which arise, but places the responsibility for effective management solely with licence holders.

## 22. CUMULATIVE IMPACT ASSESSMENTS

- 22.1 The Licensing Authority recognises that the number, type and concentration of licensed premises in any given area, may have a 'cumulative impact' on one or more of the licensing objectives (e.g. problems with nuisance, crime and disorder etc.) over and above the impact of the premises themselves. It also recognises that such problems may occur both in the vicinity of and at some distance from the premises concerned.
- 22.2 In recognition of the potential for cumulative impact, and by way of promoting the licensing objectives, the Licensing Authority may act on or otherwise consider any of the following.

The LA may, in its own right or, on receipt and consideration of relevant representations from any Responsible Authority or other person adopt a special policy to control any cumulative impact on the licensing objectives arising in the area. This is known as a Cumulative Impact Policy (CIP).

For these purposes, the CIP shall be limited to the restriction of future applications for relevant authorisations within any area where the number, type or density of licensed premises may lead to, or is otherwise causing serious problems with nuisance, crime and disorder or other relevant problems, over and above the impact of individual premises in the area concerned. The CIP may be limited to areas in the vicinity of and/or at some distance from the premises concerned.

In deciding whether to adopt a CIP the Licensing Authority will ensure there is evidence to support it and would normally consider-

Whether serious and chronic concerns have been identified by a Responsible Authority or significant representations from other persons have been received about the levels of nuisance, crime and disorder or other relevant problems;

Whether it can be demonstrated that crime and disorder, nuisance or other relevant problems arise as a result of customers from licensed premises in an identified and specific area, or that the risk factors are such that the area is reaching a point where cumulative impact is imminent;

Health-related statistics such as alcohol-related emergency attendances and hospital admissions;

Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;

Evidence from local and parish councillors;

Whether the imposition of conditions to individual licences is (un)likely to address the wider problems concerned; and

Whether taking all relevant matters into account a policy about future licence applications from that area should be adopted (i.e. it is necessary and appropriate to control the cumulative impact claimed.)

- 22.3 The Licensing Authority implemented a CIP in xxx and this is attached as Appendix A. Under current Guidance there is a requirement to review the CIP every three years, or more regular if appropriate. We will be reviewing the current policy as part of the overall review of this Statement of Licensing Policy.

Where necessary we will then review the CIP every three years or sooner if conditions dictate and the CIP remains in place.

## **22.1. Other Controls for Controlling Cumulative Impact**

22.1.1 Regardless of whether or not a special policy is in place, the Licensing Authority recognises and will, where appropriate, seek to promote the use and consideration of alternative mechanisms to control anti-social behaviour of customers after leaving licensed premises.

The Licensing Authority will work with other agencies and the Responsible Authorities to ensure compliance with a range of legislation which in turn will help to promote the four licensing objectives

These may include-

- a) Planning controls
- b) Positive measures and local initiatives to create a safe and clean town centre environment in partnership with local businesses, transport operators and other services in the local authority
- c) The provision of physical measures and services such as CCTV, surveillance systems, taxi ranks, provision of public conveniences, street cleaning and litter patrols
- d) 'Public Spaces Protection Orders' to control the drinking of alcohol in public spaces under the Anti-social Behaviour, Crime and Policing Act 2014
- e) Enforcement against disorder and anti-social behaviour including the issuing of fixed penalty notices
- f) The prosecution of any personal licence holder or member of staff at licensed premises who sells alcohol (whether or not by proxy) to people who are drunk or underage
- g) The power of the Police, Licensing Authority and other Responsible Authorities, Councillors and/ or any other person to seek a review of a relevant authorisation.

## 23. REMOTE HEARINGS:

23.1 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2022 apply to local authority meetings that are required to be held, or are held before 7 May 2021. This provides for the remote access of, and remote attendance at, local authority meetings. This includes and will apply to licensing hearings.

We will therefore arrange for hearings to be held remotely during this period and afterwards if there is a continuing need.


We will ensure that the hearing comply with these Regulations and the Licensing Act (Hearing) Regulations 2005.

For further details of how these remote meetings will be held please contact


[licensing@surreyheath.gov.uk](mailto:licensing@surreyheath.gov.uk)



## 24. REVIEWS

- 24.1 Following the grant of a Premises Licence or a Club Premises Certificate, a Responsible Authority or any other person may ask the Licensing Authority to review it due to a matter arising in connection with any of the four licensing objectives.
- 24.2 Full details of the [review process](#)  can be found on the Government website.

## 25. DIVERSITY & EQUALITY

- 25.1 The Licensing Authority wishes to encourage the provision of a culturally diverse range of regulated entertainment within the Borough, particularly live music and dance which are accessible to all people.
- 25.2 All licensed premises are subject to the Equality Act 2010 which lists a number of protected characteristics that must not be used as a reason to treat a person less favourably than another person, these are;
- Age
  - Disability
  - Gender reassignment
  - Marriage and civil partnerships
  - Pregnancy and maternity
  - Race (this includes colour; nationality; ethnic and national origins)
  - Religion or belief
  - Sex or sexual orientation.
- 25.3 Treating a person less favourably than someone else because that person has one or more of these characteristics is discriminatory.
- 25.4 The Equality Act 2010 also includes a duty on the Council as the Licensing Authority to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations, between people with different protected characteristics.
- 25.5 The Licensing Authority urges applicants and existing operators to plan ahead to meet their legal responsibilities under the [Equality Act 2010](#). Further information and guidance can be obtained from the Government. 
- 25.6 Duties imposed by the Equality Act 2010 provide that any person providing a service to the public must comply with the duty to make reasonable adjustments to enable disabled people to access the service, where a disabled person would be at a substantial disadvantage compared to a non-disabled person.

- 25.7 This applies to disabled people employed by or those who wish to obtain goods and services from licensed premises. No condition will be attached to a licence or certificate which conflicts with or duplicates this requirement.
- 25.8 Service providers have a duty to make reasonable adjustments to any physical features which put a disabled person at a substantial disadvantage in accessing a service, or they have to provide the service by a reasonable alternative means.
- 25.9 Access to buildings and their facilities is a matter addressed in Building Regulations and planned alterations affecting access may involve the need to apply for building control approval.
- 25.10 The Equality Act 2010 provides protection from three forms of disability discrimination;
1. Direct discrimination because of disability in relation to goods, facilities and services
  2. Indirect disability discrimination
  3. Discrimination arising from disability.
- 25.11 Businesses have an obligation to make reasonable adjustments to help disabled individuals access their goods, facilities and services.

## 26. USE AND EXCHANGE OF INFORMATION


26.1 Information regarding how we will use, store and share your information, including our retention guidelines, is available at [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk) and on all relevant application forms. 

26.2 Keeping personal information up-to-date

To allow for communications and ensure that authorisations remain valid, licence holders must keep the Licensing Authority advised (as soon as reasonably practicable) of any change of name, address or contact details (telephone, mobile, email address etc.). Where appropriate the Licensing Authority may check any change of details and require suitable proof of identity and evidence of the change(s) made.

## 27. LICENSING REGISTER AND PROVISION OF INFORMATION

The Licensing Authority is required to maintain a public register of all authorisations that it issues, together with other information.

For ease of access, reference and transparency, all public registers are published on our website [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk). 

We will also publish a redacted copy of any licence or application open to representations on our website [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk). Relevant applications will be published in this way for the duration of the relevant representation period.

## **Further information may be obtained from:**

- Licensing
- Surrey Heath Borough Council
- Email: [licensing@surreyheath.gov.uk](mailto:licensing@surreyheath.gov.uk)

## **References:**

- Licensing Act 2003
- Home Office-Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018)
- Licensing Act 2003(Hearing) Regulations 2005
- The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

## APPENDICES

### Appendix A - Cumulative Impact 2016-2021 - Special Policy

147. The Council will apply a special policy relating to cumulative impact as provided for by the guidance issued by the Home Office to the area of Camberley town centre bordered by High Street, Pembroke Broadway, Park Street and London Road (as shown on the attached plan). This area has been extended to encompass Southwell Park Road up to Southern Road and Lower Charles Street, back to the London Road, including the Atrium and surrounding premises.

This area has been identified as being under stress because the cumulative impact of the concentration of late night and drink led premises in this area has led to serious problems of crime, disorder and/or public nuisance.

148. The evidence for this special policy is set out on the Licensing Act 2003, webpage.
149. This special policy creates a rebuttable presumption that applications within the town centre area for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations are received about the cumulative impact on the licensing objectives, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced.
150. For the purposes of this special policy material variation shall be a modification to the structure or use of the licensed premises which would be likely to exacerbate crime and disorder problems arising from the cumulative impact of licensed premises within the town centre area.
151. Applicants will need to address the special policy issues in their operating schedules in order to rebut such a presumption.
152. Despite the presumption against grant, responsible authorities and any other persons will still need to make a relevant representation before the Council may lawfully consider giving effect to its special policy i.e. if no representation is received, the application must be granted (subject to such conditions that are consistent with the operating schedule and any mandatory conditions required by the Act). However, responsible authorities or any other persons can make written representation maintaining that it is appropriate to refuse the application for the promotion of the crime and disorder objective and referring to information which had been before the Council when it developed its statement of licensing policy.
153. The absence of a special policy in relation to any other area of the Borough does not prevent any responsible authority or any other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
154. The Council will regularly review any special saturation policies to see whether they are still needed or should be expanded.

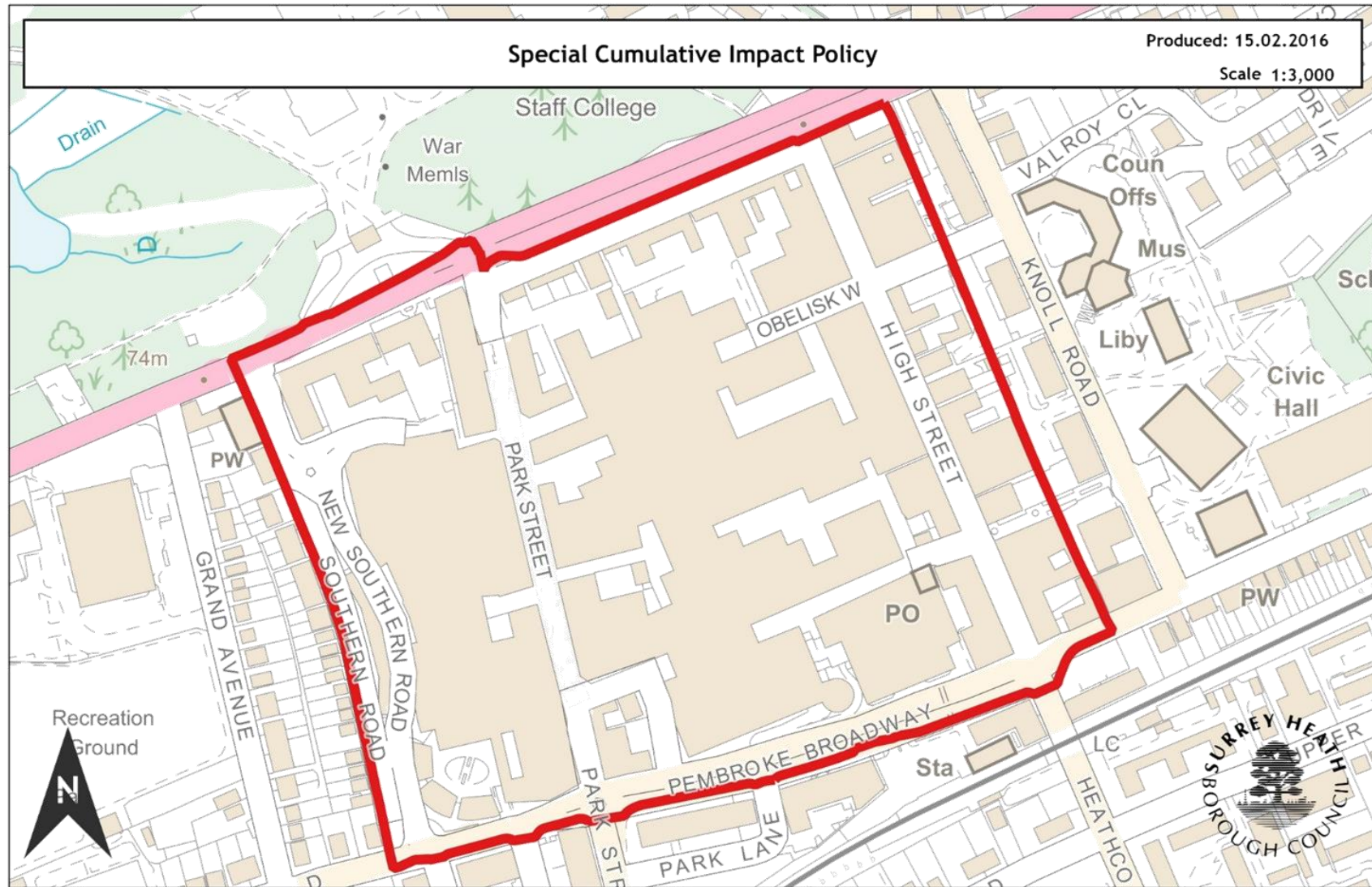


155. The Council will not take 'need' (of the commercial demand for premises offering a particular type of licensable activity) into account when considering an application, as this is a matter for the market. However, the impact on the promotion of the licensing objectives of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside and some distance from the premises. This is described as the 'cumulative impact', and is a proper matter for consideration by the Council.

# Special Cumulative Impact Policy

Produced: 15.02.2016

Scale 1:3,000



Surrey Heath Borough Council, Knoll Road, CAMBERLEY, GU15 3HD | Tel : +44 (0)1276 707100 | Fax : +44 (0)1276 707448 | Email: main.reception@surreyheath.gov.uk

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- 156: The Council will not use this policy solely:
- as grounds for revoking a licence or certificate when representations are received about problems with an existing licensed premises (after a licence or certificate has been granted or varied, a complaint relating to a general (crime or disorder or nuisance) situation in a town centre would not generally be regarded as a relevant representation if it cannot be positively tied or linked by a causal connection to particular premises), or
  - to refuse applications to vary an existing licence or certificate except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits of a premise, and are strictly necessary for the promotion of the licensing objectives.
157. The Council recognises that there are other mechanisms both within and outside of licensing regime that are available for addressing the impact of unlawful and anti-social behaviour and nuisance once consumers are away from the premises e.g.
- positive measures to provide a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council
  - the provision of CCTV surveillance in the town centre, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
  - powers to designate parts of the Borough as places where alcohol may not be consumed publicly
  - police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices
  - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
  - the confiscation of alcohol from adults and children in designated areas e.g. use of the powers of confiscation contained in the Confiscation of Alcohol (Young Persons) Act 1997
  - police powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
  - the power of police, other responsible authorities, including the Licensing Authority or any other person to seek a review of the licence or certificate in question
  - Public Space Protection Orders which can be used by a Council to restrict the consumption of alcohol in a public place.
158. The Council will address these issues in line with the strategic objectives for crime and disorder reduction within the Borough.

Review date: October 2020 as part of consultation on Statement of Licensing Policy 2021-2026

## Appendix B - Contact Details for Responsible Authorities

### Police

Address: Licensing Officer, Camberley Police Station, Surrey Heath House, Knoll Road, Camberley, Surrey, GU15 3HD

Tel: 01483 631786

Fax: 01483 655270

Email: [11701@surrey.pnn.police.uk](mailto:11701@surrey.pnn.police.uk)

### Fire Authority

Address: Surrey Fire and Rescue Service, SFRS Business Support, Croydon Road, Reigate, Surrey, RH2 0EJ

Tel: 01483-517600

### Child Protection Committee

Address: County Child Employment & Strategy Manager, Quadrant Court, 35 Guildford Road, Woking, Surrey, GU22 7QQ

Tel: 0300 123 1630

Email: [nwcpproc.duty@surreycc.gov.uk](mailto:nwcpproc.duty@surreycc.gov.uk)

### Environmental Health Services

Address: Senior Environmental Health Officer, Surrey Heath Borough Council Surrey Heath House, Knoll Road, Camberley, Surrey, GU15 3HD

Tel: 01276 707100 (Customer Services)

Email: [environmental.health@surreyheath.gov.uk](mailto:environmental.health@surreyheath.gov.uk)

### Trading Standards

Address: Surrey Trading Standards Service, Consort House, 5 – 7 Queens Way, Redhill, RH1 1YB

Tel: 01372 371700 (General Enquiries)

01372 371737 (Business Advice)

Email: [trading.standards@surreycc.gov.uk](mailto:trading.standards@surreycc.gov.uk)

### **Surrey Heath Clinical Commissioning Group**

Address: Surrey Heath House, Knoll Road, Camberley, Surrey, GU15 3HD

Tel: 01276 707572

Email: [SHCCG.Contactus@nhs.net](mailto:SHCCG.Contactus@nhs.net)

However, the villages of Bisley, Chobham and West End are served by;

### **North West Surrey Clinical Commissioning Group**

Address: Weybridge Primary Care Centre, Church Street, Weybridge, Surrey, KT13 8DW

Tel: 01372 201802

Email: [contactus2@nwsurreyccg.nhs.uk](mailto:contactus2@nwsurreyccg.nhs.uk)

### **Planning Authority**

Address: Regulatory Services, Surrey Heath Borough Council, Surrey Heath House, Knoll Road, Camberley, Surrey, GU15 3HD

Tel: 01276 707100 (Customer Services)

Email: [development.control@surreyheath.gov.uk](mailto:development.control@surreyheath.gov.uk)

In the case of any property that has strong involvement with, or is owned by the local authority, or any nursing home that may have a licence, a copy should be sent to;

### **The Health and Safety Enforcement Agency**

Address: Enforcement Liaison Officer, Council Offices, Station Road East, Oxted, RH8 0BT

Tel: 01883 732425

Email: None

### **Surrey Primary Care Trust**

Address: Lesley Hackney, Public Health Business Manager, Room G55 County Hall, Penrhyn Road, Kingston Upon Thames, KT1 2DN

Tel: 02085417976

### **Home Office (Immigration Enforcement)**

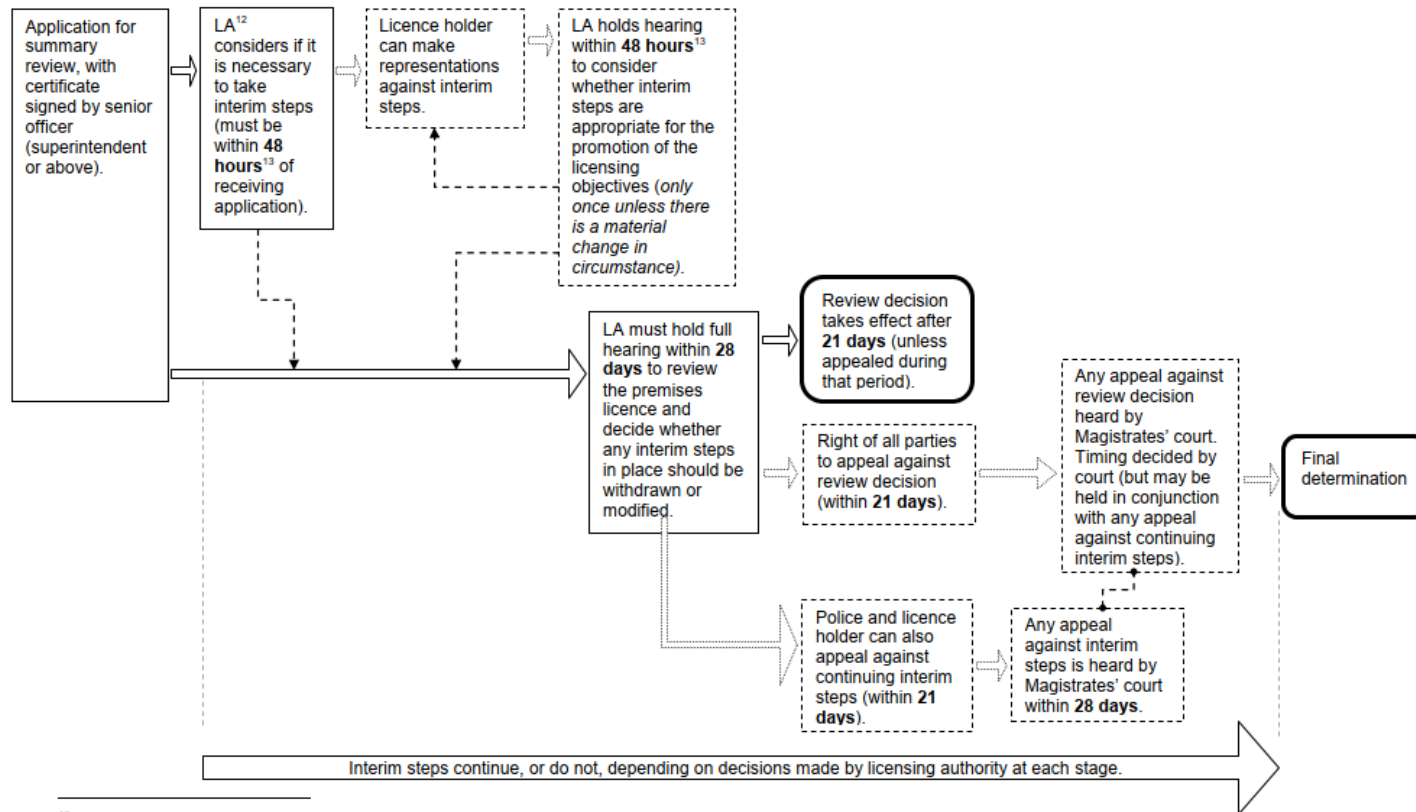
Address: Alcohol Licensing Team, Lunar House, 40 Wellesley Road, Croydon, CR9 2BY

Email: [Alcohol@homeoffice.gsi.gov.uk](mailto:Alcohol@homeoffice.gsi.gov.uk)

# Appendix C - Summary Review Flowchart

The [Summary Review Flowchart](#) can also be viewed or downloaded via Box. If you need to view Appendix C in an accessible format, please contact [licensing@surreyheath.gov.uk](mailto:licensing@surreyheath.gov.uk).

Summary review flowchart



<sup>12</sup> Licensing authority

<sup>13</sup> Only working days count

102 | Revised Guidance issued under section 182 of the Licensing Act 2003

From: **Peter Willis** <peter.willis@surreycc.gov.uk>  
To: **Licensing Team** <Licensing@surreyheath.gov.uk>  
Subject: REVIEW OF STATEMENT OF LICENSING POLICY 2016-21  
Date: 29.10.2020 10:56:52 (+0000)

Hello Licensing team,  
Further to the review of the above, The Fire Authority have no further comments to make in regards to the amendments or the CIP.

Regards  
Peter



Peter Willis  
Surrey Fire & Rescue Service  
St Davids  
Croydon Road  
Reigate  
RH2 0EJ

Telephone: 01737 242 444  
Mobile: 07800 621 942

[peter.willis@surreycc.gov.uk](mailto:peter.willis@surreycc.gov.uk)

[peter.willis@surreycc.gcsx.gov.uk](mailto:peter.willis@surreycc.gcsx.gov.uk)  
[www.surrey-fire.gov.uk](http://www.surrey-fire.gov.uk)

## [Fire safety for businesses and organisations](#)

SURREY FIRE AND RESCUE SERVICE-WITH YOU, MAKING SURREY SAFER



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From: **Andrew Edmeads** <Andrew.Edmeads@surreyheath.gov.uk>  
To: **Licensing Team** <Licensing@surreyheath.gov.uk>  
Subject: CONSULTATION UNDER LICENSING ACT 2003  
Date: 29.10.2020 09:11:57 (+0000)

Good morning

Thanks for sharing the policy for review.

Only comment from me; please could you include "theatre" on page 4 under section 1.1 where you list the type of premises we have in the town.

Thanks  
Andy

**Andy Edmeads**  
Venue Manager  
Camberley Theatre  
Knoll Road  
Camberley  
Surrey  
GU15 3SY

From: **Cllr Alan McClafferty** <Alan.McClafferty@surreyheath.gov.uk>  
To: **Licensing Team** <Licensing@surreyheath.gov.uk>  
Subject: Draft Statement of Licensing Policy 2021-2026  
Date: 27.11.2020 15:40:02 (+0000)

Dear Sir/Madam

I am writing in support of the view that the Cumulative Impact Policy, currently under review, has been extremely beneficial to the residents of Camberley town centre and should be continued.

I have had numerous emails from residents of St Georges Court who, although are complaining about noise from club goers upon leaving the venue, understand that the situation would be much worse if several clubs were licensed within the same area.

I would urge the Council to renew the CIP.

Regards

Alan

Alan McClafferty  
St Michaels Ward  
Leader of Surrey Heath Borough Council

## **Response to Cumulative Impact Policy (CIP) consultation.**

**DI Alick James Surrey Heath Borough Commander**

**October 2020**

In considering the impact of licensed premises on crime and disorder within the area subject to the Cumulative Impact Policy the following indicative offences have been assessed: Anti-Social Behaviour, Criminal Damage and Violence against the person (with and without violence).

The following data has been drawn from the Surrey Police Records Management System and represents those offences and incidents which have been recorded from the 1<sup>st</sup> January 2018 to the 16<sup>th</sup> October 2020;

- 468 incidents of Anti-Social Behaviour
- 715 incidents of Violence Against the Person
- 167 incidents of Criminal Damage

These incidents cannot be directly linked to licensed premises but further data has been obtained from Inn Keeper, a system which records incidents attributable to licensed premises. This data shows the following between the same period, 1<sup>st</sup> January 2018 to the 16<sup>th</sup> October 2020.

- 42 incidents of Anti-Social Behaviour representing 9% of this crime in the CIP area.
- 154 incidents of Violence Against the Person representing 21% of this crime in the CIP area.
- 2 incidents of Criminal Damage representing 1% of this crime in the CIP area.

The most significant impact upon crime and disorder has come from pubs and nightclubs, with hotels, restaurants and shops having a minimal contribution.

The Home Office report 'The Economic and Social Costs of Crime' July 2018 estimates the average costs for Violence against the Person (without and with violence respectively):

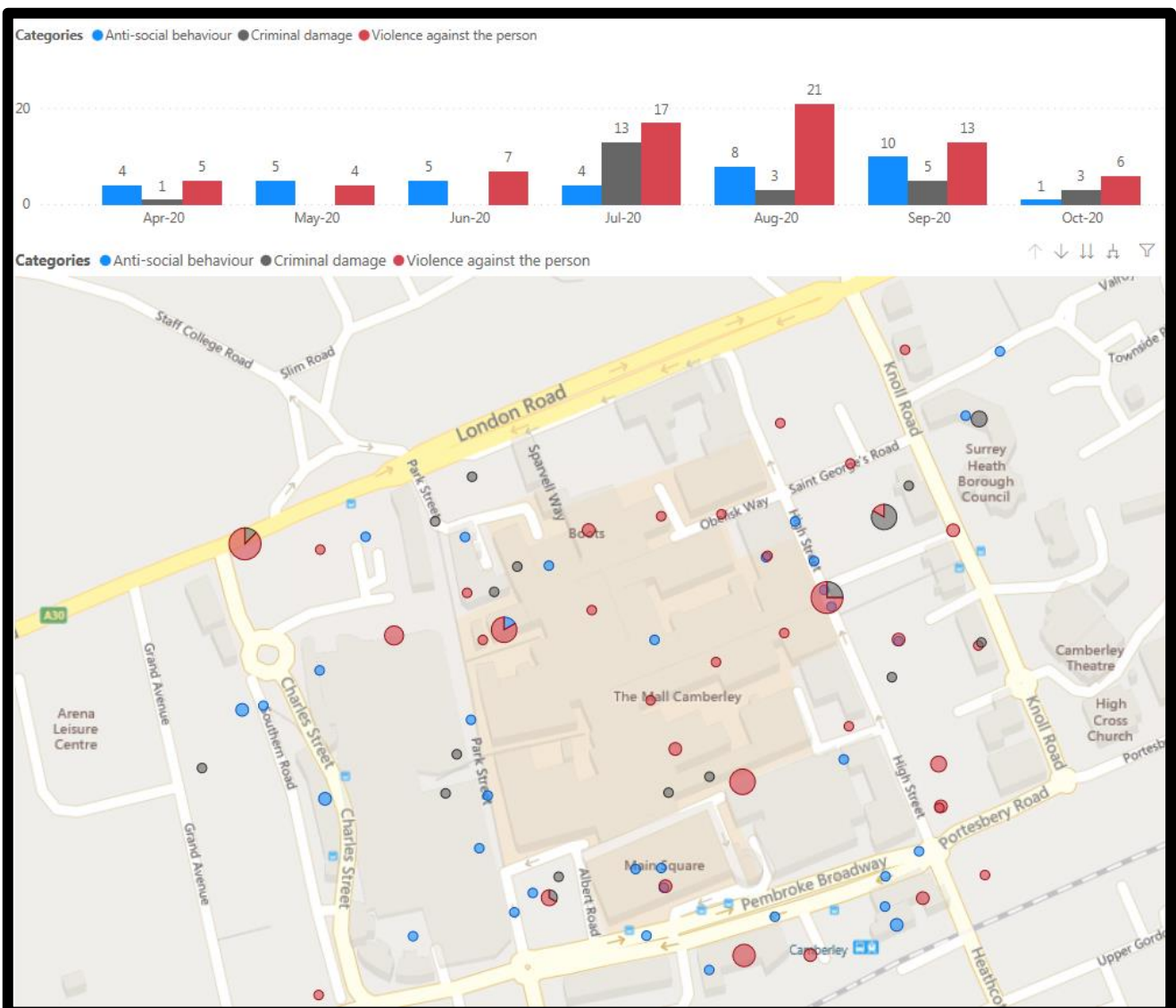
- Police: £810 and £1,130
- Health: £270 and £920
- Criminal Justice System: £1250 and £1370
- Lost productivity of victim: 0.8 and 4.9 hours
- Physical and Emotional Costs: £2810 and £8240

For ease of demonstrating the impact of a new pub (inc. nightclubs); if each pub contributes an equal impact of the Violence Against the Person (volume of attributable incidents/pubs as a % of total) a new pub would increase offences by 6%. This would equate to an additional 9 directly attributable offences over the reporting period and an average increase in cost of crime by:

- Police: £7290 and £10,170
- Health: £2430 and £8280

Data from 2020 showing offending rates whilst the licensed premises have been closed and then reopened provides a compelling argument for retention of the CIP. Inn Keeper information only records directly attributable offences and does not capture those offences caused by intoxicated persons in the street within the CIP. The following information captures all of the indicative offending within the CIP.

A large increase in offending can be noted when the pubs were reopened at the beginning of July 2020.



Examples of using the Cumulative Impact Policy from licensing officer Rab Carnie.

“Prior to having the policy Camberley had a bad name and a high rate of public order incidents and assaults within the town area. It was then very clear to myself that we needed to take action in the town centre and a report was done for a CIP to be put in place.

A detailed report of the crime in the town area was completed and the CIP was granted. All venues were visited and many meetings took place which resulted in ID scanners being placed in the main venues which stopped banned people from other towns getting into Camberley pubs, SIA security staff employed in all the high street pubs, pub watch was also looked at and all venues joined.

All new applications that were submitted the applicant had meetings with the Police and council officers, conditions were discussed and agreed and by putting on these conditions it gave the Police more control over the licensed premises to make sure that all conditions were adhered to.

Everyone who committed an offence in licensed premises had the incident discussed at pub watch and they would receive a pub watch ban. Many of the local trouble makers ended up being banned from the town centre and the crime rate in the town was reduced. By having the meetings with the applicants and addressing the CIP and agreeing the licence conditions did reduce the crime.

Due to covid 19 and the lockdowns crime in the town has been reduced as the pub and clubs are closed but when they reopen and people start to attend the venues again I have no doubt crime in the pubs will start to re-occur”

“Above the Duke of York Pub in the High Street is an empty premises that used to be a gym with a bar in it and it has been closed for many years while checking the premises a few years ago I noticed that there were workmen working in the old gym. I went upstairs and spoke to one of the men and he informed me that there was going to be a new night club at the premises. This was new to me as I had not seen any new premises application I was given the owners details and I called him, he stated that he had already got planning permission and his agent dealing with the application informed him that once they had planning permission getting a licence would not be a problem. I immediately requested a meeting with the owner and at the meeting I explained the premises licence procedure and the CIP that was in the town centre. The owner was unaware of this and he had already secured a 15 year lease on the property. There was also a large public meeting held which I chaired and all the local residents were against the new premises. There was a hearing at the council offices and the application was refused mainly due to the CIP as by having another night club in the town would have increased the crime and disorder.”

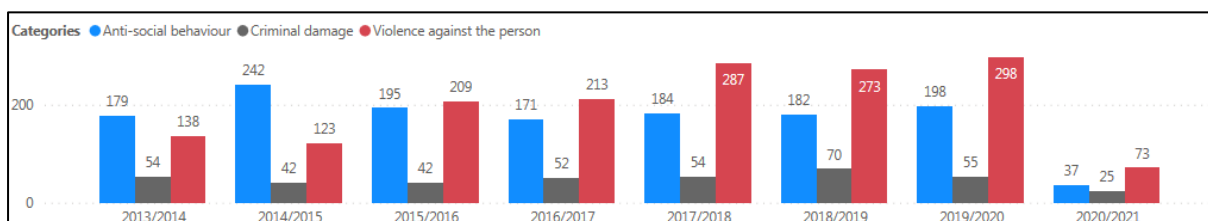
Recommendation.

Appendix A demonstrates that since 2017 the CIP area has maintained stable levels of indicative offending with no large increases. This can also be said prior to 2017 for Criminal Damage and ASB. It is likely the increases in violence against the person are driven by changes in recording practises to include other offences within this definition.

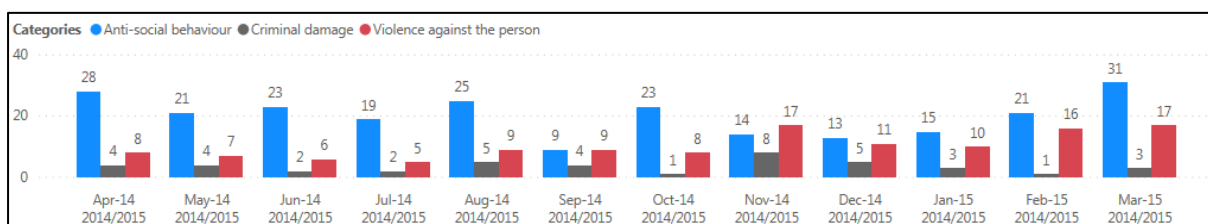
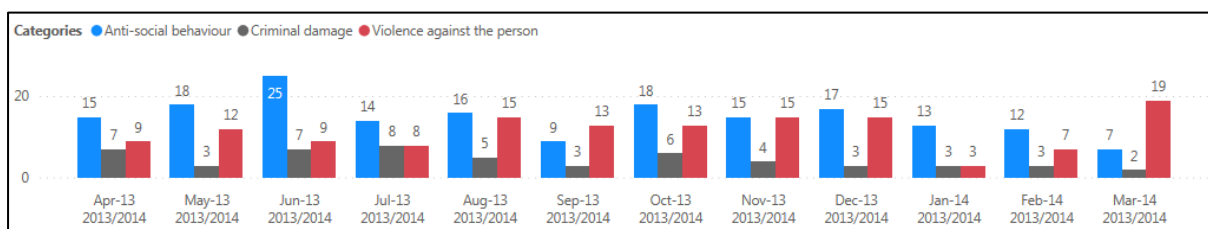
Appendix C indicates, like the spike after lockdown, that indicative offending is driven by the increased volume of people attending licensed premises at the weekend.

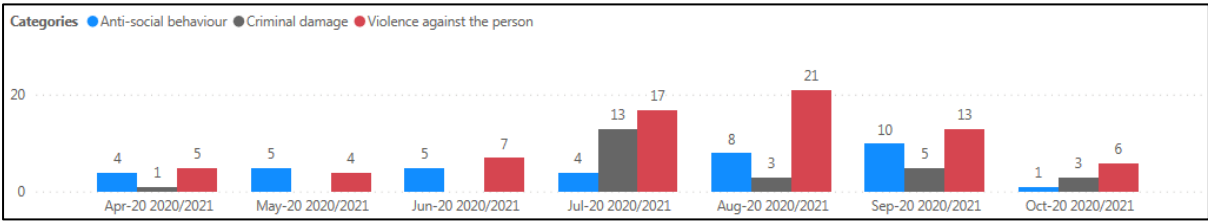
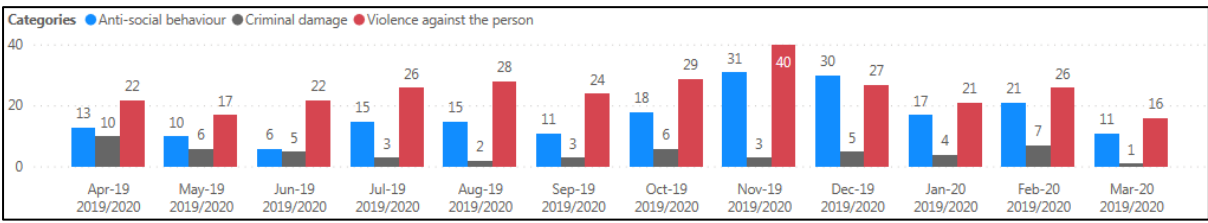
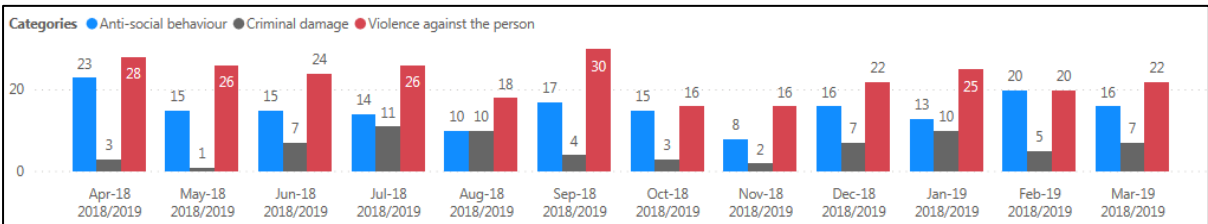
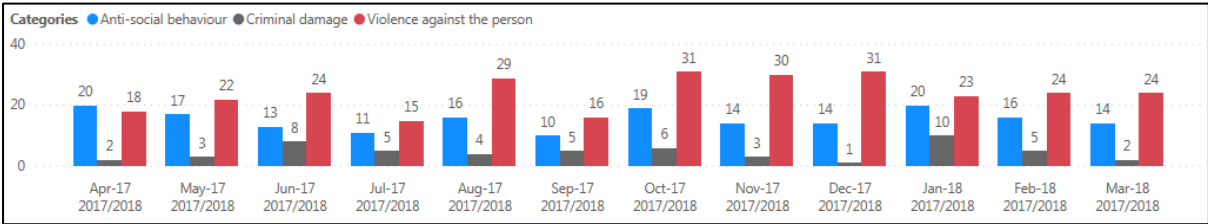
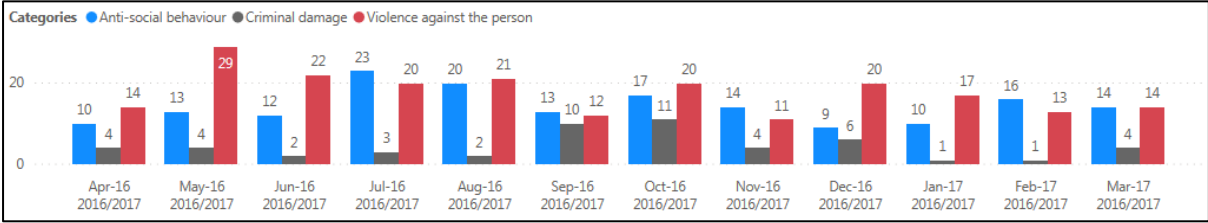
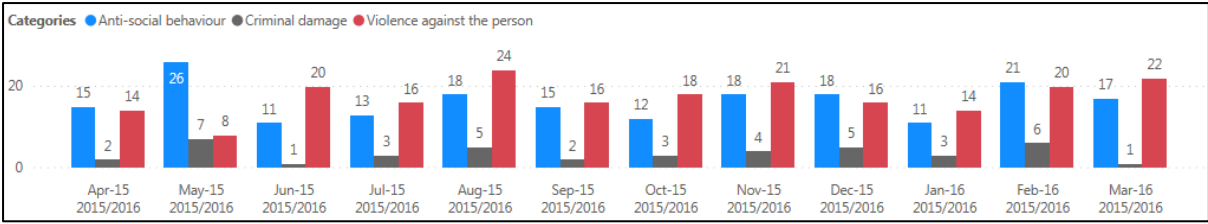
It would be my recommendation that the Cumulative Impact Policy is retained to prevent the increase of anti-social behaviour and crime in Camberley town centre.

Appendix A: all indicative offending in CIP area 2013-2020.



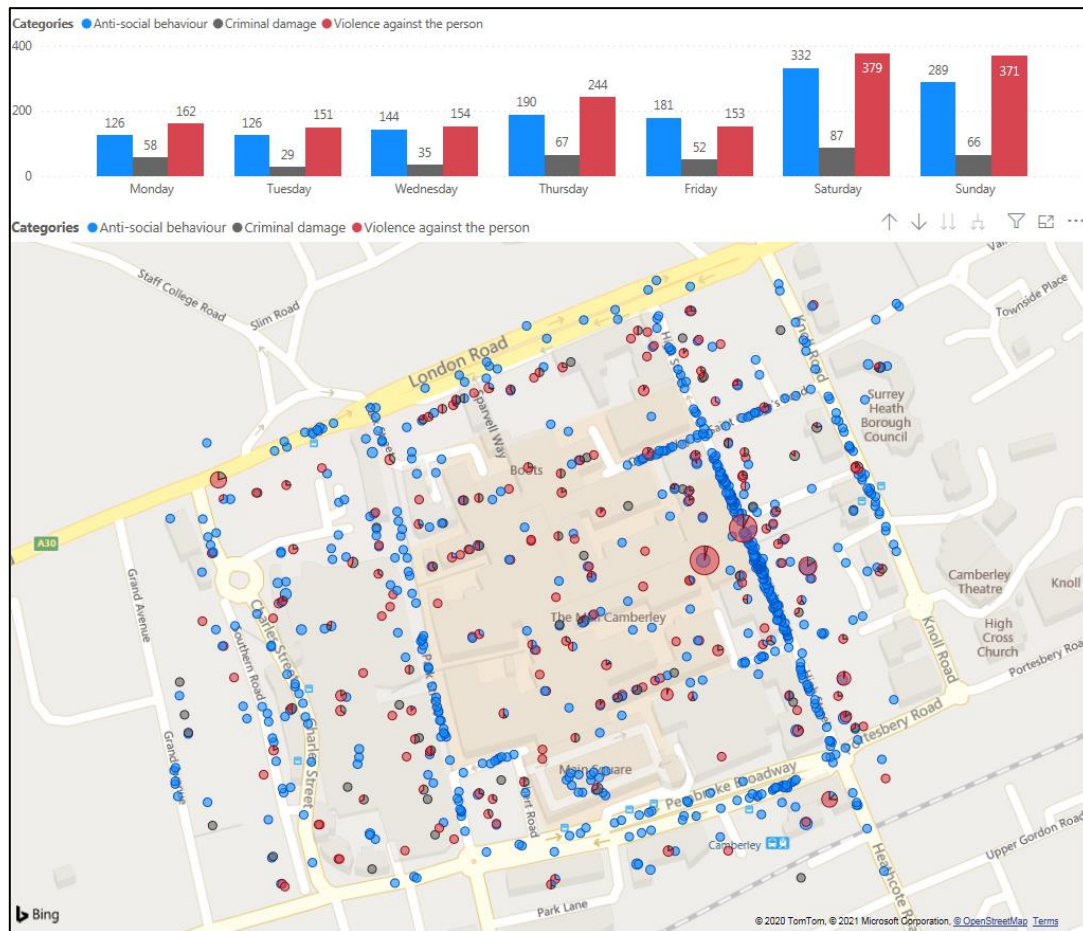
Appendix B: all indicative offending in CIP by year.



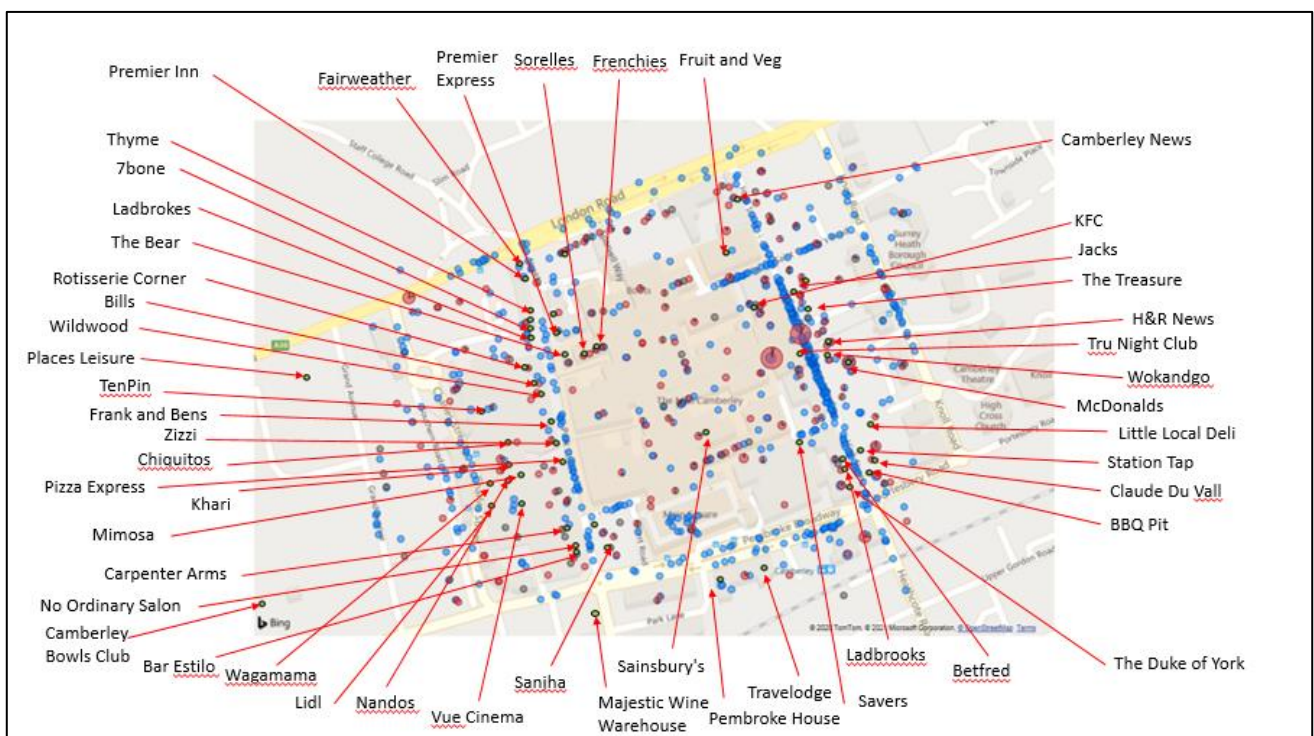




Appendix C: all indicative offending January 2013 – October 2020 by day with map.



Appendix D: Indicative offences in CIP area 2019-2020 with locations of licensed premises.



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## Hackney Carriage (Taxi) and Private Hire (PH) Licensing Policy 2021-2026

### Purpose

To consider the proposed draft Hackney Carriage (Taxi) and Private Hire (PH) Licensing Policy 2021-2026 in relation to exercising functions under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

### Wards Affected: All

### Recommendation

The Licensing Committee is advised to note the contents of this report and to approve the attached draft Hackney Carriage (Taxi) and Private Hire Licensing Policy 2021-2026 for consultation.

It is recommended that the upper age limit for licensed vehicles is temporarily removed until the new draft Policy is adopted.

## 1. Background

- 1.1 In July 2020 the Department for Transport (DfT) issued Statutory Taxi and Private Hire Vehicle Standards. This document was published under section 177(1) of the Policing and Crime Act 2017.
- 1.2 The document recommends that all councils make publicly available a cohesive policy document that brings together all their procedures on Taxi and Private Hire (PH) vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 1.3 Surrey Heath's draft Hackney Carriage (Taxi) and Private Hire (PH) Licensing Policy aims to meet the DfT's expectations, building on our existing good practice.
- 1.4 Once adopted we will keep the Policy under review and formally review it every 5 years. The Policy will be updated as appropriate.
- 1.5 Before determining our Policy we are required to consult on proposed changes in licensing rules that may have significant impacts on passengers and/the trade.
- 1.6 As part of the consultation we will make contact with the groups and persons listed below:

- a) Taxi and PH Trade
- b) All licensed Taxi drivers and proprietors
- c) All licensed PH drivers and operators
- d) The Chief Officer of Police for our area
- e) Persons/bodies representative of disabled persons
- f) Persons/bodies representative of business and residents in the area.
- g) Surrey Heath (SH) Environmental Health
- h) SH Planning and Development Control
- i) SH Community Safety
- j) Other Local Authorities in Surrey
- k) Surrey County Council (SCC) in their capacity as the Highways Authority
- l) SCC – Children’s Services
- m) SCC- Development Control
- n) Trading Standards and Consumer Protection
- o) Age Concern
- p) Pub watch
- q) Groups representing vulnerable travellers.

- 1.7 We will be writing to all of the above inviting comments on the draft Policy.
- 1.8 Recognising that this is a significant change we will be setting up a meeting with the licensed Taxi and PH trade to discuss the implications of the Policy.
- 1.9 We are planning to commence consultation on the attached draft Policy week commencing 5 April. As part of this we will be contacting all Ward Councillors to give them an opportunity to comment.
- 1.10 The start date of consultation will be subject to the outcome of this evening’s meeting.

**2. Hackney Carriage (Taxi) and Private Hire Licensing**

- 2.1 Under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 the Council is responsible for regulating the Hackney Carriage (Taxi) and Private Hire trades operating in the Borough.
- 2.2 Central to this function is a requirement to protect the public, including children and vulnerable adults (over 18), from harm when using these services. This has always been our principle aim when considering licence applications and attaching conditions to licences that we issue.
- 2.3 The DfT Statutory Taxi and Private Hire Vehicle Standards published in July 2020 reinforces the need to safeguard the public and the potential of failings in this area.

- 2.4 The draft Policy takes this requirement on board and recognises that in some areas we may need to go further to strengthen existing arrangements. This includes considering whether a requirement for all licensed vehicles to install CCTV cameras should be introduced.
- 2.5 As a separate consultation we will be seeking views on whether there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse effect on the safety of users, including children or vulnerable adults. This will include seeking the views of the local police.

### **3. Environmental Considerations (Section 7 of the Policy)**

- 3.1 The Council aims to ensure that licensed vehicles are of a good, safe standard. This includes an aim to minimise the impact of their emissions on both the public and the environment.
- 3.2 The draft Policy sets minimum standards for vehicles licensed in the Borough for both vehicle age and emissions.
- 3.3 By setting both vehicle age and emission standards we are aiming to address concerns raised by a Member on behalf of the trade at the Licensing Committees in July 2020.
- 3.4 The current draft Policy covers our commitment to carry out a full review of our policies with regard to both age and emissions.
- 3.5 At the Licensing Committee in July 2020 it was agreed that there would be an exemption to allow vehicles up to 7 years old to be licensed. It is recommended that the upper age limit for licensing vehicles is temporarily removed until the new draft Policy is adopted.
- 3.6 The current fleet of Taxis and PH vehicles, with the exception of a few vehicles, is Euro 6 compliant. This means that there are no immediate cost implications for the trade associated with this change. However the requirements of the Policy would need to be taken into account, by the trade, when considering the purchase of new and replacement vehicles.
- 3.7 There are additional benefits to the trade of introducing a formal age Policy. Providing vehicles are in good condition and pass all relevant tests under the proposed Policy vehicles can be licensed for up to 10 years (or 12 in the case of purpose-built wheelchair accessible vehicles).

#### **4. Other Considerations**

4.1 The Policy introduces a number of additional requirements that may affect the trade. Our aim is to minimise the costs to the trade whilst improving the service provided. These requirements are outlined below:

- Driver code of conduct and dress code
- Big face badge to be placed on dashboard
- Purpose built full hybrid, or plug in hybrid must have a minimum range of 16km (10 miles) using battery power only, a full electric vehicle must have minimum range of 112km (70 miles)
- A written HPI check (status outstanding finance/ insurance write-off)
- Plate exemption criteria – proprietor must prove that 80% of jobs are for a specified customer(s) and vehicles must be a certain type
- Taxi roof light to have TAXI on one side and Surrey Heath Borough Council TAXI on the other
- Replacement auto lamps to be kept in the vehicle
- No meters in Private Hire Vehicles from 01/04/2022
- Card payment terminals in all Taxis to enable contact less payment
- Vehicles with a 3<sup>rd</sup> row of seats must have adequate legroom and headroom and a gap of 300mm at the narrowest point to allow ease of egress
- Wheelchair accessible vehicles must have M1 classification on V5C and must comply with EC Whole Vehicle Type Approval
- Covid-19 considerations- advice to drivers and operators is provided.
- The fees and charges will be comprehensively reviewed over the coming months and will be presented to a future Licensing Committee.

#### **5. Training**

- 5.1 The DfT Statutory Taxi and PHV Guidance (2020) requires that all individuals that determine whether a licence is issued should be required to undertake sufficient training.
- 5.2 The Policy commits to ensuring that this requirement is met for both Members and officers.

#### **6. Resource Implications**

- 6.1 The only resource implications arising from this consultation will be postage and stationary costs which could be in the region of £300-£400.
- 6.2 Consultees will have access to the draft Surrey Heath Hackney Carriage (Taxi) and Private Hire Licensing Policy through the Council's website.
- 6.2.1 We will then bring the results of the consultation and an updated draft Policy to the Licensing Committee in June 2021.

## 7. Covid-19

- 7.1 This has been a challenging time and it is likely that the current restrictions will continue in one form or another for some time. In response the Government has introduced new legislation and guidance to protect people and to support businesses.
- 7.2 The draft Policy provides guidance for licensed drivers and operators in relation to current restrictions relating Covid-19. This is attached to the draft Policy at appendix 11. We appreciate that they may be time limited but nevertheless should be included.

## 8. Recommendation

- 8.1 The Committee is advised to authorise the Licensing Service to go out to consultation on the draft Hackney Carriage (Taxi) and Private Hire Licensing Policy 2021-2026 as outlined in this report.
- 8.2 It is also recommended that the upper age limit for licensed vehicles is temporarily removed until the new draft Policy is adopted.

|                               |   |
|-------------------------------|---|
| <b>Annexes</b>                | Surrey Heath – Draft Hackney Carriage(Taxi) and Private Hire Licensing Policy 2021-2026   |
| <b>Background Papers</b>      | Department for Transport: <ul style="list-style-type: none"><li>• Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010)</li><li>• Statutory Taxi and Private Hire Vehicle Standards ( July 2020)</li></ul> |
| <b>Author/Contact Details</b> | Helen Lolley<br><a href="mailto:Helen.lolley@surreyheath.gov.uk">Helen.lolley@surreyheath.gov.uk</a>  |
| <b>Head of Service</b>        | Tim Pashen - Executive Head of Community  |

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DRAFT

# **Surrey Heath**

## **Hackney Carriage (Taxi) and Private Hire**

### **Licensing Policy 2021-2026**

Effective: (date)  
Version 1.3 –draft for public consultation  
February 2021

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## Section 1 - Introduction

- 1.1 Surrey Heath Borough Council is the Licensing Authority under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 responsible for regulating the hackney carriage and private hire trades operating in the Borough.
- 1.2 This policy sets out the principles we will use when dealing with hackney carriage and private hire vehicles; hackney carriage and private hire vehicle drivers and private hire operators.
- 1.3 We aim to set a standard that is amongst the highest in the country with the intention of both protecting the public and building public confidence in the licensed trade. It is designed to promote professional behaviour amongst licence holders, to increase their awareness of safeguarding issues, and to allow those that share the Council's commitment to a high standard of service to thrive. The policy will make it extremely difficult for disreputable individuals to operate within the licensed trade.
- 1.4 At the heart of the policy lies a commitment to the protection of the public, safeguarding children and the vulnerable and the prevention of crime and disorder. We aim to ensure that licensed drivers, operators and vehicles operating in the Borough are of the highest quality and can be held to account for their performance.
- 1.5 The Council recognises the important role that Hackney Carriages and Private Hire vehicles play in enabling people to travel around the borough. In doing so they also have a role in portraying the image of the borough. The Council also recognises that the majority of licence holders operate to a good standard and want to provide the best possible service to their customers. Drivers themselves have a key role as ambassadors for the Borough and customers rightly expect that in using licensed vehicles they will be transported in comfort and safety. This will help to ensure that the industry and the local economy thrive.
- 1.6 We will review this policy at least every five years or sooner in light of any significant changes to legislation or guidance and consult on any proposed amendments. If we make any changes, we will then re-publish the policy. This is as recommended by the Department of Transport 'Statutory Taxi and Private Hire Vehicle Standards. (July 2020)
- 1.7 We intend to go out to Public consultation on this draft policy and will take on board any relevant responses and amend the policy accordingly.
- 1.8 The draft policy is available via our website on [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk) or in electronic format on request to the Licensing Team, Surrey Heath Borough Council, Surrey Heath House, Knoll Road, Camberley, GU15 3HD.
- 1.9 In drafting this policy, we have taken into account:

- Current legislation and case law in respect of hackney carriage and private hire licensing
- Department for Transport Taxi and Private Hire Vehicle Licensing Best Practice Guidance ( March 2010)
- Department for Transport Statutory Taxi and Private Hire Vehicle Standards (July 2020)
- Statutory Guidance Issued by the Secretary of State under section 177 of the Policing and Crime Act 2017 (2020)
- Responses from those consulted on the policy
- The views expressed by the trade, public, statutory and non-statutory partners.

1.11 This policy sets out the requirements and standards that must be met. In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document. However each application or decision to take enforcement action will be considered on its own merits.

*NOTE: Hackney Carriage has the same meaning as taxi and we will be using the term taxi for the remainder of this policy.*

*Private Hire Vehicle(s) will be referred to as PHV(s)*

*Private Hire as PH*

*Private Hire Operators as PHO*

## Section 2 - Principles

- 2.1 The principle purpose of Taxi and PHV licensing is to protect the public and promote public safety. The aim of this policy is to provide a fair, open and transparent framework to ensure that Taxi and PH services in Surrey Heath Borough continuously demonstrate that they meet or exceed the standards set by the Council.
- 2.2 In exercising the principles of protecting the public the Council will adopt and carry out its Taxi and PH licensing functions with a view to promoting the following:
- the protection of the public, safeguarding children and the vulnerable and the prevention of crime and disorder
  - public confidence in the Taxi and PH services through encouraging a professional Taxi and PH hire trade
  - the safety and health of the public and drivers
  - vehicle safety, comfort and access
  - encouraging environmental sustainability
  - the vision of Surrey Heath as a place to live, work and visit.
- 2.3 These aims and objectives will be taken into account by the Council when making decisions. It is recognised that the licensing function is only one means of securing the delivery of the above objectives. The Council will therefore continue to work in partnership with the industry, our neighbouring authorities, the Police, local businesses and local people towards the promotion of the aims and objectives.
- 2.4 When applying the policy and guidance we will have regard to the following principles:
- openness
  - transparency
  - consistency
  - fairness
  - proportionality
- 2.5 When we deal with Taxi and PH drivers, proprietors and operators we will endeavour to be:
- courteous
  - timely
  - responsive
  - fair
- 2.6 We expect all licence holders and prospective applicants to act similarly in their dealings with us. Where licence holders and prospective applicants do not uphold the expectations placed upon a professional licensed service, consideration will be given to suspending or revoking their licence, or refusing their application. Such examples of unsuitable behaviour can include, but is not limited to, licence holders who are rude and confrontational to staff; not complying in a timely manner with reasonable requests of the Council; avoiding their responsibilities; or any example of other, similar unprofessional conduct towards the Authority or others.
- 2.7 This Policy provides guidance to any person with an interest in Taxi and PH licensing, in particular, but not exclusively to:
- applicants for driver, vehicle and operator licences

- existing licence holders
- licensing officers
- members of the Licensing Committee
- the judicial system hearing appeals against local authority decisions, and
- other Licensing Authorities.

### Section 3 - Definitions

3.1 The Local Government (Miscellaneous Provisions) Act 1976, as amended, (LG(MP) Act 1976)) and the Town Police Clauses Act 1847 provide the regulatory framework for Surrey Heath Borough Council (the "Council") as the Local Authority (the "Authority") to carry out its licensing functions in respect of Taxi and PH Licensing.

In addition Byelaws made under Section 68 of the Town Police Clauses Act 1847 and Section 71 of the Public Health Act 1875 with respect to Taxis (Hackney Carriages) are referred to in this Policy.

3.2 This document sets out the Policy that the Council will apply when making decisions about new applications and licences currently in force. This Policy applies to:

- Taxi: being a vehicle available to transport the public with no more than 8 passenger seats, which is licensed to ply for hire. This means that it may stand at ranks, be hailed in the street by members of the public, or undertake pre-booked work
- PHV: licensed to carry no more than 8 passengers but must be booked in advance by customers through an operator and cannot ply for hire in the street
- PH operators
- Taxi and PH drivers.

3.3 In undertaking its licensing function, the Council will comply with relevant legislative requirements including:

- Town Police Clauses Act 1847(as amended)
- Local Government (Miscellaneous Provisions) Act 1976
- Transport Act 1985 and 2000
- Crime and Disorder Act 1998
- Environmental Protection Act 1990
- Equality Act 2010
- Road Traffic Acts
- Health Act 2006
- Human Rights Act 1998
- Immigration Act 2016
- The Police and Crime Act 2017.

3.4 The Council will have regard to other relevant strategies, policies and guidance in its decision making. The Council will also have regard to wider considerations affecting visitors, employers and residents. These include: the availability of Taxi and PH transport at all times; public nuisance; pollution; crime; and the capacity of the trade to cope with customer demand, particularly at times of peak demand.

3.5 The Council have also have regard to the impact of the Climate Change emergency declared on 16 October 2019 in formulating this Policy.





## **Section 4 - General Principles**

### **4.1 Policy guidance**

This Policy statement sets out the Council's approach to making licensing decisions. It will only be deviated from in exceptional circumstances based upon the merits of those particular circumstances and provided that the overall principles of the Policy are not undermined.

### **4.2 Submission and processing of applications**

The Council aims to process applications as efficiently as possible. However there may be occasions where there are peaks in demand or other pressures placed upon the service.

Applicants and licence holders should allow 15 working days (starting with the first working day) after the submission of a complete, valid application for licences to be processed and issued.

New driver applicants should allow a minimum of 28 working days as additional checks are required. Where the Council has to check an applicant's right to live and work in the UK, the applicant should allow an extra month for this check on top of the timescales above, and be aware no decision will be made until the right to live and work check has been completed.

Applicants can take advantage of the pre-application advice service offered by the Council should they wish to.

The Council will not be held responsible for any delays or periods of expiration associated with the incomplete or late submission of applications.

### **4.3 Decision making**

Except where indicated in the guidance, officers will normally make decisions under delegated authority whether to grant, refuse, suspend or revoke a licence, or grant any form of exemption.

In cases where revocation of a licence is considered, there will be a clear separation between the investigation of licensing concerns and the management of the licensing decision making process. In addition, the Council has made arrangements for dealing with serious matters that may require the immediate revocation of a licence by delegation of these powers to a senior officer/manager with responsibility for the licensing service.

### **4.4 Appeals**

Where a decision made by the Licensing Authority is appealed, the Council will normally defend the decision and seeks its costs of doing so in full from the appellant.

#### 4.5 Licence Fees

Licence fees will be subject to regular review. Fees will be calculated using the methodology to be approved by the Licensing Committee with the aim of ensuring full cost recovery.

All applications must be accompanied by the appropriate fee.

We will not refund any part of the licence fee if a licence is surrendered, suspended or revoked.

#### 4.6 Taxi Fares

Taxi fares will be set in accordance with the Taxi fare calculator and we will run the fare calculator annually, however we may run it more frequently in appropriate circumstances such as significant increases or decreases in fuel prices.

The Licensing Committee has delegated authority to approve the costs input into the calculator, and to consider any objections received during the statutory consultation.

#### 4.7 Taxi Stands

Provision of Taxi Stands will be reviewed comprehensively in 2022/23. Provision of stands will be reviewed again when there are significant changes to town centre development, or as any other pressing need is identified.

#### 4.8 Numbers of vehicles

We do not limit the maximum number of Taxi or PHVs.

#### 4.9 Implementation and review

This Policy will remain in existence for a period of five years from the date of adoption, but will be kept under review and where necessary revised in accordance with paragraph 1.6.

The Environmental Health and Licensing Manager, in consultation with the Chair of the Licensing Committee may make minor amendments to the guidance set out in this policy to reflect administrative changes and will keep a record of those changes. Agreed changes will be reported to the Licensing Committee.

#### 4.10 Whistleblowing

The purpose of this Policy is to protect the wider public using Taxis and PHVs. However, it is in the application of these policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. It is therefore recommended that any staff follow the Council's Whistleblowing procedures to raise concerns so that these can be dealt with openly and fairly.

Members of the licensed trade are also encouraged to report concerns relating to public safety, and will not face licensing action for bringing concerns to the authorities' attention.

The failure of a member of the trade to report incidents which they are aware of may however call into question their suitability to hold a licence.

#### 4.11 Joint Warranting Arrangements

The Council have delegated the Taxi and Private Hire enforcement functions under the legislation set out below to the other 10 Surrey local licensing authorities, in addition to retaining those functions within the Borough and has similarly received the delegated Taxi and PH enforcement functions from those local authorities.

This enables improved enforcement of the Taxi and PH trade across the County and improves safety within the licensed Taxi and PH vehicle services operating in Surrey

Functions delegated to the Surrey Local Licensing Authorities:

- Local Government (Miscellaneous Provisions) Act 1976
  - Section 53(3)(a): Driver to produce his licence for inspection
  - Section 58: Return of identification plate or disc on revocation
  - Section 60: to suspend and revoke vehicle licences
  - Section 61: to suspend and revoke drivers' licences
  - Section 68: fitness of private hire vehicles
  - Section 73: obstruction of authorised officer

The Surrey Local Authorities named below have delegated (or will delegate) the same functions to Surrey Heath Borough Council. Those authorities have also retained the ability to exercise these functions.

#### **The Surrey Local Authorities:**

- Elmbridge Borough Council
- Epsom and Ewell Borough Council
- Guildford Borough Council
- Mole Valley District Council
- Reigate and Banstead Borough Council
- Runnymede Borough Council
- Spelthorne Borough Council
- Tandridge District Council
- Waverley Borough Council
- Woking Borough Council.

#### 4.12 Cross Border Hire

The Council firmly believes in the principle of localism in the licensing of the Taxi and PH trades. As such, the Council believes that the licensed trade operating in the Surrey Heath Borough should be licensed by Surrey Heath Borough Council.

The Council aims to ensure public safety and confidence in the licensed trade by:

- Setting high standards and
- Taking effective and timely action without having to rely on others.

This Policy contains the following measures to support this aim:

- Licensed Drivers

All licensed drivers are subject to a condition that they are not to wait for bookings outside the Council's licensed area. As such, drivers may travel to any destination to pick up a booking, or receive a booking whilst they are travelling between destinations, however they cannot wait outside of the Borough to receive bookings.

- Licensed Vehicles

All licensed Taxis and PHVs are required to display their vehicle plate and window disc so that customers recognise these as being licensed by Surrey Heath.

- PH Operators:

Any PHO making provision for the invitation or acceptance of bookings in Surrey Heath needs to hold a PHO's licence with Surrey Heath. The Council expects Operators licensed by the Council to utilise vehicles and drivers licensed by Surrey Heath to ensure that the licensed trade working in Surrey Heath conform to the standards set by the Council and can be subject of local compliance.

In addition, as part of the Council's 'fit and proper' test, it would not expect an Operator to obtain a licence in Surrey Heath to simply make vehicles licensed by another authority available for booking via sub-contracting on a regular basis. As such whilst any licensed vehicle may enter Surrey Heath to pick up or drop off customers, the Council would not expect vehicles licensed outside of Surrey Heath to be waiting in Surrey Heath and be available for bookings as this diminishes the Council's ability to set local standards and local control. As such, any Operator acting to deliberately reduce the Council's ability for local control would not meet the required public safety objectives and standards expected of a professional, licensed, fit and proper PHO, and may have their licence to make provision to invite or accept bookings in Surrey Heath revoked.

#### 4.13 Lost Property

It is a licence condition that property left in licensed vehicles is handed to the nearest police station, once an attempt to return the items to the customer has been made.

#### 4.14 Staying Safe: Guidance for Passengers

Our guidance is intended to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. Appendix: 4

## Section 5 - Driver Requirements

*Sections 51 and 59 of the of the LG (MP) Act 1976 require that the applicant is a 'fit and proper person to hold a PH or Taxi driver's licence respectively.*

All drivers must satisfy the Council that they are fit and proper people to be granted a drivers' licence and must then remain a fit and proper person for the duration of that licence. The fitness and propriety of a driver will be monitored and assessed throughout the period that the licence is held.

Applicants are expected to act with honesty and integrity throughout the application process. Existing licence holders are expected to act professionally for the duration of their licence and consequently both applicants and existing licence holders must therefore fully and accurately disclose any information that is requested. This includes information regarding previous convictions, warnings and reprimands, arrests, current investigations and pending criminal and civil proceedings.

The Council aims to ensure that Taxi and PH services delivered within the Borough are of a good standard. The application and compliance procedures are designed to ensure these standards are maintained, monitored for compliance and appropriately enforced.

The sections below, therefore, apply equally to Taxi and PH drivers unless indicated.

### 5.1 Fit and proper test

*Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II).*

The term "Fit and Proper Person" for the purposes of Taxi and PH licensing is not legally defined. However, in determining whether a person is fit and proper to hold a licence, those tasked with determining licences / applications are effectively asking the following question of themselves:

*"Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?"*

If the answer to the question is an unqualified 'yes', then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person.

Licensing Authorities have to make difficult decisions as to whether a licence should be granted (or retained) but the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probabilities. This means that **an applicant or licensee will not be 'given the benefit of the doubt'**.

In order to assess the suitability of an applicant (and to inform decision makers when answering the question above), the Licensing Authority will undertake whatever

checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an applicant or licence holder, the Council will take into consideration the following factors:

- criminality
- period of holding a driver's licence
- number of endorsed driving licence penalty points
- right to work
- medical fitness
- standard of driving / driving ability
- general conduct / standards of behaviour including online behaviour
- the conduct as an individual holding a licence, including but not limited to complaints and other information received during the application process or course of the licence
- the conduct of the applicant in making the application (e.g. whether they have acted with honesty and integrity during the application process).
- the previous licensing history of existing / former licence holders (including honesty and integrity)
- whether the applicant has had a licence suspended, refused or revoked by another licensing authority
- theoretical knowledge of issues and matters related to the work of a licensed driver.

The Council will also consider further information sources such as the Police, Children and Adult Safeguarding Boards, other Licensing Authorities and statutory agencies, and other information/complaints received.

If a driver, acting in their capacity as the holder of a different licence (for example vehicle proprietor's licence or PHO's licence) fails to comply with the conditions attached to that licence, or has that licence revoked for reasons of being unsuitable to hold that licence, the Council will consider this to reflect on their character as a licensed driver and they should expect to have their licence to drive a vehicle suspended or revoked.

## 5.2 Application process

*Section 57 of the LG (MP) Act 1976 allows a district council to require any applicant for a licence under either the Town Police Clauses Act 1847 or Part 2 of the LG (MP) Act 1976 to provide such information as they may reasonably consider necessary to enable them to consider the application.*

This requirement is taken into consideration below.

This Council issues licences that enable:

- the driving of both Taxis and PHVs (dual licence), or
- the driving of PHVs only.

The type of licence applied for or held will be determined by which of the Council's knowledge tests the applicant has passed.

Licences will be issued for a maximum period of 3 years but the Council can grant licences for a lesser period if deemed appropriate. This will usually be when the applicant has time limited 'right to work' status with the licence only being granted in line with the time limits dictated by the applicant's immigration status.

This is with the exception of drivers over 65 who will be issued a 1 year licence. There is a requirement that drivers over 65 years of age must obtain an annual medical report which the Licensing Authority will use when considering whether to renew their licence.

Applicants must have a minimum of 1 year of holding either a full driving licence issued in the UK, the European Community (EC) or one of the other countries in the European Economic Area (EEA).

The Council may directly access the Driver and Vehicle Licensing (DVLA) records of applicants, or alternatively will employ the services of a third party to do this.

In addition, a third party service may be used to obtain information on the suitability of applicants and licence holders based on their general behaviour whilst using the internet (in particular social media sites) for the Council's assessment, with the Council likely to consider suspension or revocation should unsuitable behaviour be observed.

Applicants shall provide proof that they have a statutory right to work in the UK and any applicant that has a limited right to work will not be issued a driver licence for a period longer than that limited period.

The information submitted as part of the application process will be shared, when applicable, with other Council Services and external statutory bodies including but not limited to Police, HM Revenue and Customs and other Licensing Authorities.

An individual will not be considered fit and proper to hold a licence if there is any evidence of dishonesty or inappropriate behaviours, and/or it can be shown that an applicant or existing licence holder has misled, or attempted to mislead, the Council (either officers or members of the Licensing Committee) as part of any process associated with the administration or determination of a licence.

### 5.3 Disclosure and Barring Service (DBS)

A criminal record check on a driver is seen as an important safety measure. Enhanced Disclosure through the DBS is required as these disclosures include details of live and spent convictions, police cautions and other relevant information that indicates that a person poses a risk to public safety.

Both Taxi and PH drivers are included as "exceptions" within the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (the "Exceptions Order"). Accordingly all drivers will be asked to disclose on their application form any caution or conviction even if it is spent for other purposes and those will be revealed on the DBS certificate.

All applicants for the grant or renewal of a licence requiring a DBS check will be responsible for the costs of obtaining the DBS certificate.

The Council will only accept DBS certificates which are applied for through Surrey Heath's Council's Licensing Service or nominated third party provider. However, DBS certificates that are issued to other local authorities for the same type of role will be accepted if it has been printed within the previous four weeks, is to an enhanced level and has been processed in relation to the child and adult workforce employment position (as specified on the certificate).

All new applicants must declare on the application form any convictions or cautions they have received. All licence holders shall notify the Council of any convictions or cautions received during their licence period. Failure to inform the Council of any convictions, arrest, current investigations, cautions and fixed penalty notices during the licence period may result in suspension or revocation of the licence.

A licence will not be granted or renewed in the absence of a current Enhanced DBS Disclosure Certificate.

All licence holders must subscribe to the DBS online update service, this is required by a condition placed on the licence. Any costs associated with maintaining this subscription must be met by the licence holder. If a licence holder fails to sign up to the update service, or fails to maintain subscription during the period that the licence is in force, then the licence will be suspended or revoked until a satisfactory DBS certificate is produced.

The licence holder must give permission for the council to undertake checks of their DBS status should the council consider it necessary to do so, which will be at a frequency of not less than once every six months. The Council will use the update service to monitor the criminal record of licence holders. The update service can be used when a licence is renewed – if there are no changes recorded on the DBS certificate then a full DBS check will not be required. In all other cases a full Enhanced DBS check will be required before a licence is renewed.

If an applicant or current licence holder has spent three continuous months or more overseas since the age of 16, the Council will need to see evidence of a criminal record check from the country / countries lived in / visited covering the period that the applicant was overseas. This includes any time spent overseas during the course of a licence.

Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants that have lived overseas. For EU nationals suitable checks should be available. For those countries for which checks are not available, the Council will require a certificate of good conduct authenticated by the relevant embassy or consulate based in the UK for the country in which they were living. The date of the letter must be within three months of the date of the application, certificates are required to be translated and certified as a correct translation at the cost of the applicant.

#### 5.4 Relevance of Convictions and Cautions etc.

The Council is committed to ensuring that the licensed trade are fit and proper, this will entail periodic audits of licensed drivers to ensure that material changes are identified and acted upon.



In relation to the consideration of convictions, cautions, warnings, arrests, reprimands and other 'relevant information', the Council has adopted the policy set out in Appendix 2. The terms of this Policy will have immediate effect.

The policy at Appendix 2 will be used to determine the suitability of an existing licence holder should it be necessary to consider action in relation to the licence during the licence period.

## 5.5 Knowledge Testing

Applicants for a driver's licence are required to have passed the Council's knowledge test. This test will ensure that the applicant has sufficient knowledge in relation to:

- literacy
- child / adult safeguarding awareness
- road safety and the Highway Code
- local knowledge.

Applicants must pass the relevant Surrey Heath Taxi or PH driver's knowledge tests not more than 3 months prior to a fully completed application being submitted.

The Council does not limit the number of times applicants can take the test, however each attempt at the test must be paid for separately, in advance. If applicants fail successive knowledge tests they will be advised although not required, to wait a further month before attempting the test again so that they can undertake the necessary revision.

Any applicant cancelling the test with less than 24 hours' notice will not be refunded the fee.

## 5.6 Medical Assessment

The Council recognises that licensed drivers should be subject to more stringent medical standards than those applicable to normal car drivers because they carry members of the public who have expectations of a safe journey; they are on the road for longer hours than most car drivers; and they may have to assist disabled passengers and handle luggage. It therefore requires Group 2 Standards of medical fitness as applied by the DVLA to the licensing of lorry and bus drivers, as the appropriate standard for licensed Taxi and PH drivers.

Applicants shall provide a completed medical examination form supplied by the Council and completed by their own General Practitioner on first application and every 3 years thereafter until aged 65 years when annual examinations are required. Licence holders with certain medical conditions (for example certain neurological or cardiovascular conditions) may also be required to submit annual forms and adhere to additional requirements in order for them to retain their driver's licence.

Holders of Public Service Vehicle (PSV) and / or Large Goods Vehicle (LGV) licences, where the holder is able to produce proof of current medical examination less than 3 months old, will not be required to undergo a medical examination on first application.

Licence holders must advise the Council of any deterioration or other change in their health that may affect their driving capabilities within 48 hours of the change occurring.

Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo and pay for a further medical examination by a medical doctor appointed by the Council. No licence will be issued, or remain in force until medical confirmation that the DVLA Group 2 standards have been met has been received.

Licensed drivers are under a legal duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without additional charge. Drivers who have a medical condition which is aggravated by exposure to dogs may apply to the Council for exemption from the duty on medical grounds. If an application is successful they will be issued with an exemption certificate, and also be issued with a notice of exemption. The notice of exemption must be exhibited in the vehicle by fixing it, facing outwards, either on the windscreen or in a prominent position on the dashboard.

Licensed drivers are under a legal duty to provide assistance to wheelchair users, including loading/securing/unloading the wheelchair and assisting the user in and out of the vehicle, and carrying luggage at the request of the hirer, without additional charge. Drivers who have a medical condition which prevents them from offering this assistance may apply to the Council for exemption from the duty on medical grounds. If an application is successful they will be issued with an exemption certificate, and also be issued with a notice of exemption. The notice of exemption must be exhibited in the vehicle by fixing it, facing outwards, either on the windscreen or in a prominent position on the dashboard.

## 5.7 Right of driver to work in the United Kingdom (UK)

The Council is mandated under the Immigration Act 2016 to require all applicants to provide documentary evidence to confirm that they may legally work in the UK. Examples of documents that may be provided include:

- a UK passport confirming that the holder is a British Citizen (or citizen of another EEA country – including Switzerland)
- passport or other travel document endorsed to show that the holder is allowed to stay in the UK and undertake paid employment
- full UK Birth / Adoption Certificate
- an Immigration Document issued by the Border and Immigration Agency to the holder which indicates that the person named in it can stay in the UK and undertake paid employment
- a work permit or other approval to take employment issued by the Home Office or the Border and Immigration Agency when produced in combination with either a

passport or another travel document endorsed to show the holder is allowed to stay in the UK and is allowed to undertake paid employment.

This list is not exhaustive, and other documents may be accepted– further information will be provided by the Licensing Team on request.

Where an applicant is subject to immigration controls, a licence will not be issued for longer than the period that the applicant has permission to undertake paid employment in the UK.

## 5.8 Driving Assessment

The Council recognises that licensed drivers should be subject to a more stringent driving assessment than the standard applicable to the normal driving test because they carry members of the public who have expectations of a safe journey and they are on the road for longer hours covering more mileage than most other drivers.

Therefore both PH and Taxi driver applicants must have passed a driving assessment approved by the Council.

The assessment should be no more than 12 months old when first applying to the Council.

## 5.9 Qualifications

- Satisfactory completion of an approved training / awareness raising course in relation to safeguarding children and vulnerable people.  
The Council has approved a requirement for mandatory safeguarding awareness training for all drivers as part of the Surrey Safeguarding Children Board Child Sexual Exploitation Strategy and action plan.

All new Taxi or PH drivers must pass the Council's approved safeguarding awareness training before a licence is granted.

## 5.10 Application Procedure

Information on how to make an application is available on the licensing pages of the Council's website or from the Council's Contact Centre.

An application will need to be accompanied by the following documents before it can be accepted:

- a completed application form
- payment of the relevant fee (by debit or credit card only)
- full DVLA driver's licence and DVLA -check code
- evidence of right to live and work in the UK
- evidence of current address and history of residence for the last five years including the month and year that you started living at each address
- medical form, completed by the applicant's registered doctor less than 4 months before application

- a certificate showing completion of the relevant approved driving assessment(s)
- a criminal record check and/or a letter of good conduct from the Embassy or Consulate for the country of residence (if living outside the UK for a continuous period of three months or more since the age of 16). The date of the documents must be within three months of the date of application, and any documents not in English must be accompanied by a translation that has been certified as a true translation of the original document
- an enhanced level DBS certificate with adult and child barred list checks, completed for the required role of working with vulnerable adults and children in the capacity as a taxi driver, issued within the past 3 months
- proof of a completed DBS update service mandate allowing the Council to access this record during the course of the licence
- a digital photograph to passport standard.

### 5.11 Renewing a licence

Information on how to apply to renew a licence is available on the Licensing pages of the Council's website or from the Council's Contact Centre.

It is the driver's responsibility to apply in good time so their application can be determined before their existing licence expires. A completed, valid renewal application should be submitted no less than one month, but no sooner than 8 weeks before the expiry date.

An applicant making an application to renew a Taxi or PH driver's licence must:

- still have the right to live and work in the UK
- still meet the current medical standards for DVLA Group 2 licence holders
- have not been convicted of a relevant criminal offence, relevant driving offence or cautioned for a relevant offence during the term of their licence
- have complied with licensing conditions and licensing policy, including meeting the expectations of licence holders in terms of conduct
- if applicable, a letter of good conduct from the Embassy or Consulate if the licence holder has spent more than 3 months outside the UK during the period of their licence
- have not received any relevant motoring endorsements on their DVLA driving licence during the term of the licence which has not been reported to the licensing service
- have a current enhanced level DBS certificate which the Council is able to access via maintained subscription to the DBS update service
- hold the required qualifications.

Licence holders are advised to check the licensing pages of the Council's website or contact the licensing team if they are in any doubt about whether they satisfy the above requirements.

### 5.12 Making a decision

Once the Council has received a completed application and the results of the various checks/tests, we will then make a decision about the application.

We aim to inform an applicant of the decision within 15 working days from the date we receive all the required information. In certain circumstances an application may be referred to the Licensing Sub-Committee for determination. It will be for officer's to use their discretion as to whether to refer an applicant to Committee.

If an applicant (or licence holder) has any convictions, cautions, endorsements or additional other relevant information, we will consider these in line with the guidance in this Policy and this may delay the decision.

Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo and pay for a further medical examination or have their medical records reviewed by a doctor appointed by the Council. The doctor's recommendation will be final.

#### 5.13 Granting an application

If we grant an application, we will usually issue a licence for three years from the date of the decision. If a licence holder is subject to immigration controls as detailed below, we will issue a licence for a shorter period:

If a licence holder's current right to live or work in the UK expires during the three-year period beginning on the date their application was determined, we will issue a licence until the date their current right to live or work in the UK expires.

If the Home Office is currently determining a licence holder's right to live or work in the UK, and they are entitled to live and work in the UK pending final determination of that application, we will issue a licence for a maximum of 6 months from the date of the decision.

Under sections 48(2) and 51(2) of the Local Government (Miscellaneous Provisions) Act 1976, the Council may attach conditions that it considers 'reasonably necessary' to private hire driver's licences. This includes dual licensed Taxi and PH drivers, as well as holders of PH driver (only) licences. Applications are normally granted subject to the Council's Standard Licence Conditions contained within this Policy, however further, additional conditions may be attached on a case by case basis.

The decision to attach conditions to a licence may be appealed to the Magistrates Court. (Sections 48(7) and 52 LG (MP) Act 1976)

#### 5.14 Refusing an application

If an applicant does not satisfy all the above requirements or the application is incomplete we will normally refuse the application.

A Licensing Sub-Committee or an officer with the appropriate delegation will make the decision.

The Council will make a record of the reasons for our decision and will provide the applicant with a copy of that document.

Any decision to refuse an application may be appealed to the Magistrates' Court within 21 days of the decision (Sections 48(7) and 52 LG (MP) Act 1976)

If applicants intend to appeal the Council's decision, we strongly suggest that they seek legal advice.

The Council will normally defend any appeal and look to recover the full costs of doing so from the appellant.

#### 5.15 The National Register of Revocations and Refusals (NR3)

The Council will check all new and renewal applications against the national register.

If a licence holder has been refused/revoked by another authority, this will not debar an applicant from holding a licence, however the Council will give weight to the decision made by that authority in considering the application. Additionally, if an applicant has had another licence refused/revoked which is not declared to the Council, this will raise concerns about the honesty and integrity of the applicant and is likely to lead to refusal.

The Council will record all decisions to refuse and revoke a driver's licence on the National Register, and will provide details of the reasons for each decision to another licensing authority following receipt of the necessary data sharing request.

#### 5.16 Conditions

*Sections 47(1) and 51(2) of the LG (MP) Act 1976 allows for conditions to be attached to Taxi and PH drivers' licences.*

The Council may attach such conditions to a Taxi /PH driver's licence as are considered reasonably necessary. The Council's standard conditions are set out in Appendix 3. In all cases where a condition has been updated, the latest version will apply.

The Council has also made Byelaws that are specifically applicable to Taxis and their drivers. The existing Taxi Byelaws are set out in Appendix 1. These Byelaws will be reviewed from time to time.

Drivers are expected to familiarise themselves with licence conditions and comply with the requirements associated with being a professional licence holder. Drivers who do not comply with Byelaws/conditions can expect to have their licences suspended or revoked.

#### 5.17 Driver Code of Conduct

It is essential that all customers (including young, elderly and other vulnerable people), are safeguarded and protected whilst being transported in a licensed vehicle. It is also important that other road users and other individuals who interact with the licensed trade are dealt with in a professional manner and with courtesy.

Accordingly a specific Code of Conduct for drivers has been adopted and must be complied with. This is provided at Appendix 5. It is a condition of the licence that all drivers adhere to this policy.

The Taxi Byelaws require a Taxi driver to behave in a civil and orderly manner, and the code of conduct helps to define the Council's understanding of what a civil and orderly manner entails. If a Taxi driver is not complying with the code of conduct they will be considered as not acting in a civil and orderly manner.

#### 5.19 Updating the Council

It is essential that the Council has up to date contact details for licence holders. It is also vital that the Council is notified of any change in circumstances which may compromise the applicant's suitability at the earliest opportunity.

If a licence holder changes their name, address, other contact details (including telephone number or email address) or operator during the term of their licence, they must inform the licensing team in writing within seven days.

If a licence holder receives a conviction, caution, fixed penalty notice or is subject to arrest or criminal proceedings of any sort then they must notify the Council within 48 hours.

If a licence holder's medical status changes then they must notify the Council within 48 hours.

Licence holders who fail to keep the Council up to date as required are likely to be considered unsuitable to continue to hold a licence.

#### 5.20 Display of driver's identification

It is a legal requirement that licensed drivers wear their drivers badge in a conspicuous position where it can be seen by passengers. The Council has provided lanyards for this purpose.

Drivers will be issued with an identification 'badge' and paper counterpart. Drivers will also be issued with a second 'driver identification notice' which must be displayed in a clearly visible, safe position in the vehicle for customers to see.

## Section 6 – Taxi and PH Vehicles

### 6.1 Vehicle requirements

*Section 47(2) of the LG (MP) Act 1976 provides that the Licensing Authority may require any Taxi licensed by them under the Act of 1847 to be of such design or appearance or bear any distinguishing marks that shall clearly identify it as a Taxi.*

*Section 48(1)(a)(i) of the LG(MP) Act 1976 states that the Licensing Authority cannot grant a PHV licence unless satisfied that the vehicle is suitable in type, size and design for use as a PHV.*

The Council will consider all applications for vehicle licences based on vehicles meeting the specifications in this Policy. Upon application and renewal, applicants for vehicle licences will be expected to show:

- the vehicle meets the Council's Age/Emissions Policy
- the vehicle is capable of safely carrying a minimum of 4 passengers, but no more than 8
- the vehicle is right-hand drive
- the vehicle has a minimum 1300cc engine. There is no minimum engine size for hybrid/LPG, electric or other alternatively powered vehicle
  - a purpose built full hybrid, or plug in hybrid must have a minimum range of 16km (10 miles) using battery power only
  - a full electric vehicle must have a minimum range of 112km (70 miles).
- if the vehicle is a saloon/estate type it has four side opening doors
- if the vehicle is a minibus, transit or people carrier type it has at least three doors, not including any tailgate or rear door
- the vehicle has a useable seatbelt for each passenger. Each seat belt must be fully compliant with European new car assessment programme- NCAP standards
- the vehicle's seating and interior dimensions offer suitable accommodation for passengers and their luggage to ride in comfort and safety
- the vehicle's windscreen and front side windows comply with national legal tint specifications. All other windows let enough light through for a person 20 meters away to be able to see the number of passengers in the vehicle in daylight and have no additional 'tint' applied
- the vehicle has sufficient means by which any person in the vehicle may communicate with the driver
- the vehicle has not been written off.

### 6.2 Making an application

Information on how to make an application is available on the licensing pages of the Council's website or from the Council's Contact Centre.

Any application will need to be accompanied by the following documents before it can be accepted. The application must be made on the correct application form and all supporting documents completed in full.

- a fully completed application form
- payment of the relevant fee (by debit or credit card)



- a written hire purchase check for the proposed vehicle. This check shows whether a vehicle has been stolen, written-off or has outstanding finance as well as offering a mileage check
- a valid certificate of motor insurance or a cover note for the proposed vehicle covering the appropriate licence type for carrying of passengers for hire and reward. The policy must be valid for the date that the licence is due to commence.
- a certificate showing the vehicle has been inspected at a centre nominated by the Council and has passed the vehicle test
- a basic DBS certificate for each proprietor dated within the last 12 months, if the proprietor is not a licensed driver with the Council
- the V5C DVLA registration document (logbook) for the proposed vehicle. At least one of the proprietors must be the registered keeper of the proposed vehicle. If you have recently bought the vehicle and you do not have a V5C, we will accept the tear off slip
- a valid MOT certificate (if you are applying for a PHV licence and the vehicle is more than three years old) or
- a valid MOT certificate (if you are applying for a Taxi vehicle licence and the vehicle is more than 12 months old).

### 6.3 Suitability test for proprietors

*The LG (MP) Act 1976 definition of a ‘proprietor’ includes a part-proprietor and, in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the vehicle under that agreement*

The Council considers that licensed vehicle proprietors are in a position of trust, by virtue of the fact that they are responsible for ensuring the maintenance of vehicles which are used to transport members of the public. Licensed vehicles can also travel with a considerable degree of inconspicuousness and as such can be used as cover for illegal transportation. Therefore the Council must ensure that applicants / licence holders are suitable persons that will ensure that they will maintain their vehicles so that they are roadworthy at all times, and not allow the vehicle to be used for criminal or other unacceptable purposes.

In determining whether a person is suitable to hold a vehicle proprietor’s licence, those tasked with determining applications are effectively asking the following question of themselves:

*“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”*

If the answer to the question is an unqualified ‘yes’, then the person can be suitable. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person.

Licensing authorities have to make difficult decisions as to whether a licence should be granted (or retained) but the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of

probabilities. This means that **an applicant or licensee will not be 'given the benefit of the doubt'**.

Vehicle licences may be applied for by a company or partnership and as such the above test will be applied to each of the directors or partners in that company or partnership.

In order to assess the suitability of an applicant for a vehicle licence (and to inform decision makers when answering the question above), the Licensing Authority will undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an applicant or licence holder, the Council will take into consideration the following factors:

- criminality
- right to work
- general conduct / standards of behaviour including online behaviour
- the conduct as an individual holding a licence, including but not limited to complaints and other information received during the application process or course of the licence
- the individual's history of vehicle maintenance, including passing of MOT and vehicle test without initial failures
- the conduct of the applicant in making the application (e.g. whether they have acted with honesty and integrity during the application process)
- the previous licensing history of existing / former licence holders (including honesty and integrity)
- whether the applicant has had a licence suspended, refused or revoked by another licensing authority.

In relation to the consideration of convictions, cautions, warnings, arrests, reprimands and other 'relevant information', the Council has adopted the policy set out in Appendix 2. The terms of this policy will have immediate effect.

The policy at Appendix 2 will be used to determine the suitability of an existing licence holder should it be necessary to consider action in relation to the licence during the licence period.

However, it is important to acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. As the Council undertakes DBS checks for drivers it will not require those licensed drivers seeking to licence a vehicle to provide a basic DBS check as part of the application process and instead will rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic DBS certificate should be required immediately.

Similarly in cases where a proprietor exercises their right to transfer a vehicle licence, the Council will require the new proprietor to obtain a basic DBS certificate, if they are not already a licensed driver.

If a proprietor, acting in their capacity as the holder of a different licence (for example a driver's licence or PH operator's licence) fails to comply with the Byelaws or conditions attached to that licence, or has that licence revoked for reasons of being

unsuitable to hold that licence, the Council will consider this to reflect on their character as a licensed proprietor and they can expect to have their proprietors licence suspended or revoked.

#### 6.4 Grant of licences

If vehicles and/or proprietors meet the Council's requirements, vehicle licences will be issued for a one year period, commencing on the date that the licence is issued.

If vehicles and/or proprietors do not satisfy the requirements we will refuse the application.

We will grant vehicle licences for Taxis with the standard conditions at Appendix 6. The Council has also made Byelaws that are specifically applicable to Taxi drivers / proprietors. The existing Taxi Byelaws are set out in Appendix 1.

We will grant licences for PH vehicles with the standard conditions at Appendix 7.

Proprietors are expected to familiarise themselves with licence conditions and comply with the requirements associated with being a professional licence holder. Proprietors who do not comply with the conditions can expect to have their licences revoked.

#### 6.5 Renewal of Licences

Information on how to apply to renew a licence is available on the licensing pages of the Council's website or from the Council's Contact Centre.

It is the proprietor's responsibility to apply in good time so their application can be determined before their existing licence expires. A completed, valid renewal application should be submitted no less than one month, but no sooner than 8 weeks before the expiry date.

An applicant making an application to renew a Taxi or PHV licence must provide:

- a completed application form
- payment of the relevant fee by debit or credit card
- a valid certificate of motor insurance or a cover note for the vehicle covering the start date of the new licence
- a certificate showing the vehicle has passed our vehicle test no more than 8 weeks before the date of expiry of the existing licence
- the V5C DVLA registration document (logbook) for the vehicle. At least one of the proprietors must be the registered keeper of the proposed vehicle
- a valid MOT certificate (if you are applying for a Taxi vehicle licence)
- a valid MOT certificate (if you are applying for a PHV licence and the vehicle is more than three years old)

#### 6.6 Refusal of applications

If we refuse an application, we will make a record of the reasons for our decision and we will provide the applicant with a copy of that document.

An applicant may appeal the Council's decision (within the statutory time period) to:

- the Magistrates' Court (for refusal of PH applications, or refusal to renew Taxi applications),

We would recommend that appellants seek legal advice.

The Council will normally defend the decision and seek full recovery of its costs from the appellant.

## 6.7 Updating the Council

It is essential that the Council has up to date contact details for licence holders. It is also vital that the Council is notified of any change in circumstances which may compromise the applicant's suitability at the earliest opportunity.

If a licence holder changes their name, address, other contact details (including telephone number or email address) or operator during the term of their licence, they must inform the licensing team in writing within seven days.

If a licence holder receives a conviction, caution, fixed penalty notice or is subject to arrest or criminal proceedings of any sort then they must notify the Council within 48 hours.

Licence holders who fail to keep the Council up to date as required are likely to be considered unsuitable to continue to hold a licence.

## 6.8 Other Types of Application

### 6.8.1 Temporary Vehicle Licence

The Council will issue a temporary 3 month licence for a Taxi or PHV. The vehicle must still meet the criteria and application process for licensed vehicles as laid out in this policy. This may apply where the usual vehicle is temporarily off the road. This is a one-off to cover these types of circumstances and is issued at the discretion of the licensing service.

### 6.8.2 Transfer of Interest

If an existing proprietor sells (or transfers) a Taxi or PHV currently licensed by the Council, they must notify the Council of the name and address of the new proprietor within 14 days of the date of transfer.

### 6.8.3 Change of Vehicle

If an existing proprietor wishes to change their licensed vehicle, please check that it complies with the pre-application requirements above before completing a purchase. The Council is not responsible for applicants purchasing vehicles which are unsuitable.

You will then need to make an application to change your vehicle, following the above process for a new application.

## 6.9 Accidents in vehicles (Section 50 (3) LG (MP) Act 1976)

If at any time the vehicle is involved in an accident, however minor, the proprietor must inform the Council of this fact as soon as possible and in any event in writing within 72 hours. An accident report form must be completed and submitted to the Council within this timeframe.

If a vehicle is still being used following an accident, it will normally be required to be presented for inspection at the Council's authorised testing station as soon as possible after the accident has taken place. The appointment must be arranged and paid for by the proprietor. Failure to present the vehicle for inspection following an accident may result in the vehicle's licence being suspended until such time as the vehicle is presented for examination. Vehicles with only very minor bodywork damage, such as small dents/scratches may only need to be seen by a licensing officer rather than being tested. If the licensing officer has any concerns that the damage is anything more than very minor the vehicle will have to be tested as detailed above.

If the vehicle is so damaged that it cannot be driven, then the vehicle proprietor must inform the Council via the accident form and provide photographic evidence of the vehicle's condition that clearly illustrates the reasons why the vehicle cannot be driven / presented for examination. The proprietor must advise the Council once it is repaired and being used again, supplying proof that the vehicle has been repaired to the required standard by providing the necessary receipts/reports.

If the vehicle is not going to be repaired, the proprietor is responsible for removing the external plate and internal window disc, and returning these to the Council.

#### 6.10 Lost, stolen or damaged licences

If a proprietor loses a paper licence or the vehicle plate, or the plate has been stolen or damaged they will need to notify the Council within 48 hours of discovery, and request a replacement. There is a fee which must be paid before a replacement is issued.

#### 6.11 Display of vehicle licence plates

The Council issues a vehicle licence plate which must be securely fitted to the rear of the vehicle. This is required by condition of the licence and means that the plate must be fixed to the vehicle at all times.

Yellow plates are issued to Taxis. White plates are issued for PH.

The plate always remains the property of the Council and must be returned upon expiry, surrender, suspension or revocation of the licence. Should the vehicle be changed or the plate lost, a fee will be charged for a replacement.

The Council also issues internal vehicle licence discs which must be displayed inside the windscreen on the top of the near side (passenger side).

Failure to abide by the requirement to display a plate correctly, or failure to return a plate upon request may lead to sanction, including a consideration as to the licence holder's suitability.

## 6.12 Exemption from displaying a PH licence plate

The Licensing Authority recognises operators may wish to cater for an 'exclusive' or important corporate client base and provide a vehicle of a prestige model and specification without the display of a licence plate or vehicle signage. An operator may apply for an exemption to the requirement to display a licence plate for the following approved work only:

- exclusive chauffeured work where the dignity or security of the person would be affected if they were to be seen in a plated licensed vehicle, or
- other 'special' journeys where the client specifically requests a vehicle of a prestige make and specification at the time of booking and pays a recognisably higher fee for that service compared to that charged for a non-exempt vehicle displaying corporate identity.

For clarification the Policy requires that in order to be considered for a 'plate exemption' the vehicle must carry out exclusively chauffeured or other special work and as such there is a distinguishing feature between 'chauffeured' work and taking a business person to the airport for example.

To apply for an exemption you must supply the following documents:

- completed PHV plate exemption application form, detailing the reasons for exemption
- letters from clients demonstrating the vehicle is required for chauffeured work and why the display of a plate would be detrimental to the client, for example a discreet service required by a well-known person seeking as much anonymity as possible
- three months of booking records for all operators the driver works for, demonstrating that the vehicle is primarily used for chauffeured work (for new applications, three months of booking records must be provided after the plate exemption has been given)
- invoices for each named client who has supplied a letter in support of your application for the same period as the booking records (for new applications, three months of booking records must be provided after the plate exemption has been given).

The Council will also consider factors such as the list price of the vehicle, specification of vehicle and volume of exclusive or chauffeured work as detailed in section 7.19.

An exemption will only be granted where the Council is satisfied that the vehicle will be used exclusively or primarily for 'chauffeured' private hire work. It is expected that 'primary use' means at least 80% of the work, as evidenced via booking records. The Council may undertake an audit of booking records at any point during the exemption to ensure that the vehicle is being used for chauffeured work.

Exemptions may be withdrawn at any time by the Council and if the licence holder cannot prove that the vehicle is used exclusively or primarily for 'chauffeured' private hire work.

Exemptions are subject to annual review and licence holders must reapply each year.

If an exemption request is refused or withdrawn, the operator may ask for the Council to reconsider the decision by providing new, relevant information within 21 days of that decision. The Council aims to reconsider any such application within 10 working days of receipt.

An officer with the appropriate delegated authority will consider the information before making a final decision.

The Council will make a record of the reasons for the decision and provide the operator with a copy of that document. There is no right of appeal to the Magistrates' Court.

If we grant an exemption, we will issue your licence subject to the additional conditions at Appendix 8.

### 6.13 Vehicle Testing

All vehicles must pass the vehicle test as detailed in **Appendix 9** no more than eight weeks before the grant or renewal of the licence.

A second vehicle test must be passed no less than five months and no more than seven months before the expiry date of the licence for all vehicles over 6 years old.

If the vehicle has not passed the vehicle test it cannot be used as a licensed vehicle even during the duration of an existing licence and any existing licence will be suspended.

If the vehicle is changed during the course of the licence an additional vehicle test will be required.

### 6.14 Failure of vehicle tests

Vehicle tests are necessary to ensure that licensed vehicles remain safe, roadworthy and compliant with the Council's Policy and licence conditions. Vehicle tests should not be used as a mechanism for identifying faults to be rectified. The Council takes a serious view of proprietors who fail to present their vehicle for inspection in a satisfactory condition.

If the vehicle fails an inspection due mid-term or upon renewal, this will demonstrate to the Council that the proprietor is not complying with vehicle maintenance and licence conditions. The proprietor will initially be given a formal warning about the vehicle standards.

If there are further failures in the next licence periods (next interim and next renewal) then this will demonstrate to the Council that the proprietor has a history of failing to maintain the vehicle and comply with conditions. The Council will then take further action, which will normally be to revoke an existing licence or refusal to renew a licence.

## Section 7 - Vehicle Specifications

### 7.1 Vehicle age and emissions

The Council recognises that the high mileage and general wear and tear sustained by licensed vehicles will have an impact on their continued serviceability over a period of time. The Council aims to ensure that Taxis and PHVs are of a good standard, safe and comfortable for the travelling public. We also aim to minimise the impact of their emissions on human health and the environment in the Borough.

Environmental protection legislation (Part IV Environment Act 1995) requires local authorities to review and assess air quality on a regular basis. The Council's Air Quality Action Plan seeks to ensure that the health based National Air Quality Objective standard for nitrogen dioxide is not exceeded in the Borough and monitoring takes place across the Surrey Heath area. The major source of this pollutant locally comes from vehicle emissions.

The Council's Climate Change Action Plan aims to reduce the Borough's carbon emissions. Approximately 34% of Borough wide emissions relate to transport, of which the vast majority relates to road transport.

The Taxi and PH fleet are one of the sources of harmful vehicle emissions which the Council aims to reduce, as well as reducing emissions from vehicles more directly under its own control.

The Council has therefore set minimum standards for vehicles licensed in the Borough with regards to vehicle age and emissions.

The Council's policy in relation to the age of vehicles and the standard of emissions is set out below:

#### 7.1.1 Age Policy

From the date of implementation of this policy, licences will not normally be granted in respect of vehicles that were first registered (or, in the case of imported vehicles, manufactured) more than 3 years prior to the date that the application was made. In this respect all vehicles must comply with the latest emission standards (currently Euro 6).

From the date that the policy is introduced, licences will not normally be renewed in respect of any licensed vehicle that was first registered (or, in the case of imported vehicles, manufactured) more than 10 years prior to the date of renewal (or 12 years in the case of purpose-built wheelchair accessible vehicles). This applies to the renewal of licences only. All vehicles must be in good condition and pass ALL relevant tests and inspections before a licence will be renewed.

A vehicle may be considered for licensing beyond these upper age limits if it is in 'exceptional condition'. The criteria for 'exceptional condition' are set out below.

#### 7.1.2 Exceptional Condition Criteria



A vehicle may be considered to be in 'exceptional condition' if all of the following apply:

- The vehicle must not have failed the Council's vehicle inspection or standard MOT within the previous five years. Additional weight will be given if a vehicle has failed on any significant item, defined as any item that would make the vehicle fail to meet the requirements during a standard MOT test, or an advisory on the same item on more than one consecutive occasion.
- The vehicle passes the Council's vehicle inspection at first presentation.
- The bodywork is in near perfect condition with no signs of panel age deterioration, dents, scratches, stone chips, or rust or any other abrasions.
- The general paint condition (including livery material and signage) should show no signs of fading, discolouration or mismatching that may detract from the overall appearance of the vehicle.
- The interior trim, panels, controls, dashboard, seating, carpets, ceiling and upholstery are in excellent condition, clean and free from damage and discolouration. This includes the driver's compartment.
- The boot or luggage compartment is in good condition, clean and undamaged.
- Passenger areas are free from damp or any other odours that may cause passenger discomfort.
- The vehicle is in excellent mechanical condition and in all respects safe and roadworthy, with no signs of corrosion to the mechanical parts, chassis, underside or bodywork.
- The vehicle must have a complete service record covering the period it has been a licensed vehicle to show that it has been properly serviced and maintained in accordance with the manufacturer's service specification.

### 7.1.3 Emissions Policy

In order to have a positive impact on emissions it is important to set standards that are common to all within the licensed fleet. This helps to ensure consistency and a level playing field for proprietors, operators and drivers. The age of vehicles and the exhaust emission specification are critical to control the level of pollutants emitted. Consequently, to improve air quality and reduce emissions. Standards relating to the exhaust emissions will be introduced in addition to the requirements regarding the age of vehicles.

In terms of expected emission standards it requires that all licensed vehicles which are submitted for:

Licensing for the first time from 1st April 2021 (or date policy effective) and all renewal applications from 1st April 2024, must meet or exceed Euro 6 emission standards (Euro 6 compliant being registered on or after Sept 2015).

It is the Council's intention to reduce taxi and private hire emission further in future in line with Surrey County Council Climate Change Strategy aim that:

'By 2035 - Leading by example, local authorities will ensure that public transport and taxis are 100% electric or converted to hydrogen at the earliest opportunity' .

As such the Council's Climate Change Action Plan includes an action to 'Work with taxi companies and licence holders to consider low carbon vehicles'. This work will inform future reviews of this Taxi and Private Hire Licensing Policy in relation to emission standards, with a view to consulting on and adopting a policy that 'From 1 January 2030 the Council will only licence Taxi and PHVs(new and renewal) which are zero or Ultra Low Emission Vehicles (ULEV), as defined by the Vehicle Certification Agency: <https://www.vehicle-certification-agency.gov.uk/fcb/ulev.asp>.

## 7.2 Insurance

It is required that all insurance documents must be shown before a licence is issued.

This requires:

- a valid certificate of insurance or cover note confirming that insurance is in place for each licensed driver of the vehicle and specifying use as either a Taxi or PHV
- a Taxi vehicle requires insurance to cover public hire and hire and reward
- a PHV requires insurance to cover hire and reward
- a cover note will be accepted and the licence will be issued on the understanding that a certificate of insurance will be produced at the earliest opportunity.

The council will undertake periodic auditing of licensed vehicles to verify that the vehicle is appropriately insured.

## 7.3 Safety Equipment

All licensed vehicles are required to carry the following safety equipment at all times:

### 7.3.1 Fire extinguishers

All vehicles are required to be equipped with a fire extinguisher that conforms to the following specification, which is also stated in the Council's conditions:

A 1kg hand held fire extinguisher, containing no CFC gases and complying with British Standards (BS) EN3, must be kept in good working order either mounted in the driver's compartment or mounted in the boot in such a position as to be readily available for use. The fire extinguisher must display a valid upcoming expiry date or must be fitted with a pressure gauge indicating that the pressure is still within working

parameters. The extinguisher must be indelibly marked with the plate number of the vehicle prefixed by either Taxi/PH corresponding to the type of hire vehicle and the registration number of the vehicle.

Fire Extinguishers must be replaced every 5 years from the date of manufacture.

### 7.3.2 First Aid Kit

A first aid kit must be carried within the interior of the vehicle and readily available to passengers on request. The identification number of the vehicle must be painted or written with permanent marker on the body of the kit. The contents of the first aid kit must be compliant with British Standard BS 8599-2 and hold suitable content for the number of passengers.

The first-aid kit must be maintained in full and proper order with items replaced before expiry.

### 7.3.3 Replacement auto lamps

Replacement auto lamps (bulbs) must be carried for each standard bulb light fitting.

## 7.4 Meters and Fare Charts

### 7.4.1 Taxis

All Taxis must be fitted with a taxi meter. Meters used to calculate fares must be accurate, display the correct time and be capable of displaying the various tariffs as approved by the Council (including extra charges recoverable under the approved Table of Fares). The meter shall be calibrated and set to the Council's agreed charging distances and tariffs currently in force and sealed by the meter agent.

Meters will be checked for accuracy by a measured mile distance or by waiting time during the vehicle test, or upon request by an authorised officer.

Meters must be positioned in order that the fare must be clearly displayed to the passenger throughout the journey and positioned in a manner so as not to obstruct the view of the driver.

Meters in use must not facilitate fraudulent use. Any signs of tampering including the breaking of any seals will result in a suspension notice being issued immediately. For the suspension notice to be removed, the vehicle meter must have been resealed and calibrated by an approved meter company and presented to the Council for inspection.

The Council's fare chart must be displayed clearly in the vehicle at all times for passengers to view.

### 7.4.2 Private Hire Vehicles

From 1 April 2022, all PHVs must not have a taxi meter fitted. PHVs presented for application from this date with a taxi meter fitted will not be licensed.

A digital mobile device which calculates fares using GPS is not considered to be a taxi meter and for clarity these devices are permitted in PHVs.

## 7.5 Roof signs

- 7.5.1 Taxis must be fitted with an illuminated roof sign. It must carry the word 'TAXI' on the front of the sign together with the title 'Surrey Heath Borough Council' and the words 'Taxi' on the back.

Purpose built Taxis may be excluded from this specification if a sign is part of the Taxi's structure.

The roof sign must be connected to the taximeter so that it works in conjunction with it, i.e. when the meter is not in use the sign is illuminated and when the meter is in use the sign is NOT illuminated.

- 7.5.2 PHVs are not permitted to have roof signs.

## 7.6 Card Payment Terminals

All Taxis must be equipped with a card payment terminal which can accept payment by credit/debit card, including contactless and print a receipt.

The device must be connected, maintained and working at all times to ensure customers are able to pay by card.

PHVs are also permitted to carry payment terminals although the Council does not mandate a specification.

## 7.7 Seating and interior dimensions

### 7.7.1 Seating, comfort and safety

Licensed vehicles should have a rear seat with a width of no less than 1220 mm. (measured at the leading edge) and be of a "bench seat" type, and in the case of a mini-bus, have a minimum seat width of 407 mm per person.

Licensed Vehicles should have rear headroom that is adequate for passengers to sit comfortably and in any event for their head not to touch the ceiling above them;

Licensed Vehicles should have rear legroom that is adequate for passengers to sit comfortably and in any event for their knees not to touch the seating in front of them

Where the seating in the licensed vehicle can be rearranged, the proprietor must ensure that no more seats than are stated on the licence, including wheelchair(s), are fitted in the vehicle whether occupied or not. Once the vehicle has been tested and approved by the Council the seating layout must not be altered without further

approval except for the temporary accommodation of a wheelchair in vehicles approved for such purpose.

All vehicles must be fitted with fully operational seat belts, one for each passenger to be carried, fully compliant with British Standards except where the law specifically provides an exemption.

#### 7.7.2 Vehicles with a third row of seats

All passengers must have access to at least two side doors, one of which must be on the nearside of the vehicle.

In cases where there is no door adjacent to a row of seats, no passenger must have to pass through a gap of less than 300mm at the narrowest point in order to exit the vehicle via the rear side doors.

The middle row of seats must have more than one seat capable of fully tilting and which meet the necessary exit dimension of 300mm at both of the exit points.

All vehicles with a row of passenger seats without adjacent side doors must provide 'means of operation signs' and low level lighting that illuminates when the side lights of the vehicle are activated.

#### 7.8 Tyres

Tyres are the vehicle's only point of contact with the road, and as such it is essential that they are in good condition.

The Council requires that all licensed vehicles adhere to the following provisions with regard to tyres:

Tyre treads are designed to efficiently and effectively remove water from the road surface and provide maximum grip. All tyres fitted to the vehicle must have at least 1.6 mm tread depth throughout a continuous band in the centre 3/4 of the tread and around the entire circumference of the tyre, as per MOT requirements.

Tyres fitted to a motor vehicle or trailer must be fit for purpose and be free from any defects which might damage the road or endanger any person. Fit for purpose means that a tyre must:

- be compatible with the types of tyres fitted to the other wheels,
- not have any lump, bulge or tear caused by separation or partial failure of the structure,
- not have a cut or tear in excess of 25mm or 10% of the sectional width of the tyre, whichever is the greater, and which is deep enough to reach the ply or cord,
- not have any part of the ply or cord exposed.
- be correctly inflated to the vehicle / tyre manufacturer's recommended pressure.

All replacement tyres fitted to licensed vehicles must be new (i.e. not have been used previously on any other vehicle) and have been fitted by a reputable vehicle

maintenance company / contractor. Vehicle proprietors are required to retain invoices / receipts to show that any tyre that is purchased meets this requirement.

The fitting of part worn tyres to licensed vehicles is not permitted.

## 7.9 Spare wheels

All vehicles must carry as a minimum a space-saver spare wheel, to be used as a means of conveying the vehicle to a place where the tyre can be changed in the result of a puncture.

'Space saving' spare wheels are intended to allow a vehicle to continue its journey to a place of safety where a replacement tyre can be fitted and as such must only be used in an emergency, and then only in accordance with the manufacturer's instructions. Should the use of a 'space saving' spare wheel become necessary during a period of hire then the journey may continue, but the wheel must be replaced before another journey commences.

Vehicles need not carry a spare wheel if all wheels are fitted with a suitable 'run flat' tyre mechanism on all four wheels. In the case of a 'run flat' tyre getting a puncture, the tyre must be replaced at the earliest opportunity or in any case on or before the maximum number of miles recommended by the manufacturer is travelled.

## 7.10 'No Smoking' Signs

The Health Act 2006 prohibits the smoking of tobacco or any other substance by anyone in a licensed Taxi or PHV. The legislation applies at all times whilst the vehicle remains licensed, thus smoking remains prohibited when the vehicle is not hired or not for hire.

Every licensed vehicle is required to carry appropriate signage under the Smoke-free (Signs) Regulations 2007. Guidance and signs are available from: <http://www.smokefreeengland.co.uk/resources/guidance-and-signage>.

In order to avoid any doubt and promote a professional image of the licensed trade, the use of electronic or vaporising devices is not permitted in licensed vehicles at any time.

## 7.11 Wheelchair accessibility

In addition to all other licensing conditions, any applicants seeking the grant of a vehicle (either Taxi or PH) licence, in which it is intended to carry passengers who are seated in a wheelchair must present a vehicle which has:

- M1 classification and comply in all respects to EC Whole Vehicle Type Approval (ECWVTA)
- suitable fittings for the securing of the wheelchair and any passengers seated in them
- access and egress via suitable side or rear doors.

## 7.12 Taxi Cameras

The DFT recognises in their guidance ‘Statutory Taxi and PHV Standards’, that CCTV can provide an additional deterrence to help prevent the possibility of harm to passengers by drivers.

Recognising this we aim to consult separately on the use of CCTV in vehicles. We would be looking to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

## 7.13 Operator Advertising

Operators are strongly encouraged to display company signage on their vehicle to promote the licensed services in Surrey Heath. No other types of advertising is allowed on licensed vehicles.

Operators wishing to advertise must submit their request in writing to the Council, providing an illustration of the proposed advertising.

## 7.14 Dual Licensing of Vehicles

A vehicle, once licensed by Surrey Heath Borough Council as either a Taxi or PHV is **not** permitted to be licensed with another local authority.

## 7.15 Display of driver identification

The Council issued driver identification notice must be displayed clearly in the vehicle at all times for passengers to view.

## 7.16 Limousines and Special Event Vehicles

Any limousines or ‘special event’ vehicles with 8 seats or less which are used to transport passengers for hire or reward must be licensed as PHVs. Hire and reward has a wide definition in case law which goes further than the simple test of paying a fee for the journey.

The Council considers the following types of vehicles to be ‘special event vehicles’ in the context of licensing:

- decommissioned emergency service vehicles
- vintage vehicles
- sporting or performance vehicles
- courtesy cars used for transporting customers to and from specific venues such as hotels and nightclubs
- other non-standard type converted vehicles used for special events.

The above list is not exhaustive, and other types of vehicle may be considered from time to time. When considering an application for a special event vehicle, the Council will have regard to the general requirements for PHVs contained within this policy and relevant appendices.

All vehicles used for these purposes must meet relevant British or European standards. Any alterations to a manufacturer's standard specification will require M1 EWVTA. Any subsequent changes to the vehicle will invalidate this approval.

When a vehicle has been imported into this country, the importer must produce a declaration from the testing authority, the Driver and Vehicle Standards Agency (DVSA) that the vehicle will never carry more than eight passengers.

Drivers of limousines and special event vehicles must complete the licensing application process in the same way as any other licensed driver.

#### 7.17 Vehicle specification for a plate exemption

The approval of an exemption will be based on the cost, reputation, specification, appearance, perception and superior comfort levels of a vehicle and the fact that it will not resemble a non-exempt PHV licensed to undertake the 'normal' day to day role.

Each application will be considered on its individual merits however consideration will only be given to vehicles which meet the following specification:

- saloon, hatchback and estate vehicles to be licensed for 4 passengers only plus the driver allowing sufficient space for adult passengers to travel comfortably. The vehicle will be fitted with 'premium' extras such as leather seating, individual climate control showing the hallmarks of executive/prestige specification
- a range of vehicles capable of carrying in excess of 4 passengers will be considered provided they meet the higher specification and original list price required
- vehicles seating more than 4 passengers will be licensed only for sufficient numbers of passengers to travel comfortably. Each seat must be adequate dimensions and must permit direct access into and out of the side doors of the vehicle without the need to move, remove or fold down any seat. No vehicle modifications from the manufacturer's specification are accepted
- engine size indicatively 2000cc or greater (or equivalent power output for alternative fuel vehicles)
- the original list price of any vehicle must be a minimum of £40,000. This minimum price will be exclusive of any extras added at the time of purchase. Evidence of the original new list value will be obtained at the time of application. The Licensing Authority must be satisfied the evidence provided verifies the original list value.



## Section 8 - Private Hire Operators (PHOs)

### 8.1 Rationale for Licensing

A PHO means a business or person who makes provision for the invitation or acceptance of bookings for PHVs. A licensed PHV must only be booked through and despatched to a customer by a PHO, who must ensure that every licensed hire vehicle is driven by a person who holds a licence issued by the same authority that issued the vehicle licence. This authority must be the same authority that issued the operator's licence and this is known as the 'trinity' of licences.

Any person who makes provision for inviting or accepting bookings in Surrey Heath Borough, or who dispatches PHVs licensed by Surrey Heath Borough Council must first obtain a PHO licence from the Council.

The objective in licensing PHOs is the safety of the public, who will be using operators' premises, vehicles and drivers, arranged through them. Operators also hold a considerable amount of information about customers, and as such the operator, and any staff they employ must not use their position to take advantage of this information.

All PHOs must satisfy the Council that they are fit and proper people to be granted a PHO licence and must then remain a fit and proper person for the duration of that licence. The fitness and propriety of an operator will be monitored and assessed throughout the period that the licence is held.

Applicants are expected to act with honesty and integrity throughout the application process. Existing licence holders are also expected to act professionally at all times a licence is held and consequently both applicants and existing licence holders must therefore fully and accurately disclose any information that is requested. This includes information regarding previous convictions, warnings and reprimands, arrests, current investigations and pending criminal and civil proceedings.

The Council aims to ensure that PH (and Taxi) services delivered within the Borough are of a good standard. The application and compliance procedures are designed to ensure these standards are maintained, monitored for compliance and appropriately enforced.

The Council would also expect Operators licensed by the Council to utilise vehicles and drivers licensed by Surrey Heath so as to ensure that the licensed trade working in Surrey Heath conform to the standards set by the Council, and can be subject of local compliance.

### 8.2 Fit and proper test

The Council must ensure that applicants and licence holders are and remain fit and proper to hold a licence. **This requirement is contained within Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II).**

The term "Fit and Proper Person" for the purposes of Private Hire Operator licensing is not legally defined. However, in determining whether a person is fit and proper to

hold a licence, those tasked with determining applications are effectively asking the following question of themselves:

*“Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or other unacceptable purposes? Would I also be confident that this person would operate a professional and reliable service, at a time it is needed, and take reasonable steps to safeguard both passengers and the ability of the local licensing authority to protect the public if required?”*

If the answer to the question is an unqualified ‘yes’, then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person.

All decisions on the suitability of an applicant or licensee will be made on the balance of probabilities. This means that **an applicant or licensee will not be ‘given the benefit of the doubt’**.

In order to assess the suitability of an applicant (and to inform decision makers when answering the question above), the Licensing Authority will undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an applicant or licence holder, the Council will take into consideration the following factors:

- criminality
- general conduct / standards of behaviour including online behaviour
- the conduct as an individual holding a licence, including but not limited to complaints and other information received during the application process or course of the licence
- the conduct of the applicant in making the application (e.g. whether they have acted with honesty and integrity during the application process).
- the previous licensing history of existing / former licence holders (including honesty and integrity)
- whether the applicant has had a licence suspended, refused or revoked by another licensing authority
- business practices demonstrated by the applicant (for example standard of record keeping, procedures, training and vetting of staff, compliance with other regulatory requirements, financial practices etc.)
- awareness of safeguarding, equalities and public safety matters, and procedures to ensure promotion of the same through the operation
- policies and practices to promote the safety and welfare of drivers under their control.

The Council will also consider further information sources such as the Police, Children and Adult Safeguarding Boards, other licensing authorities and statutory agencies, and other information/complaints received.

In addition, although the Council recognises the legality of sub-contracting, the Council would not expect a professional licensed, fit and proper operator to obtain a licence in Surrey Heath to simply make vehicles licensed by another authority available for booking via sub-contracting on a regular basis. As such whilst any licensed vehicle may enter Surrey Heath to pick up or drop off customers, the Council would not expect vehicles licensed outside of Surrey Heath to be waiting in Surrey Heath and be made available for bookings as this diminishes the Council's ability to set local standards and local control. As such, any Operator acting to reduce the Council's ability for local control would not meet the required public safety objectives and standards expected of a professional, licensed, fit and proper private hire operator.

By way of guidance, the Council would expect that at least 75% of journeys received by a Surrey Heath licensed operator commencing or finishing in Surrey Heath in a 3 month period to be completed by Surrey Heath licensed PHVs (or Surrey Heath licensed Taxis doing pre-booked work).

If an operator, acting in their capacity as the holder of a different licence (for example driver's licence or vehicle proprietor's licence) fails to comply with the byelaws or conditions attached to that licence, or has that licence revoked for reasons of being unsuitable to hold that licence, the Council will consider this to reflect on their character as a licensed operator and they can expect to have their licence to operate suspended or revoked.

### 8.3 Right of operator to work in the UK

The Council is mandated under the Immigration Act 2016 to require all applicants to provide documentary evidence to confirm that they may legally work in the UK. Examples of documents that may be provided include:

- a UK passport confirming that the holder is a British Citizen (or citizen of another EEA country – including Switzerland)
- passport or other travel document endorsed to show that the holder is allowed to stay in the United Kingdom and undertake paid employment
- full UK Birth / Adoption Certificate
- an Immigration Document issued by the Border and Immigration Agency to the holder which indicates that the person named in it can stay in the UK and undertake paid employment
- a work permit or other approval to take employment issued by the Home Office or the Border and Immigration Agency when produced in combination with either a passport or another travel document endorsed to show the holder is allowed to stay in the UK and is allowed to undertake paid employment.

This list is not exhaustive, and other documents may be accepted – further information will be provided by Licensing on request.

Where an applicant is subject to immigration controls, a licence will not be issued for longer than the period that the applicant has permission to undertake paid employment in the United Kingdom.

### 8.4 Application process

Licences will be issued for a maximum period of **5 years** but the Council can grant licences for a lesser period if deemed appropriate. This will usually be when the applicant has time limited 'right to work' status with the licence only being granted in line with the time limits dictated by the applicant's immigration status.

Additionally, or if the operator intends to operate using a new or innovative technological method subject to potential changes, or if there are changes or concerns identified about the regulatory practices of an operator, then a shorter licence may be granted to ensure compliance with the Council's requirements over a shorter period before a full 5 year licence is granted.

Applicants must provide proof that they have a statutory right to work in the UK and any applicant that has a limited right to work will not be issued an operator's licence for a period longer than that limited period.

The information submitted as part of the application process will be shared, when applicable, with other Council Services and external statutory bodies including but not limited to Police, HM Revenue and Customs and other licensing authorities.

## 8.5 Disclosure and Barring Service (DBS)

A criminal record check on an operator is seen as an important safety measure. If an application is received from a person who is not a driver currently licensed by Surrey Heath Borough Council then the applicant will be required to provide a Basic Disclosure from the DBS.

All applicants for the grant or renewal of a licence requiring a DBS check will be responsible for the costs of obtaining the DBS certificate.

All new applicants must declare on the application form any convictions, cautions or fixed penalty notices they have received. All licence holders shall notify the Council of any convictions or cautions received during their licence period. Failure to inform the Council of any convictions, arrest, current investigations, cautions and fixed penalty notices during the period of the licence will likely result in suspension or revocation of the licence.

All licence holders must subscribe to the DBS online update service. This is required by a condition placed on the licence. Any costs associated with maintaining this subscription must be met by the licence holder. If a licence holder fails to sign up to the update service, or fails to maintain subscription during the period that the licence is in force, then the licence will be suspended or revoked.

The licence holder must give permission for the council to undertake checks of their DBS status should the council consider it necessary to do so, which will be at a frequency of not less than once every six months. The council will use the update service to monitor the criminal record of licence holders. The update service can be used when a licence is renewed – if there are no changes recorded on the DBS certificate then a full DBS check will not be required. In all other cases a full DBS check will be required before a licence is renewed.

If an applicant or current licence holder has spent three continuous months or more overseas since the age of 16 the Council will need to see evidence of a criminal

record check from the country / countries visited covering the period that the applicant was overseas.

Because of the potential lifetime relevance of some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants that have lived overseas. For EU nationals suitable checks should be available. For those countries for which checks are not available, the Council will require a certificate of good conduct authenticated by the relevant embassy.

#### 8.6 Relevance of Convictions and Cautions etc.

The Council is committed to ensuring that the licensed trade are 'fit and proper'. This will entail periodic audits of licensed operators to ensure that material changes are identified and acted upon.

In relation to the consideration of convictions, cautions, warnings, arrests, reprimands and other 'relevant information', the Council has adopted the policy set out in Appendix 2. The terms of this policy will have immediate effect.

The policy at Appendix 2 will be used to determine the suitability of an existing licence holder should it be necessary to consider action in relation to the licence during the licence period.

#### 8.7 Application procedure

Information on how to make an application is available on the licensing pages of the Council's website or from the Council's Contact Centre.

An application will need to be accompanied by the following documents before it can be accepted. Where there is more than one applicant for the operator's licence, or the application is made by a partnership, or in the case of a limited company (each director and the company secretary), each applicant must provide:

- a completed PHO (new) application form (signed by each applicant)
- payment of the relevant fee (by debit or credit card only)
- evidence of right to live and work in the UK
- photographic proof of identification
- evidence of current address and history of residence for the last five years including the month and year that you started living at each address
- a certificate showing completion of the Council's **approved safeguarding** awareness course
- if applicable, a letter of good conduct from the Embassy or Consulate for the country of residence (if living outside the UK) as detailed in 8.5 above. The date of the letter must be within three months of the date of application and any documents not in English need to be accompanied by a translation that has been certified as a true translation of the original document.
- a DBS Certificate as at 8.5
- completed DBS update service allowing the Council to access this record during the course of the licence

- evidence that the applicant has obtained appropriate planning permission or a certificate of lawful use for the intended operating base from the relevant planning authority.
- if the intended operating base is open to the public, a valid certificate of public liability insurance in place for the premises.
- the name of the business, and any advertising complies with the policy on trading names as outlined in paragraph 8.13
- policies and procedures for operating as outlined in 8.15 commensurate with the size and nature of the operator.

## 8.8 Renewing a licence

Information on how to apply to renew a licence is available on the [licensing pages of the Council's website](#) or from the Council's Contact Centre.

It is the operator's responsibility to apply in good time so their application can be determined before their existing licence expires. A completed, valid renewal application should be submitted no less than one month, but no sooner than 8 weeks before the expiry date.

An applicant making an application to renew a PHO licence must be able to demonstrate that they still meet the application requirements in 8.6 above.

Licence holders are advised to check licensing [pages of the Council's website](#) or contact licensing if they are in any doubt about whether they satisfy the above requirements.

## 8.9 Making a decision

Once the Council has received a complete application and the results of the various checks/tests, we will then make a decision about the application.

We aim to inform an applicant of the decision within 15 working days from the date we receive all required information.

If an applicant (or licence holder) has any convictions, cautions, endorsements or additional other relevant information, we will consider these in line with the guidance in this Policy and this may delay the decision.

## 8.10 Granting an application

If we grant an application, we will usually issue a licence for five years from the date of the decision. If a licence holder is subject to immigration controls as detailed below, we will issue a licence for a shorter period:

If a licence holder's current right to live or work in the UK expires during the five-year period beginning on the date their application was determined, we will issue a licence until the date their current right to live or work in the UK expires.

If the Home Office is currently determining a licence holder's right to live or work in the UK, and they are entitled to live and work in the UK pending final determination of that

application, we will issue a licence for a maximum of 6 months from the date of the decision.

Under section 55(3) of the Local Government (Miscellaneous Provisions) Act 1976, the Council may attach conditions that it considers 'reasonably necessary' to PHO licences. Applications are normally granted subject to the Council's standard licence conditions contained within this Policy, however further, additional conditions may be attached on a case by case basis.

**The decision to attach conditions to a licence may be appealed to the Magistrates' Court.**

8.11 Refusing an application

If an applicant or licence holder does not satisfy all the above requirements or the application is incomplete we will generally refuse the application.

An officer with the appropriate delegation will make the decision.

The Council will make a record of the reasons for the decision and we will provide a copy of that document to the applicant.

Any decision to refuse an application may be appealed to the Magistrates' Court within 21 days of our decision. If applicants intend to appeal the Council's decision, we strongly suggest that they seek legal advice.

The Council will normally defend the decision and seek recovery of its full costs from the appellant.

*The right to appeal the Council's decision to refuse an application or to attach conditions to an operator's licence is included in Section 55(4) of the LG (MP) Act 1976.*

8.12 Updating the Council

It is essential that the Council has up to date contact details for licence holders. It is also vital that the Council is notified of any change in circumstances which may compromise the applicant's suitability at the earliest opportunity.

If a licence holder changes their name, address, other contact details (including telephone number, email address, during the term of their licence, they must inform the licensing team in writing within seven days.

If a licence holder receives a conviction, caution, fixed penalty notice or is subject to arrest or criminal proceedings of any sort then they must notify the Council within 48 hours.

Licence holders who fail to keep the Council up to date as required may be considered unsuitable to continue to hold a licence.

8.13 Trading Names and Advertising

The names of any PHO business must not:

- be the same (or similar) to a private hire business already licensed by the Council, or
- include any reference to 'taxis' or words with a similar meaning.

Each operator licence can be linked to one trading name. The only exceptions are where all trading names clearly relate to the same business, for example: 'ABC Cars' and 'ABC Executive'. In all other cases if the operator wishes to benefit from the use of more than one trading name, then a separate licence application will be required for each name.

Any mobile app, websites or advertising used by the operator should clearly give the registered operator name in any links, and Surrey Heath Borough Council licence details must be clearly shown on the app, website or advert. This is to ensure that customers know exactly who their booking is with, and will enable improved enforcement through preventing one operator having multiple trading names. In the case of a 'national' operator, there must be clear separation for this purpose.

If more than one licence is held to accommodate different trading names, the records and contact details for each trading name must be kept separate, and any receipts or correspondence with the customer must clearly relate to the company the booking was made with.

#### 8.14 Record keeping

Section 56 of the LG (MP) Act 1976 requires PHV operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator.

The following information should be recorded as a minimum:

- name of the passenger
- the time of the request
- the pick-up point
- the destination
- the name of the driver
- the driver's licence number
- the vehicle registration number
- the name of any individual that responded to the booking request
- the name of any individual that dispatched the vehicle.

This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. Booking records shall be retained for a minimum of six months. The records should be kept in a form agreed with the Licensing Authority, and be made available when requested.

PHOs have a duty under data protection legislation to protect the information they record. The [Information Commissioner's Office](#) provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.



## 8.15 Private Hire Operator Policies and Procedures

PHOs licensed by the Council are expected to provide the following policies and procedures upon application/renewal. Compliance with these will be a condition of the operator's licence. Any changes must be agreed in writing by the Council and must be reviewed at the request of the Council. Any information arising from the application of these procedures (such as staff training records, or complaint records) must also be provided to the Council upon request.

### 8.15.1 Procedures for accepting bookings

Bookings for a PHV can be made by a number of different methods, many of which are far removed from those envisaged by the 1976 Legislation. Consequently, the invitation of bookings by an operator which are then 'accepted' by a driver via a Personal Digital Assistant ( PDA) or smartphone app, under strict interpretation of the Act, means that the driver accepting the booking also needs an operator's licence. Clearly this is not what the legislation was intended for and as such operators will need to detail their procedures for accepting bookings demonstrating compliance with the legislation.

### 8.15.2 Procedures for Vetting Staff

The Operator's staff may also take bookings (be it by phone or in person). A vehicle controller decides which driver to send to a user, a position that could be exploited by criminals. It is therefore appropriate that all staff that have contact with PHV users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.

Operators or applicants for a licence are also required to provide a written policy regarding their employment of ex-offenders in roles that have contact with the public, access to booking records and/or customer information, and/or oversee the dispatching of vehicles.

As with the threshold for obtaining a PHOs' licence, those staff with a conviction for offences detailed in our Conviction policy, attached at **Appendix 2**, (other than those relating to driving) may not be suitable to handle the sensitive information the public may provide (e.g. that their home is likely to be empty between certain dates) or to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Operators must hold and maintain a register of all staff that have contact with the public, access to booking records and/or customer information, and/or oversee the dispatching of vehicles and be able to evidence that they have had sight of a Basic DBS check on all individuals listed, and that this register is compatible with their policy on employing ex-offenders. The register must also include ensuring the staff have the right to live and work in the UK.

### 8.15.3 Staff Training

Operators must also ensure that all staff employed in a role which has contact with PHV users, access to booking records and/or customer information and PHV drivers have undergone training, and a record of this is maintained for each employee.

Training records of all staff must be maintained, and refresher training provided at appropriate intervals covering the following areas:

- data protection
- emergency procedures
- break down procedures
- operator's tariff
- pick up and drop off procedures
- customer complaints
- lost property
- young and vulnerable customers
- equalities.

#### 8.15.4 Sub-contracting

If an operator sub-contracts a booking, whether to another licensed PHO or a Taxi vehicle, they should inform the customer and fix the price, and if using a Taxi taking care not to charge more than the Taxi metered rate if the journey starts and ends in the relevant district. A clear record of the sub-contracting and when the customer was informed shall be kept.

The Council would expect that the operator receiving and undertaking the sub-contracted booking is subject to the same standards as operators licensed by Surrey Heath Borough Council, and that the Surrey Heath licensed operator receiving the original booking will have taken steps to ensure the sub-contracting operator upholds these standards.

#### 8.15.5 Use of Public Service Vehicles (PSV)

The use of public service vehicles (PSV) licensed drivers and vehicles to fulfil bookings accepted under a PHO licence is strictly forbidden.

Where a PHV is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a Passenger Carrying Vehicle (PCV) licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

#### 8.15.6 Licensing Compliance Procedures

The operator shall have procedures in place to ensure all drivers and vehicles used have the required licences and are complying with the relevant conditions of the licences. This should include a record of the initial verification and of the regular checks done by the operator showing compliance with each licence.

The operator shall have procedures in place to ensure that no bookings are passed to a driver or vehicle without a valid licence, MOT, road tax, Council vehicle test or insurance.

#### 8.15.7 Pick up and drop off locations

The operator shall have procedures in place to direct drivers to pick up and drop off customers from locations of safety.

These procedures must be reviewed and amended at the request of an authorised officer and include the requirement to direct drivers under their control and customers making bookings to any dedicated pick up or drop off location nominated.

#### 8.15.8 Operator Tariff

Whilst the Council regulates the fares for Taxis, it does not regulate fares for PHVs or operators.

From 1 April 2022 PHVs will no longer be permitted to be fitted with taximeters. Consequently, the emphasis is on operators to ensure customers are provided with a reliable quote for services in line with current licence conditions.

Operators may provide a mobile/PDA device which records the journey and generates a fare based upon time and distance, and operators may still use the Taxi fare tariff rates as their own tariff.

Where the operator uses a tariff to calculate fares by time and distance using a PDA device, the operator must ensure that this is on display in the vehicle for customers to see.

#### 8.15.9 Complaints and Lost Property

Operators must keep a record of complaints and any lost property and have procedures to resolve these. Records of complaints received, investigations undertaken and any disciplinary action must be made available to the licensing authority or Police officer upon request. If an operator terminates the use of a driver, then this information including full reasons must be provided to the Licensing authority in writing within 48 hours.

#### 8.15.10 Data protection

Operators have a duty under data protection legislation to protect the information they record and as such must have written procedures for protecting the information they hold. The Information Commissioner's Office provides comprehensive guidance on registering as a data controller and how to meet legal obligations.

#### 8.15.11 Driver Risk assessment

Operators have a duty to ensure the safety of their customer by ensuring that licensed drivers under their control do not pose risk to the public. Whilst the Council will only grant a driver's licence to a fit and proper person, the Council has limited control over a driver's working hours, or other employment held. As such Operators should complete a risk assessment, commensurate to the size of their operation, identifying drivers who may be 'at risk' from working long hours (for example being logged on for long periods of time) or from other activities (for example holding a 'day job' and working nights as a licensed driver).

Operators must provide the results of any risk assessment, together with actions taken to reduce risk, to the Council upon request.

#### 8.15.12 Driver Welfare policies

Regardless of any terms of contract or employment between drivers and operators; operators have a duty towards the welfare of their drivers. Drivers must be awake, alert, efficient, well and not in a rush. As such operators have an obligation through their business practices to ensure public safety through drivers not having to work long hours, or evade their own obligations (for example including but not limited to driving dangerously, picking up/dropping off inappropriately or attempting to negotiate a different fare with passengers), which carries public safety risks to both themselves and the public.

Operators must provide a policy covering driver welfare, remuneration, working conditions, working hours, and drivers being adequately incentivised to provide a service when needed throughout the day.

#### 8.16 Insurance

Before an application for a PHO's licence is granted, the applicant shall produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed if this premises is open to the public. Where necessary, operators must also hold employer's liability insurance.

#### 8.17 Use of operator name following revocation of licence

Where an operator's licence is revoked by the Council, the name (or a similar name) of the PH company associated with that licence cannot be used by another operator until such time as six months has elapsed since the date of revocation or the date on which all appeal processes have been concluded (whichever is the longer).

#### 8.18 Reporting of key events

Key events which may affect the safety of the public must be reported to the licensing authority within 48 hours.

Such events may include, but are not limited to, system changes, system faults (such as the ability to drive without a licence, insurance, mot, tax), serious offences and complaints, suspensions, data breaches or losses, investigations and action taken by other regulators (including criminal investigations and the suspension/revocation of any PHO's licence held with another licensing authority).

#### 8.19 Operator's responsibility in relation to vehicles / drivers

The operator is responsible for all persons (and vehicles) that are employed, contracted or otherwise used in the course of their business. To that end, the operator must undertake sufficient checks to satisfy themselves that only suitable drivers and vehicles are used (and continue to be used) in the course of their business.

The failure of an operator to ensure that appropriate checks are carried out may call into question the operator's fitness and propriety. In addition, a failure to take appropriate action in relation to drivers that persistently breach licence conditions or operator processes may also be detrimental to the continued fitness and propriety of the operator.

The following are examples of circumstances that may affect the fitness and propriety of a PHO:

- licensed drivers or vehicle proprietors persistently (either individually or as a group) breaching the conditions of their licence whilst working for / under the instruction of a particular operator, including conduct around waiting areas and pick up and drop off locations
- vehicles being operated that are in an unsuitable condition.
- failure by the operator to satisfactorily address concerns in relation to licensed drivers / vehicle proprietors (including matters related to child / adult safeguarding).

## Section 9 - Compliance and enforcement

- 9.1 The principal purpose of Taxi and PH licensing is to protect the public and promote public safety. In doing this, the Council aims to provide the delivery of efficient, targeted and proportionate regulatory services to provide a positive approach to those regulated, and promoting confidence in the service in the eyes of those who use it.
- 9.2 We will follow the Regulators' Code and the Council's Corporate Enforcement Policy and will base any enforcement action on the seriousness of the breach and the possible consequences arising from it. A range of tools and powers, including mystery shopping, to ensure compliance will be used. Compliance assessment is ultimately to ensure that the driver or operator is a "fit and proper" person to hold a licence and/or the vehicle is safe. The safety of passengers, pedestrians and other road users is paramount.
- 9.3 The Council has a procedure whereby the general public can submit service requests / complaints / concerns about licensed drivers and operators. This is accessible via the submission of a report form via the licensing pages of the Council's website. In considering the most appropriate action to take in relation to a complaint, the credibility of both the complainant and the licence holder will be taken into account. In addition if anyone wishes to complain about the service provided by the Council there is a complaints procedure available on the Council's website.
- 9.4 Where appropriate referrals will be made to other agencies such as the Police, DBS, HM Customs & Excise and both Adult and / or Child safeguarding teams. The Council will respond to complaints made by the public and referrals from other agencies & bodies. In addition officers will undertake proactive inspections and testing as either day to day activity or as part of programmed operations.
- 9.5 Licensing decisions are taken on the 'civil' standard of proof and in line with the statutory guidance, the benefit of the doubt will **not** be given to the licence holder when making any decision.
- 9.6 We aim to achieve and maintain a consistent approach when we make our decisions. In reaching any decision we will consider the following criteria:
- seriousness of any offences or breach of conditions
  - licence holder's past history, including previous advice and warnings issued
  - consequence(s) of non-compliance
  - likely effectiveness of the various enforcement options
  - danger to the public
- 9.7 Having considered all relevant information and evidence, the normal options are one or more of:
- take no action
  - take informal action
  - issue statutory notice(s)
  - suspend a licence
  - revoke a licence
  - prosecution

9.8 As well as complying with legislation and licence conditions, it is essential that licence holders comply with reasonable requests for information or assistance from licensing and/or Police officers. Failure to do so may lead to disciplinary action being taken.

#### 9.9 Informal Action

We may take informal action to secure compliance with legislation or other requirements. This includes offering advice, and verbal or written warnings. Such informal enforcement action may be appropriate in any of the following circumstances

- the act or omission is not considered serious enough to warrant more formal action
- from the individual driver or operator's past history it can be reasonably expected that informal action will achieve compliance
- confidence in the operator's management is high
- the consequences of non-compliance will not pose a significant risk to the safety of the public

Even where some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach.

#### 9.10 Statutory notices

If a defect in a licensed vehicle is found, including a breach of licensing conditions or vehicle specification, we may serve notice in writing requiring the vehicle (or the taximeter in the vehicle) to be examined at the vehicle testing station or by a taximeter examiner nominated by the Council.

If a defect in a licensed vehicle is found upon inspection which causes the vehicle to fail the MOT then a statutory notice may be served preventing the vehicle from being used until the defect is remedied and the vehicle passes the test.

#### 9.11 Suspending or revoking a licence (vehicles)

We may suspend a vehicle licence where:

- the Council has reasonable grounds to suspect that the condition of the vehicle is dangerous or poses a risk to passengers or other road users. For example, there is damage to the vehicle, the tyre tread is insufficient, or the vehicle has been involved in a collision
- the insurance is no longer valid.
- the vehicle has not completed the vehicle test at the required interval, or failed the test
- the vehicle is non-compliant with its licence conditions or other licensing policy requirement

The suspension will be lifted once we are satisfied that the reason for the suspension has been addressed and the vehicle complies with the Council's policy requirements.

We may revoke a vehicle licence where:

- the proprietor regularly presents a vehicle for inspection which is in unsatisfactory condition
- the proprietor is no longer considered suitable to hold a licence
- the vehicle is dangerous and poses a risk to passengers or other road users and suspension of the licence is not appropriate. For example, if there is no reasonable prospect of repairing the damage, such as an accident write-off.

#### 9.12 Suspending, revoking or refusing to renew a licence (drivers)

*Section 61 of LG (MP) Act 1976 allows a Licensing Authority to suspend or revoke a driver's licence.*

We may suspend or revoke a driver's licence if the licence holder:

- is convicted of any offence involving dishonesty, indecency or violence
- is convicted of an offence under or has failed to comply with the relevant taxi and private hire legislation or
- for any other reasonable cause

Before we make our decision, the Council will consider the seriousness of the conviction, caution, endorsement or other information which has been provided to us.

A suspension may be appropriate if it is believed a minor issue can be addressed through additional training.

We will apply the guidelines set out in Appendix 2 when a licence holder is convicted, cautioned for or charged with any of the offences or information (including complaints from the public) is received to indicate that the licence holder has conducted themselves in a way outlined by the offence. For example, if a complaint has been received about a licence holder which has not resulted in a conviction, in the interest of public safety the policy and sanction for that offence will still be applied.

Any other reasonable cause can include, but is not restricted to:

- a suspension of your DVLA licence (either due to 'totting up' or disqualification imposed for specific offences)
- a medical issue
- other offences not included in Appendix 2, but still indicating that the licence holder is of unsuitable character
- a culmination of minor transgressions or continual non-compliance with licensing requirements
- any action that presents a risk to the public or is likely to undermine public confidence in the licensing regime
- obstruction of or being abusive towards an authorised officer, or disregarding the advice, warnings or sanctions of an authorised officer

If a driver's licence is suspended this will normally be for a defined period and the Council will inform the licence holder of our reasons. The Council will normally only suspend a licence where the relevant behaviour can be addressed within a reasonable timescale. In other cases the licence will normally be revoked.



If we consider it is in the interest of public safety to suspend or revoke a licence with immediate effect, we will do so and we will inform the licence holder of our reasons.

#### 9.13 Suspending, revoking or refusing to renew a licence (operators)

*Section 62 LG (MP) Act 1976 allows for the revocation or suspension of an operator's licence. We may also refuse to renew an operator's licence.*

We may suspend, revoke or refuse to renew a private hire operator's licence:

- if the licence holder commits any offence under or fails to comply with relevant taxi and private hire legislation or
- there is any conduct on the part of the operator, including convictions, which falls below the standards expected by the Council of professional, licensed private hire operators, or
- there is any material change of the circumstances of the operator on the basis of which the licence was granted, or
- the operator seeks to negate local control by not using vehicles and drivers licensed by the Council within its jurisdiction, or
- for any other reasonable cause

Before we make our decision, the Council will consider the seriousness of the conviction, caution, endorsement or other information which has been provided to us.

We will apply the guidelines set out in Appendix 2 when a licence holder is convicted, cautioned for or charged with any of the offences or other information (including complaints from the public) is received to indicate that the licence holder has conducted themselves in a way outlined by the offence. For example, if a complaint has been received about a licence holder which has not resulted in a conviction, in the interest of public safety the policy and sanction for that offence will still be applied.

Any other reasonable cause can include, but is not restricted to:

- other offences not included in Appendix 2, but still indicating that the licence holder is of unsuitable character
- a culmination of minor transgressions or continual non-compliance with licensing requirements
- any action that presents a risk to the public or is likely to undermine public confidence in the licensing regime
- using unlicensed drivers or vehicles
- using uninsured or unsafe vehicles
- obstruction of or being abusive towards an authorised officer, or disregarding the advice, warnings or sanctions of an authorised officer

If an operator's licence is suspended this will normally be for a defined period and the Council will inform the licence holder of our reasons. The Council will normally only suspend a licence where the relevant behaviour can be addressed within a reasonable timescale. In other cases the licence will normally be revoked.

#### 9.14 Decision making

Except where indicated in the guidance, officers will normally make decisions under delegated authority whether to grant, refuse, suspend or revoke a licence, or grant any form of exemption.

In cases where revocation of a licence is considered, there will be a clear separation between the investigation of licensing concerns and the management of the licensing decision making process. In addition, the Council has made arrangements for dealing with serious matters that may require the immediate revocation of a licence by delegation of these powers to a senior officer/manager with responsibility for the licensing service.

#### 9.15 Prosecution

The Council recognises that it is a significant step to prosecute, however, will consider prosecution in appropriate cases where there is sufficient evidence and it is in the public interest to do so.

In order to protect public safety and promote public confidence in the licensing regime, the Council will generally consider that prosecution is appropriate in the majority of cases, but will take into consideration:

- the overall seriousness of the offence and harm caused
- if the offender also encouraged others to commit offences
- the offence was pre-meditated
- the offender showed disregard for the law
- the offender stood to gain from the offence
- the victim, if any, was vulnerable, suffered damage or felt threatened by the offence
- there is significant environmental harm
- the offence had a discriminatory element, for example on the basis of race or religion
- the offender has previous convictions or cautions that are for offences that have some similarity with the current one
- there is likelihood that further offences might be committed.

#### 9.16 Appeals

*Section 60 LG(MP)Act 1976 allows a district council to suspend or revoke or (on application under section 40 of the Town Police Clauses Act 1847 or section 48 of the LG(MP) Act 1976, as the case may be) refuse to renew a vehicle licence on a number of grounds.*

*Similar provisions are in section 61 and 62 of the LG (MP) Act 1976 relating to driver's and operator's licences.*

If the Council suspends, revokes or refuses a licence, a record of the reasons for our decision will be made and we will provide the licence holder with a copy of that document.

The licence holder may appeal to the Magistrates' Court within 21 days of the decision. We would recommend that appellants seek legal advice.

Once a licence has been suspended or revoked, the licence holder (or former licence holder) may appeal to the Magistrates' Court in order to challenge the Council's decision. There is no other recourse available to the licence holder (or former licence holder) should they wish to have the decision to suspend or revoke their licence reversed.

The Council will normally defend any appeal and seek full recovery of its costs from the appellant.

## **Section 10- Other Considerations**

### Covid-19

From time to time we may be required to respond to circumstances beyond our control that may affect our licensing arrangements.

In 2020 Covid-19 presented a number of serious challenges with new regulations applying to anyone providing a public service. Appendix 11 outlines the current guidelines for drivers and operators to follow.

### Training

The DfT Statutory Taxi and PHV Guidance (2020) requires that all individuals that determine whether a licence is issued should be required to undertake sufficient training

All officers involved in licensing will be suitably trained and experienced, commensurate with their role and delegated authority. They will be required to undertake regular update training as part of our commitment to continual professional development. Officers are required to keep records of their training, including certificates of successful completion of courses.

Members of the Licensing Committee will have access to suitable training and will be encouraged to undertake training. Suitable training may be required where members take part in Sub- Committees as outlined in this Policy. Training for Members of the Licensing Committee will include: licensing procedures, natural justice, understanding the risk of CSAE, disability and equality awareness. Records of Member training will be formally recorded.

## **Draft Taxi Licensing Policy For Consultation**

Helen Lolley  
February 2021

## **Appendix 1**

### **Hackney Carriage Byelaws**

#### **BOROUGH OF SURREY HEATH**

#### **BYELAWS**

#### **MADE BY**

#### **THE COUNCIL OF THE BOROUGH OF SURREY HEATH**

#### **WITH RESPECT TO**

#### **HACKNEY CARRIAGES**

### **BYELAWS**

made under Section 68 of the Town Police Clauses Act, 1847, and Section 171 of the Public Health Act, 1875, by Surrey Heath Borough Council with respect to hackney carriages in the Borough of Surrey Heath.

### **INTERPRETATION**

1. Throughout these byelaws 'the Council' means Surrey Heath Borough Council and 'the Borough' means the Borough of Surrey Heath .

Provisions regulating the manner in which the number of each hackney carriage, corresponding with the number of its licence, shall be displayed.

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.

(b) A proprietor or driver of a hackney carriage shall:-

- (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire.
- (ii) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

Provisions regulating how hackney carriages are to be furnished or provided.

3. The proprietor of a hackney carriage shall:-

- (a) provide sufficient means by which any person in the carriage may communicate with the driver,

- (b) cause the roof or covering to be kept watertight;
- (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
- (d) cause the seats to be properly cushioned or covered;
- (e) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
- (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
- (g) provide means for securing luggage if the carriage is so constructed as to carry luggage.
- (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use.
- (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.

4. The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed attached and maintained as to comply with the following requirements, that is to say,

- (a) If the taximeter is fitted with a flag or other device bearing the words 'FOR HIRE':-
  - (i) The words 'FOR HIRE' shall be exhibited on each side of the flag or other device in plain letters at least one-and-a-half inches in height and the flag or other device shall be capable of being locked in a position in which the words are horizontal and legible;
  - (ii) when the flag or other device is so locked the machinery of the taximeter shall not be in action and the means of bringing it into action shall be by moving the flag or other device so that the words are not conveniently legible.
  - (iii) when the flag or other device is so locked that the aforesaid words are horizontal and legible no fare shall be recorded on the face of the taximeter.
- (b) If the taximeter is not fitted with a flag or other device bearing the words 'FOR HIRE':-
  - (i) the taximeter shall be fitted with a key or other device the turning of which will bring the machinery of the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter;

(ii) such key or device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and no fare is recorded on the face of the taximeter.

(c) When the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in figures, clearly legible and free from ambiguity, a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand, and take in pursuance of the byelaw in that behalf for the hire of the carriage by distance.

(d) The word 'FARE' shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon.

(e) The taximeter shall be so placed that all letters and figures on the face thereof may be at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring.

(f) The taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any persons to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

5. The proprietor of a hackney carriage provided with a taximeter not fitted with a flag or other device bearing the words 'FOR HIRE' shall cause the carriage to be provided with a sign so constructed as to comply with the following requirements, that is to say:-

(a) The sign shall bear the words 'FOR HIRE' in plain letters as least one-and-a-half inches in height.

(b) The sign shall be capable of being so operated that it indicates clearly and conveniently to persons outside the carriage whether or not the carriage is for hire.

Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any, and what, badges.

6. The driver of the hackney carriage shall:-

(a) If the taximeter is fitted with a flag or other device bearing the words 'FOR HIRE':-

(ii) when standing or plying for hire keep such flag or other device locked in the position in which the words are horizontal and legible;

(ii) as soon as the carriage is hired by distance, and before commencing the journey, bring the machinery of the taximeter into action by moving the flag or other device so that the words are not conveniently legible and keep the machinery of the taximeter in action until the termination of the hiring.

- (b) If the taximeter is not fitted with a flag or other device bearing the words 'FOR HIRE':-
- (i) when standing or plying for hire keep the taximeter locked in the position in which no fare is recorded on the face of the taximeter and operate the sign provided in pursuance of byelaw 5 so that the words 'FOR HIRE' are clearly and conveniently legible by persons outside the carriage,
  - (ii) as soon as the carriage is hired whether by distance or by time, operate the said sign so that the words 'FOR HIRE' are not conveniently legible by persons outside the carriage;
  - (iii) as soon as the carriage is hired by distance, and before commencing the journey, bring the machinery of the taximeter into action by moving the key or other device fitted for the purpose so that the word 'HIRED' is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring.
- (c) Cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness; this being the hours between half-an-hour after sunset and half-an-hour before sunrise and also at any other time at the request of the hirer.

7. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.

8. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-

- (a) proceed with reasonable speed to one of the stands fixed by the byelaw in that behalf;
- (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
- (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand so as to face in the same direction;
- (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.

9. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.



10. The driver of a hackney carriage shall behave in~ civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

11. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

12. The driver of a hackney carriage when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.

13. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.

14. If a badge has been provided by the Council and delivered to the driver of a hackney carriage, he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.

15. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:-

- (a) convey a reasonable quantity of luggage;
- (b) afford reasonable assistance in loading and unloading;
- (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.

Provisions fixing the stands of hackney carriages.

16. Each of the several places specified in the following list shall be a stand for such number of hackney carriages as is specified in the list:-

| <b>Stand</b>  | <b>Number of Carriages</b> |
|---|----------------------------|
| Heathcote Road on its western side from a point 37 metres south of its junction with Middle Gordon Road to a point 60 metres south of that junction | 4                          |

|  |   |
|--|---|
| Obelisk Way on the north side from a point 14 metres west of its junction with High Street westwards for a distance of 22 metres                             | 4 |
| High Street on the western side from a point 27 metres south of its junction with Princess Way to a point 52 metres south of that junction                   | 5 |
| Princess Way on its northern side from a point 15 metres east of its junction with Park Street for a distance of 15 metres in an easterly direction          | 3 |
| Frimley Road on its western side from a point 58 metres north of its junction with Edward Avenue to a point 94 metres north of that junction                 | 6 |
| Cedar Lane on its western side from a point 11 metres south of its junction with Frimley High Street for a distance of 11 metres in a southerly direction    | 2 |
| Park Street on its eastern side between its junction with Bietigheim Way and a point 11 metres from its junction with the road leading to Service Area No. 5 | 4 |
| Guildford Road, Lightwater on the north eastern side of the forecourt adjacent to Nos. 63 and 65, having a length of 10 metres                               | 2 |
| On the western side of the forecourt area adjacent to the White Hart Hotel which is located on the eastern side of Frimley High Street                       | 2 |
| In the public car park located on the northern side of Woodend Road, Deepcut   | 2 |

Provisions fixing the rates or fares to be paid for hackney carriages within the District and securing the due publication of such fares.

17. The Proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the following table, the rate or fare being calculated by distance unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where a hackney carriage, furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the following table which it may not be possible to record on the face of the taximeter.

## **FARES FOR DISTANCE**

Up to a fare of £2.55 on the face of the meter

- |   |     |
|---|-----|
| (a) Mileage: For the first 1466 yds (1335 metres) or part thereof | 85p |
| For each subsequent 293 yds (267 metres) of part thereof          | 10p |
| (b) Waiting: For each period of one minute or part thereof        | 10p |

Fares in excess of £2.55 on the face of the meter

- |   |     |
|---|-----|
| Mileage: For each subsequent 195 yds (178 metres) or part thereof | 10p |
| Waiting: For each period of 40 seconds or part thereof            | 10p |

Extra Charges

- |  |                          |
|--|--------------------------|
| (i) For hirings begun between 12.00 midnight and 07.30 a.m. and between 00.01 a.m. and 12.00 midnight on Sundays, Public and Bank Holidays | 50% of (a) and (b) above |
| (ii) Where the fare for a journey undertaken between the times referred to at (i) above exceeds £3.77 on the face of the meter             | 25p                      |
| (iii) For each article of luggage conveyed outside the passenger compartment of the carriage   | 5p                       |
| (iv) For each person in excess of two  | 5p                       |

18.

(a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the byelaw in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.

(b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

Provisions securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.

19. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.

20. The proprietor or driver of a hackney carriage shall, if any property, accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-

(a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave it in the custody of- the officer in charge of the office on his giving a receipt for it;

(b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of the estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

## **PENALTIES**

21. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding one hundred pounds and in the case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues after conviction therefore.

## **REPEAL OF BYELAWS**

22. The Byelaws relating to hackney carriages which were made by the Frimley and Camberley Urban District Council on the 5th April, 1971 and which were confirmed by one of Her Majesty's Principal Secretaries of State on the 12th July, 1971, are hereby repealed.

Byelaw No. 16 made on the 31st March, 1977 and confirmed by one of Her Majesty's Principal Secretaries of State on the 1<sup>st</sup> July, 1977 is hereby repealed.

Byelaw No. 17 made on the 12th April, 1984 and confirmed by one of Her Majesty's Principal Secretaries of State on the 6<sup>th</sup> June, 1984 is hereby repealed.

THE COMMON SEAL of the COUNCIL  
of the BOROUGH OF SURREY HEATH  
was hereunto affixed this 19th day of June  
One thousand nine hundred and eighty-five

MAYOR



CHIEF EXECUTIVE AND TOWN CLERK

M.F.O.L.

THE FOREGOING BYELAW IS HERESY CONFIRMED BY THE SECRETARY OF STATE AND SHALL COME INTO OPERATION ON THE 16th DAY OF SEPTEMBER 1985

AN ASSISTANT SECRETARY IN THE DEPARTMENT OF TRANSPORT ON BEHALF OF THE SECRETARY OF STATE FOR TRANSPORT 6<sup>th</sup> AUGUST 1985

## Appendix 2

Relevance of convictions, cautions, endorsements and other information



# **Hackney Carriage & Private Hire Licensing Policy**

## **regarding the relevance of convictions and other related information**

## Contents

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## 1. Introduction

1.1 This policy sets out the criteria to be taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to be granted, have renewed or continue to hold a Hackney Carriage and/or Private Hire Driver Licence. In addition to criminal convictions the Council will also take into account other factors such as demeanour, attitude, general character, non-criminal behaviour and police or other relevant records or information from a reliable source.

1.2 Whilst this policy primarily applies to the determination of driver licences, where a conviction (as defined below) is considered relevant to the fitness and propriety/suitability of an individual to hold or be granted a Private Hire Operator Licence or vehicle licence, then this policy must be referred to in the determination of that licence/application.

1.3 The Council is mindful that each case must be considered on its merits and where exceptional circumstances demand, the Council may depart from this policy.

1.4 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:

- Applicants for a driver's, vehicle or private hire operator licence
- Existing licensees whose licences are being reviewed or renewed
- Licensing officers
- Members of the licensing committee/sub-committee
- Magistrates and Judges hearing appeals against local authority decisions

1.5 For renewal applications and current licence holders the policy will not be applied retrospectively. However the policy will be applied if any additional convictions are incurred or brought to the attention of the Council that would call into question a person's suitability to hold a licence.

1.6 It is the responsibility of Surrey Heath Borough Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Act 1847 and the Hackney Carriage Byelaws. In exercising this duty the Council must consider the need to ensure the safety of the public its primary consideration. Licences cannot be issued unless the person is considered to be 'fit and proper'.

1.7 In seeking to safeguard the safety of the public. The council will be concerned to ensure:

- That a person/applicant is fit and proper in accordance with Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II)
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest persons
- The safety of children, young persons and vulnerable adults

1.8 There is no judicially approved test of fitness and propriety and, accordingly, a number of local tests have developed. These tend to be based on a test similar to the following:



'Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get in to a vehicle with this person alone?'

If the answer to this question (or a similar test) is an unqualified 'Yes' then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is a fit and proper person to hold a hackney carriage driver's licence.

1.9 The Council will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an applicant or licence holder, the council will take into consideration the following factors:

- Criminality
- Number of endorsed DVLA driving licence penalty points
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
- The previous licensing history of existing / former licence holders.

In addition, the Council will also consider further information from sources such as, but not limited to, the Police (including abduction notices), Children and Adult Safeguarding Boards, Multi Agency Safeguarding Hub, Social Services other licensing authorities, other departments within the Council, and statutory agencies.

1.10 In this policy, the word "applicant" refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders who are being considered by the Council by virtue of offending activity having recently come to light.

1.11 In this policy, the word "conviction" is to be defined as including convictions, cautions, warnings, reprimands and other relevant information.

1.12 The Council reserves the right to overturn or annul a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

1.13 As licensed drivers often carry unaccompanied and vulnerable passengers, the council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. A licensed PHV or taxi driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may

be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern, The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully. As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public.

## **2 General Policy**

2.1 Whilst the Council may consider that an applicant with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:

- a. Remain free of conviction for an appropriate period as detailed below; and
- b. Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that an applicant is a fit and proper person to hold a licence.

2.2 The standards and criteria set out in paragraphs 4 to 18 below are those that would normally be applied to applications and licences. The Council may depart from these criteria, however it will only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

## **3 Powers**

3.1 Section 61 of the Local Government Miscellaneous Provisions Act 1976 allow the council to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence, or failure to comply with the provisions of the Town Police Clauses Act 1847 or failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976, or if he/she has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty, or for any other reasonable cause.

3.2 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the council to take into account all convictions recorded against an applicant or the holder of a Private Hire or Hackney Carriage driver's licence, whether spent or not. Therefore the council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

## **4 Consideration of disclosed criminal history**

4.1 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the council is required to ensure that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Operator or Vehicle driver's licence is a "fit and proper" person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the council will look at:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of the conviction, warning, caution etc.
- Circumstances of the individual concerned
- Any sentence imposed by the court
- The applicant's age at the time of offence / incident leading to the conviction, warning, caution etc.

- Whether they form part of a pattern of offending
- The applicant's attitude
- Any other character check considered reasonable (e.g. personal references if requested by the Council)
- Any other factors that might be relevant, for example:
  - The previous conduct of an existing or former licence holder,
  - Whether the applicant has intentionally misled the council or lied as part of the application process,
  - Information provided by other agencies/council departments.

Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].

- 4.2 In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.
- 4.3 Existing holders of driver's licences are required to notify the council in writing within five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the council within 3 working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.
- 4.4 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (s57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 4.5 Any offences or behaviour not expressly covered by this Policy may still be taken into account.

## **5 Options when determining an application/licence**

5.1 When determining an application or reviewing an existing licence in relation to convictions or other relevant information the Council have the following options:

- grant the licence or take no further action
- grant the licence with additional conditions
- refuse, revoke, or suspend the licence
- issue a warning

5.2 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

## 6. Offences involving violence

6.1 Licensed drivers have close regular contact with the public. A licence will not normally be granted if the applicant has a conviction for an offence that involved the loss of life such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.2 A licence will not normally be granted until at least 10 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Assault occasioning actual bodily harm
- Grievous bodily harm
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Violent disorder
- Common assault
- Resisting arrest
- Any racially-aggravated offence against a person or property □ Affray
- Any offence that may be categorised as domestic violence
- Harassment, alarm or distress, intentional harassment or fear of provocation of violence
- Any offence (including attempted or conspiracy to commit offences) similar to those above.

6.3 A licence will not normally be granted until at least 5 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

## **7. Offences involving a weapon (not a firearm)**

7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public. For firearms offences see 6.2.

7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 5 years (or at least 5 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

7.3 2 or more convictions for a violent offence will normally result in an application being refused.

## **8. Sexual and indecency offences**

8.1 All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will normally be refused. Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography.
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Soliciting (kerb crawling)
- Any sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Making obscene / indecent telephone calls
- Indecent exposure
- Any similar offences (including attempted or conspiracy to commit) or offences which replace the above

8.2 In addition to the above the council will not normally grant a licence to any applicant who is or has ever been on the Sex Offenders Register or similar register.

## **9. Dishonesty**

9.1 A serious view is taken of any conviction involving dishonesty.

9.2 A minimum period of 5 years free of conviction or at least 5 years since the completion of sentence (whichever is longer) is required to have passed before a licence is granted. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- false representation
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- fare overcharging
- or any similar offences (including attempted or conspiracy to commit) or offences which replace the above

9.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

9.4 Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will normally be rejected or refused.

## **10. Alcohol and Drugs**

10.1 A serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs or where the driver has been found to be under the influence of psychoactive substances.

10.2 At least 5 years, after the restoration of the DVLA driving licence following a drink drive or driving under the influence of drugs conviction should elapse before an application will be granted.

10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 10 years or at least 10 years have passed since the completion of any sentence and/or licence period, whichever is the greater. There will then be full consideration of the nature of the offence and the quantity /type of drugs involved.

10.4 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs.

10.5 If there is evidence of persistent drugs or alcohol use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict (drug or alcohol) then they would be required to show evidence of 8 years free from drug taking after detoxification treatment.

10.6 A licence will not normally be granted for drunkenness offences not involving a motor vehicle for a period of one year after a single conviction and 2 years after 2 or more convictions within 2 years of each other.

## **11. Driving offences involving the loss of life**

11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

11.2 A licence will not normally be granted if an applicant has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

## **12 Other traffic offences**

12.1 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 1 year free of such convictions. For applicants with more than one offence this should normally be increased to 2 years.

12.2 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would be granted for a Hackney Carriage or Private Hire drivers licence.

12.3 Traffic offences such as obstruction, some speeding offences (usually dealt with by means of a fixed penalty), pedestrian crossing offences, traffic light offences waiting in a restricted area, or offences of a similar nature may not ordinarily merit refusal.

12.4 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.

12.5 In this policy, the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

12.6 In "totting up" cases where disqualification is considered by the Court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver, the licensing authority is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply. An applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

## **13 Outstanding Charges or Summonses**

13.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

13.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait,

then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

#### **14 People banned from working with children and vulnerable adults**

14.1 A serious view is to be taken of any applicant or licence holder who has been banned from working with children or vulnerable adults. A licence will not be normally be granted if an applicant has been found unfit to work with children or vulnerable adults.

#### **15 Non-conviction information**

15.1 The Council will take into account intelligence which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, civil penalties and complaints from the public. In considering the most appropriate action to take following the receipt of information), the credibility of both the witness / complainant and the licence holder will be taken into account.

15.2 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application or revoking an existing licence.

15.3 In assessing the action to take, public safety will be the paramount concern. Decisions will be taken on balance of probability.

15.4 A licence will not normally be granted until at least 1 year has elapsed since a Criminal Behaviour Order.

#### **16 Licensing Offences**

16.1 Offences under taxi and private hire and associated legislation such as plying for hire without a licence, overcharging and refusing to carry disabled persons will prevent a licence being granted or renewed until a period of 3 years has passed since conviction.

#### **17 Insurance Offences**

17.1 A serious view will be taken of convictions for driving, being in charge of a vehicle without insurance, or allowing person to drive whilst uninsured. A previous isolated incident will not necessarily stop a licence being granted provided an individual has been free of conviction for 3 years. However strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.

17.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward without insurance will have his Operator's Licence reviewed with a view to revocation and will not be permitted to hold a licence for a period of at least 3 years from the date of any revocation.

17.3 Where a specific offence is not mentioned, a suitable period of time will be determined by reference to offences described. The Council reserves the right to refuse a licence where there are aggravating circumstances, even where these guidelines would otherwise indicate that a licence might be granted.



## **18 Applicants with periods of residency outside the UK**

- 18.1 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU nationals a disclosure that is similar to the UK DBS will be required, for those countries for which checks are not available, the council will require a certificate of good conduct authenticated by the relevant embassy.
- 18.2 If an applicant has spent six continuous months or more overseas (since the age of 16) the council will expect to see evidence of a criminal record check from the country / countries visited covering the period.

## **19 Summary**

- 19.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed, in most cases, an applicant would be expected to have remained free from conviction for 3 to 10 years (detailed above), before an application is likely to be successful. If there is any doubt about the suitability of an individual to be licensed, the Council will be mindful of the need to protect the public and caution will be exercised.
- 19.2 While it is possible that an applicant may have a number of convictions that, individually, do not prevent a licence from being granted, the overall offending history will be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Some discretion may be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

## **Appendix 3**

### **Standard Private Hire Driver and Dual Hackney Carriage (TAXI) Driver Licence Conditions**

#### **PRIVATE HIRE DRIVER'S LICENCE-Conditions**

In these conditions unless the subject or context otherwise requires:-

'Council' means the Surrey Heath Borough Council

'Driver' means a person holding and acting in accordance with a private hire driver's licence issued by the Council

'Private Hire Vehicle' means a motor vehicle constructed or adapted to seat fewer than eight passengers other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers and is licensed by the Council

'Vehicle' means private hire vehicle licensed by the Council

'Proprietor' includes a part-proprietor and, in relation to a vehicle which is the subject of a hiring agreement or a hire purchase agreement, means the person in possession of the vehicle under that agreement

'Operator' means the holder of a Private Hire Vehicle Operator's Licence granted by the Council

'Badge' means, in relation to the driver of a private hire vehicle, the badge issued by the Council under Section 54 of the said Act

'Driver's Licence' means, in relation to the driver of a private hire vehicle, a licence under Section 51 of the said Act

1. The driver of a private hire vehicle when available to be hired shall not by calling out or otherwise importune any person to hire such private hire vehicle and shall not make use of the services of any other person for the purpose.
2. The driver of a private hire vehicle shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle and in particular shall not at any time without the express consent of the hirer smoke, drink or eat in the vehicle when driving for hire.
3. The driver of a private hire vehicle who has agreed to be in attendance with the vehicle at an appointed time and place shall unless delayed or prevented by some sufficient

cause punctually attend with such carriage at such appointed time and place.

4. The driver of a private hire vehicle
  - a. shall not convey or permit to be conveyed in a private hire vehicle any greater number of persons than the number of persons specified on the plate issued by the Council pursuant to Section 48(5) of the said Act and affixed to the outside of the vehicle provided that for the purpose of this condition two children under the age of 12 years shall be regarded as one person and children under the age of 3 years shall not be reckoned insofar as the rear seating is concerned subject to the limitation that no private hire vehicle licensed to carry three, four or five persons shall carry more than five, six or seven adults and children respectively.
  - b. The driver shall not allow there to be conveyed in the front of a private hire vehicle:-
    - i. any child below the age of twelve years; or
    - ii. more than one person above that age.
  - c. The driver shall not without the consent of the hirer of a vehicle convey or permit to be conveyed any other person in that vehicle.
5. The driver shall:-
  - a. At all times be clean and respectable in his dress and person and behave in a civil and orderly manner towards every person hiring or being conveyed in a private hire vehicle being driven by him.
  - b. Take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from that vehicle being driven by him.
  - c. Not without the express consent of the hirer play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
  - d. At no time cause or permit the noise emitted by any radio or other previously mentioned equipment in the vehicle which he is driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.
6. The driver of a private hire vehicle so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the vehicle:
  - a. convey a reasonable quantity of luggage;
  - b. afford reasonable assistance in loading and unloading;
  - c. afford reasonable assistance in removing it to or from the entrance of any house, station, or place at which he may take up or set down such person.
7. The driver of a private hire vehicle shall not cause or permit the vehicle to stand on a road in such a manner as to suggest that it is standing or otherwise plying for hire or that it is a hackney carriage.
8. The driver of a private hire vehicle shall, immediately after the termination of any hiring or as soon as practicable thereafter, carefully search the carriage for any property which may have been accidentally left therein.
9. If any property is left accidentally in a private hire vehicle by any person who may have been conveyed in the said vehicle and is found by or handed to the driver of the said vehicle and is not claimed by or on behalf of its owner within 24 hours, he shall forthwith deliver the same to a Police Station.
10. The driver shall if requested by the hirer of a private hire vehicle provide him with a

written receipt for the fare paid.

11. The driver shall not convey in a private hire vehicle any animal belonging to or in the custody of himself or the proprietor or operator of the vehicle and any animal belonging to or in the custody of any passenger which in the driver's discretion may be conveyed in the vehicle shall only be conveyed in the rear of the vehicle.
12. The badge issued by the Council in accordance with Section 54(1) of the above-mentioned Act
  - a. shall remain the property of the Council and shall be returned to them within seven days in the event of the driver ceasing to be employed as a private hire vehicle driver or upon the expiry of the current private hire vehicle driver's licence unless immediately renewed, whichever shall be the sooner.
  - b. If the driver is permitted or employed to drive a private hire vehicle of which the proprietor is someone other than himself, he shall before commencing to drive that vehicle deposit this licence with that proprietor for retention by him until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.
13. The driver shall at all times when driving a private hire vehicle carry with him a copy of these conditions and shall make it available for inspection by the hirer or any other passenger on request.
14. The driver shall not demand from any hirer of a private hire vehicle a fare in excess of any previously agreed for that hiring between the hirer and the operator.
15. The driver shall notify the Council in writing of any change of his address during the period of the licence within seven days of such change taking place
16. The driver shall within seven days disclose to the Council in writing details of any conviction imposed on him during the period of his licence specifying the date of conviction, date of offence, the offence and punishment imposed.
17. The driver of a private hire vehicle shall ensure that he can at all times meet the eyesight requirements prescribed from time to time for the Department of Transport Driving Test.
18. The driver of a private hire vehicle shall not drive such a vehicle pursuant to this licence if he knows or has reasonable grounds for knowing that he is suffering from any disease or disability which would cause the motor vehicle driven by him to be a source of danger to the public.
19. The driver shall ensure that an application for a licence will be received by the Council at least one calendar month before the expiry of the current licence.

### **APPEALS PROCEDURE**

1. Any person aggrieved by any conditions attached in the Grant of this licence may appeal to a Magistrates' Court.
2. The procedure shall be by way of complaint for an order, and the Summary Jurisdiction

Acts shall apply to the proceedings.

3. The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the requirement or other decision was served upon the person desiring to appeal, and for this purpose the making of the complaint shall be deemed to be the bringing of the appeal.

June 2019

## **SURREY HEATH BOROUGH COUNCIL**

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT, 1976 PART II**

#### **HACKNEY CARRIAGE (Taxi) DRIVERS LICENCE – CONDITIONS**

The Licence is granted/renewed subject to the following conditions:-

1. The holder of this Licence shall comply with the provisions of the regulations relating to Hackney Carriages contained in the Local Government (Miscellaneous Provisions) Act, 1976 Town Police Clauses Act 1847, the Public Health Act, 1875, and the Byelaws made by the Council, a copy of which is supplied to each Proprietor or are available at the Council Offices for inspection, the principal provisions of which are as follows:-

The holder of this Licence:-

- a) must wear the badge provided by the Council in such a position and manner as to be plainly visible;
  - b) must conduct himself in an orderly manner, be civil, and comply with every reasonable request;
  - c) shall not refuse a fare without reasonable excuse;
  - d) shall take all reasonable precautions to ensure the safety of persons conveyed in, or entering, or alighting from the vehicle;
  - e) when standing or plying for hire, shall not, by calling out or otherwise importune any person to hire such Carriage, or use any other person for the purpose;
  - f) shall assist with the loading and unloading of luggage;
  - g) shall not carry in the vehicle more than the prescribed number of persons;
  - h) shall not make any charge other than the prescribed rate of fare;
  - i) unless otherwise directed by the hirer, shall proceed to the destination by the shortest possible route;
  - j) shall not obstruct another driver;
  - k) shall not permit any persons to be carried in or upon or about a Hackney Carriage during a hiring without the express consent of the hirer;
  - l) shall not act as driver of a Hackney Carriage without the consent of the Proprietor.
2. The holder of this Licence shall, on ceasing to be employed as a driver of a Hackney Carriage, or upon the expiry of the licence unless immediately renewed, whichever is the sooner, surrender it to the Council together with the badge issued by them within seven days.
  3. The area within which a vehicle licensed as a Hackney Carriage shall be entitled to ply for hire shall be a distance not greater than the Surrey Heath Borough Council boundary, beyond which it is not obligatory on the driver to contract to carry persons for hire under the terms of the Hackney Carriage Licence granted by the Council.
  4. If the holder of this Licence is employed by the Proprietor of a Hackney Carriage the Proprietor must retain the licence in his possession during the period of employment, and shall return the Licence to the Driver on his leaving the Proprietor's service, unless he leaves the said service by reason of misconduct, in which case the Proprietor shall

retain the licence and report the facts to the Council.

5. The Council may, upon the conviction for the second time of the holder of this Licence, for any offence under the provisions of legislation with respect to Hackney Carriages currently in force, or any Byelaws made in pursuance thereof suspend or revoke the Licence as they deem right.
6. Any driver changing his place of abode must give notice in writing to the Council within seven days of such change.
7. A driver shall ensure that an application for a licence will be received by the Council at least one calendar month before the expiry of the current licence.

## Appendix 4

### Staying Safe: Guidance for Passengers

Surrey Heath Hackney Carriages mainly work from Surrey Heath public ranks only. The public can flag them down on the street when the driver is plying for hire. They can also be pre-booked. Private Hire vehicles are only available by prior booking and through a private hire operator's office. They are not allowed on 'taxi' ranks and cannot be used to ply for hire. Members of the public cannot flag them down.

There are four easy ways to check you are getting into a licensed taxi:

- Does the vehicle have an illuminated light that is clearly visible - either on top of the taxi or inside the vehicle?
- Is there a local authority licence plate displayed on the rear of the vehicle?
- Is there a current licence number displayed inside the taxi on the windscreen?
- Does the driver have a current local authority identity badge?

Licensed taxis and private hire vehicles are generally a very safe way to travel, but is the car you are about to get into one of them?

#### Why are they safe?

- *Vehicles are regularly tested* and required to meet minimum standards and will have appropriate insurance checks.
- Drivers are tested (for medical and criminal issues) before being licensed to drive.

**Make sure your taxi or private hire vehicle is legal.  
Using unlicensed vehicles puts you at unnecessary risk.**

#### What's the difference between taxis / private hire vehicles?

- Taxis - can be hired immediately from a rank or by hailing.
- Private Hires - MUST be pre-booked through a licensed operator

#### How do I know if a vehicle / driver is licensed?

Ask to see proof of licensing:

- A licensed vehicle will normally display a licence plate (these can be on the front or rear of the vehicle) which will include the licensing authority, the licence number and the vehicle registration number.
- A licensed driver will wear an identity badge (or will display one), which will show the drivers licence number and licensing authority details.

**Stay Safe:**



- make a note of the number plate and driver's licence number and if uneasy text them to a friend / family
- sit in the back of the vehicle
- keep your mobile phone where it is easily accessible
- report any concerns to the licensing authority (your local council)

**Do not use a cab if:**

- the driver appears to be under the influence of alcohol
- the driver does not seem to know the local area
- the vehicle seems to be too old for use as a cab
- the vehicle is in a state of disrepair
- you are uneasy for any reason

## Appendix 5

### DRIVERS' CODE OF CONDUCT

In order to promote its licensing objectives as regards hackney carriage and private hire licensing, the Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements set out in this document.

#### **Responsibility of the Trade**

Licence holders shall endeavour to promote the image of the hackney carriage and private hire trade by:

- (a) complying with this Code of Good Conduct;
- (b) complying with all the Conditions of their Licence and the Council's Hackney Carriage and Private Hire Licensing Policy;
- (c) behaving in a civil, orderly and responsible manner at all times.

#### **Responsibility to Customers**

Licence holders shall:

- (a) maintain their vehicles in a safe and satisfactory condition at all times;
- (b) keep their vehicles clean and suitable for hire to the public at all times;
- (c) attend punctually when undertaking a pre-booked hiring;
- (d) assist, where necessary, passengers into and out of vehicles;
- (e) offer passengers reasonable assistance with luggage.

#### **Responsibility to Local Residents and other Road users**

To avoid nuisance to residents and other road users when picking up, dropping off or waiting for a fare, a driver shall:

- (a) not sound the vehicle's horn;
- (b) keep the volume of any amplified music to a minimum;
- (c) switch off the engine if required to wait;
- (d) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.
- (e) park and/or stop considerately

At taxi ranks and other places (eg. train stations) where hackney carriages ply for hire by forming queues, drivers shall, in addition to the requirements above:

- (a) rank in an orderly manner and proceed along the rank in order and promptly;
- (b) remain in or close to the vehicle.

#### **At private hire offices a licence holder shall:**

- (a) not undertake servicing or repairs of vehicles;
- (b) not allow their radio/cassette/cd players/digital radios to cause disturbance to residents of the neighbourhood;
- (c) take whatever additional action is necessary to avoid disturbance to residents of the neighbourhood which might arise from the conduct of their business.

#### **General Information**

Drivers shall:

- (a) pay attention to personal hygiene and dress so as to present a professional image to the public;
- (b) be polite, helpful and fair to passengers;
- (c) drive with due care and consideration for other road users and pedestrians and in particular shall not use a hand held mobile phone whilst driving;

- (d) obey all Traffic Regulation Orders and directions at all time;
- (e) not smoke in the vehicle;
- (f) not consume alcohol immediately before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle;
- (g) not drive while having misused legal or illegal drugs;
- (h) comply with legislation regarding the length of working hours if applicable.

### **Disciplinary Hearings**

Drivers should be aware of the powers the Council has to take action, by way of suspension, revocation or refusal to renew a driver's licences where

- (a) the driver has been convicted, since the grant of the licence, of an offence involving dishonesty, indecency or violence
  - (b) the driver has been convicted, since the grant of the licence, of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976
  - (c) there is any other reasonable cause, such as a breach of condition or of this code
- Details of the workings of the disciplinary hearings are set out in Appendix H.

(1) PLEASE NOTE:

ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGEMENT  
THE COUNCIL WILL TAKE A VERY SERIOUS VIEW OF ANY DRIVER BEING  
FOUND TO HAVE HAD ANY ALCOHOL OR HAVING MISUSED ANY DRUGS  
WHILST IN CHARGE OF A LICENSED VEHICLE

## Appendix 6

### HACKNEY CARRIAGE VEHICLE LICENCE- Conditions

In these conditions unless the subject or context otherwise requires:-

‘Council’ means Surrey Heath Borough Council

‘Hackney Carriage’ has the same meaning as in the Town Police Clauses Act 1847

‘Authorised Officer’ means any officer of the Council authorised in writing by the Council for the purposes of this part of the Act

‘Proprietor’ includes a part-proprietor and, in relation to a vehicle which is the subject of a hiring agreement or a hire purchase agreement, means the person in possession of the vehicle under the agreement

‘Vehicle Licence’ means a licence under Sections 37 to 45 of the Town Police Clauses Act 1847

‘Taximeter’ means a device for calculating the fare to be charged in respect of any journey by reference to the distance travelled or time elapsed since the start of the journey, or a combination of both.

1. The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations) shall be fully complied with.
2. No material alteration or change in the specification, design condition or appearance of the vehicle shall be made without the approval of the Council at any time while the licence is in force.
3. (a) The proprietor of a hackney carriage shall provide at all times a Halon (Halogenated Hydrocarbon) type portable fire extinguisher conforming to BS 5423:1980 with a minimum test fire capability rating of 8B and with a cartridge weight of not less than 1 kilogram in a position readily accessible for immediate use and suitably mounted on a bracket and secured in such a position as to guard against accidental damage.  
(b) The proprietor of a hackney carriage shall provide and maintain at all times when the vehicle is in use or available for hire a first aid kit which must contain as a minimum the following items:

|    |  |
|----|--|
| 1  | guidance card on first aid                             |
| 10 | Individually wrapped adhesive dressings assorted sizes |
| 1  | triangular bandage pre-packed                          |
| 3  | sterile dressings, medium sized                        |
| 1  | sterile dressing, large size                           |
| 1  | sterile dressing, extra-large size                     |

Such equipment to be carried in a position in the vehicle as to be readily available for immediate use in an emergency.
4. The proprietor shall cause to be clearly marked and maintained inside the vehicle in such a position as to be visible at all times to persons conveyed therein the number of the licence.
  - (a) No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices shall be displayed on, in or from the vehicle except as may be required by any statutory provision (including bye-laws) or required or permitted by these conditions provided however that this condition shall not apply to any indication on a taximeter fitted to the vehicle or to a sign which:-
    - i) is displayed on, in or from the vehicles only while it is stationary; and
    - ii) contains no words or numbers other than the name and address of an operator of

the vehicle or the name under which he carries on his business and its address and in either case the name of a passenger or passengers to be carried in the vehicle; and

iii) is displayed in pursuance of a prior arrangement made for the carriage of a passenger or passengers named in the sign.

(b) The proprietor shall cause to be affixed and maintained whilst the vehicle is being used as a hackney carriage either a roof sign of a design and construction previously approved by the Council or a sign of a design and construction previously approved by the Council fitted to the front windscreen, bearing the word TAXI. An illuminated sign shall be switched off when the vehicle is hired.

(c) The proprietor may cause to be affixed and maintained whilst the vehicle is being used as a hackney carriage a sign or signs of a design and construction previously approved by the Council including display of telephone number of the operator and/or telephone number under which he carries on his business.

5. The proprietor shall within seven days disclose to the Council in writing details of any conviction imposed on him (or, if the proprietor is a company or partnership, on any of the directors or partners) during the period of the licence.
6. A hackney carriage vehicle shall not be used as such unless the plate issued by the Council pursuant to Section 38 of the Town Police Clauses Act 1847 shall be affixed to the rear of the outside of the vehicle in respect of which it has been issued in such position as to be plainly and distinctly visible and in such manner as to be removable by an authorised officer of the Council or a constable provided always that this condition shall not apply where lawful exemption from the display of such plate has been granted by the said Acts or any re-enactment or modification thereof
7. The proprietor of a hackney carriage vehicle shall not convey or permit to be conveyed in such vehicle any greater number of persons than the number of persons specified on the plate issued by the Council pursuant to Section 38 of the Town Police Clauses Act 1847 and affixed to the outside of the vehicle. Provided that for the purpose of this condition two children under the age of 12 years shall be regarded as one person and children under the age of 3 years shall not be reckoned insofar as the rear seating is concerned subject to the limitation that no hackney carriage vehicle licensed to carry three, four or five persons shall carry no more than five, six or seven adults and children respectively.
8. If any property is left accidentally in a hackney carriage vehicle by any person who may have been conveyed in the said vehicle and is found by or handed to the driver of the said vehicle and it is not claimed by or on behalf of its owner within 24 hours, he shall forthwith deliver the same to a police station.
9. The proprietor of a hackney carriage vehicle shall notify the Council in writing of any change of his address during the period of the licence within seven days of such change taking place.
10. A hackney carriage vehicle licence is not transferable to another vehicle, the Council has decided, however, that an exception will be made where an operator desires to change and upgrades an existing licensed vehicle.
11. The proprietor of a hackney carriage vehicle shall notify the Council in writing of the transfer of his interest in the hackney carriage vehicle in respect of which a hackney carriage vehicle licence has been granted specifying the name and address of the

person to whom the hackney carriage vehicle has been transferred within fourteen days of such transfer taking place.

12. A hackney carriage vehicle licence shall be deemed revoked and the licence plate issued by the Council shall be returned immediately to the Council if the hackney carriage vehicle is not operated for periods of reasonable duration within two consecutive calendar months and the Council may determine what are periods of reasonable duration unless the prior approval of the Council has been obtained on the request in writing of the Council.
13. The proprietor shall ensure that an application for a licence or renewal of licence will be received by the Council at least one calendar month before the licence is intended to commence or expires.
14. At all times during the currency of the licence the proprietor shall keep in force in relation to the use of the vehicle as a hackney carriage a policy of insurance which provides adequate Third Party and Public Liability cover.
15. A hackney carriage, other than a horse drawn vehicle, shall be fitted with a taximeter of a design and manufacture approved by the Council.
16. The tariff displayed on the taximeter shall not be capable of being manually changed to another tariff without first passing through the "stop" and "for hire" modes.
17. The taximeter shall not be capable of displaying any fare tariffs other than the fare tariffs approved by the Council or any charge at variance with the approved scale
18. The taxi meter fitted to the vehicle shall, be programmed so that the appropriate fare for the time and date shall be registered automatically in accordance with a clock taxi meter which has been set to register the correct date and time It is intended that this licence should be granted for the period of one calendar year.

### **APPEALS PROCEDURE**

1. Any person aggrieved by any conditions specified in this licence may appeal to a Magistrates' Court.
2. The procedure shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings.
3. The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the requirement or any other decision was served upon the person desiring to appeal, and for this purpose the making of the complaint shall be deemed to be the bringing of the appeal.

June 2019

## Appendix 7

### PRIVATE HIRE VEHICLE LICENCE-Conditions

In these conditions unless the subject or context otherwise requires:-

'Council' means the Surrey Heath Borough Council

'Driver's Badge' means, in relation to the driver of a private hire vehicle, the badge issued by the Council under Section 54 of the said Act

'Driver's Licence' means, in relation to the driver of a private hire vehicle, a licence under Section 51 of the said Act

'Private Hire Vehicle' means a motor vehicle constructed or adapted to seat fewer than eight passengers other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers and is licensed by the Council

'Vehicle' means private hire vehicle licensed by the Council

'Proprietor' includes a part-proprietor and, in relation to a vehicle which is the subject of a hiring agreement or a hire purchase agreement, means the person in possession of the vehicle under that agreement

'Licence' means private hire vehicle licence issued by the Council

'Driver' means person holding and acting in accordance with a private hire driver's licence issued by the Council

'Authorised Officer' means any officer of the Council authorised in writing by the Council for the purposes of this Part of the Act

- 1 The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations) shall be fully complied with.
- 2 No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Council at any time while the licence is in force.
- 3 The proprietor of a private hire vehicle shall:-
  - a) provide sufficient means by which any person in the vehicle may communicate with the driver
  - b) cause the roof or covering to be kept watertight
  - c) provide any necessary windows and a means of opening and closing not less than one window on each side
  - d) cause the seats to be properly cushioned or covered
  - e) cause the floor to be covered with a proper carpet, mat or other suitable covering which shall be securely fixed to the floor
  - f) cause the fittings and the furniture generally to be kept in a clean condition, well maintained and in every way fit for public service
  - g) provide means for securing luggage
  - h) provide at all times a Halon (Halogenated Hydrocarbon) type portable fire extinguisher conforming to BS 5423:1980 with a minimum test fire capability rating 8B and with a cartridge weight of not less than 1 kilogram in a position readily accessible for immediate use and suitably mounted on a bracket and secured in such position as to guard against accidental damage
  - i) provide and maintain at all times when the vehicle is in use or available for hire a first aid kit which must contain as a minimum the following items:
    - 1 guidance card on first aid

- 10 individually wrapped adhesive dressings in assorted sizes
  - 1 triangular bandage pre-packed
  - 3 sterile dressings, medium sized
  - 1 sterile dressing, large size
  - 1 sterile dressing, extra-large size

Such equipment to be carried in a position in the vehicle as to be readily available for immediate use in an emergency

- j) provide at least two doors for the use of persons conveyed in such vehicle and
- k) a separate means of ingress and egress for the driver.

- 4 The proprietor shall cause to be clearly marked and maintained inside the vehicle in such a position as to be visible at all times to persons conveyed therein the number of this licence.
- 5 No signs, notices, advertisements, plates, marks, numbers, letters, domes, figures, symbols, emblems or devices shall be displayed on, in or from the vehicle except as may be required by any statutory provision (including bye-laws) or permitted by these conditions (see Condition 17).
- 6 Nothing shall be done to the vehicle which will alter its design or appearance so as to lead any person to believe that the vehicle is a hackney carriage.
- 7 The proprietor of a private hire vehicle shall not cause or permit the vehicle to stand on a road in such a manner as to suggest that it is standing or otherwise plying for hire or that it is a hackney carriage and in particular shall in no circumstances cause or permit the vehicle to wait on any hackney carriage stand at any time.
- 8 The proprietor of a private hire vehicle shall not be calling out or otherwise importune any person to hire such vehicle and shall not make use of the services of any other person for the purpose.
- 9 The proprietor shall within seven days disclose to the Council in writing details of any conviction imposed on him (or if the proprietor is a company or partnership on any of the directors or partners) during the period of the licence.
- 10 A private hire vehicle shall not be used as such unless the plate issued by the Council pursuant to Section 48(5) of the Act shall be affixed to the rear of the outside of the vehicle in respect of which it has been issued in such position and manner as to be plainly and distinctly visible and in such manner as to be removable by an authorised officer of the Council or a constable provided always that this condition shall not apply where lawful exemption from the display of such plate has been granted by the said Acts or any re-enactment or modification thereof.
- 11 The proprietor of a private hire vehicle shall not convey or permit to be conveyed in such vehicle any greater number of persons than the number of persons specified on the plate issued by the Council pursuant to Section 48(5) of the said Act and affixed to the outside of the vehicle. Provided that for the purpose of this condition two children under the age of 12 years shall be regarded as one person and children under the age of 3 years shall not be reckoned insofar as the rear seating is concerned subject to the limitation that no private hire vehicle licensed to carry three, four or five persons shall carry no more than five, six or seven adults and children respectively.
- 12 If any property is left accidentally in a private hire vehicle by any person who may have been conveyed in the said vehicle and is found by or handed to the driver of the said vehicle and it is not claimed by or on behalf of its owner within 24 hours, he shall forthwith deliver the same to a police station.
- 13 The proprietor shall notify the Council in writing of any change of his address during the period of the licence within seven days of such change taking place.
- 14 If the proprietor permits or employs any other person to drive the vehicle as a private hire vehicle, he shall before that person commences to drive the vehicle cause the driver to deliver to him his private hire driver's licence for retention until such time as



the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.

- 15 The proprietor shall ensure that an application for a licence or renewal of licence will be received by the Council at least one calendar month before the licence is intended to commence or expires.
- 16 At all times during the currency of the licence the proprietor shall keep in force in relation to the use of the vehicle as a private hire vehicle a policy of insurance which provides adequate Third Party and Public Liability cover.
- 17 a) The words "private hire vehicle" may be displayed on the front doors of the vehicle only in letters not exceeding six inches in height; and  
b) The words "private hire vehicle" may be accompanied by the name and telephone number of the private hire operator, provided that the name does not include the word "taxi", and the height of the letters and numbers do not exceed the height of the letters in the words "private hire vehicle".
- 18 It is intended that these licences shall run for one year and all vehicles shall be inspected.

### **APPEALS PROCEDURE**

1. Any person aggrieved by any conditions specified in this licence may appeal to a Magistrates' Court.
2. The procedure shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings.
3. The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the requirement or other decision was served upon the person desiring to appeal, and for this purpose the making of the complaint shall be deemed to be the bringing of the appeal.

June 2019

## **Appendix 8**

### **Additional licence conditions for private hire vehicles benefiting from a plate exemption**

1. This exemption exempts the vehicle from displaying its rear vehicle licence plate and private hire door signage. All other signage required by the council on the exterior or interior of the vehicle must be displayed at all times.
2. All other licence conditions relating to private hire vehicles remain in force.
3. The private hire vehicle licence plate and exemption notice issued by the Council must be carried in the vehicle at all times and available at all times for inspection by a police officer or authorised officer.
4. An exemption will only be granted and remain valid where the Council is satisfied that the vehicle will be used exclusively or primarily for 'chauffeured' private hire work. Primary use means at least 90% of the work, as evidenced via booking records. The Council may undertake an audit of booking records at any point during the exemption to ensure that the vehicle is being used for chauffeured work.
5. Exemptions may be withdrawn at any time by the Council and if the licence holder cannot prove that the vehicle is used exclusively or primarily for 'chauffeured' private hire work.
6. Exemptions are subject to annual review and licence holders must reapply each year.

## Appendix 9

### Vehicle Testing Specifications

This specification and the Surrey Heath Licensed Vehicle inspection deliberately seeks to embrace safety aspects of vehicle inspections using, as a basic inspection standard, those laid down in the [MOT Inspection Manual – Private Passenger & Light Commercial Vehicle Testing issued by VOSA](#) (now DVSA) and the [FTA best practice guide](#) which provides additional testing requirements to those in the MOT Inspection Manual.

The purpose of the HC and PHV test is to confirm vehicles meet these more stringent standards for the carriage of passengers. Vehicles must be submitted fully prepared for the test and the vehicle test is not intended to be used in lieu of a regular preventative maintenance programme. If, in the opinion of the vehicle examiner, the vehicle has not been fully prepared, the test will be terminated and a further full test will be required, with a further fee payable.

It is an offence under the road traffic regulations to use an unroadworthy vehicle on the public highway. It is also a breach of licence condition to use a vehicle which has failed the inspection.

The vehicle test standard is publicly available for the licensed trade and wider public who may find it useful as it details the standards that vehicles are subjected to. The guide also explains the reasons why a vehicle presented for inspection, has not been issued with a pass certificate. In assessing the mechanical condition of a vehicle, it is more likely an item which would ordinarily pass an MOT test with an advisory note, could fail the HC and PHV test.

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| Lighting, Switches and Signalling Equipment | No cracks, splits, stone chips or bulls eyes shall be permitted in any lens.<br>Tape used for the repair of such shall not be permitted.<br>Any obligatory, additional or optional lights fitted must operate correctly and be fitted securely.<br>No insecurity or malfunction of a switch controlling an obligatory light   |
| Dash Panel and Illumination                 | The dash panel lights shall be capable of illuminating all instruments satisfactorily. All warning lights (including ABS and Management if fitted) must extinguish when engine is running.<br>The speedometer must be operational.<br>The milometer must record accurate mileage.   |
| Steering and Suspension                     | Slight deterioration shall not be permitted in any bonded joint.<br>Splits, cracks or deterioration of inner CV boots shall not be permitted.<br>No fluid leaks from shock absorbers shall be permitted.<br>No deterioration of shock absorbers or any suspension component shall be permitted.<br>Steering wheel hub, cover, rim, spokes should not be deteriorated<br>No excessive movement at centre of steering wheel in line with steering column (end float). |

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|                                       | <p>No flexible coupling or universal joint deteriorated, worn or insecure.</p> <p>No coupling clamp bolt or locking device loose or missing.</p> <p>No welding repairs to coil springs.</p>  |
| Brakes                                | <p>Any vehicle fitted with ABS shall be deemed to fail if presented with any component obviously missing.</p>  |
| Tyres and Road Wheels including Spare | <p>Tyres designed with a wear indicator of 1.6 mm level with the tread pattern at the time of the test shall be deemed to fail.</p> <p>Part worn tyres are not permitted.</p> <p>The spare wheel if carried in the boot must be properly secured. Alternatively, a spare wheel cage installed to manufacturers and British Standards may be fitted to the underside of the vehicle.</p> <p>The spare wheel carrier shall be in such a condition as to allow the easy removal; i.e. the winding mechanism shall be free of excessive corrosion and/or damage when sited under the vehicle.</p> <p>Wheels including the spare shall be free from defects on rims and hubs.</p> |
| Exhaust                               | <p>The exhaust system shall be deemed to fail if any unsuitable repair has been attempted.</p> <p>Like for like parts must be used in any repair or replacement of the exhaust system.</p> <p>No leaks shall be permitted from the exhaust system including connection joints.</p> <p>No heat shield missing, insecure or inadequate.</p>  |
| Windscreen                            | <p>No splits, cracks, chips or bulls eyes shall be permitted anywhere in the swept vision.</p>   |
| Fuel Tank and Pipes                   | <p>The fuel system shall be free from any leaks and excessive corrosion.</p> <p>No filler cap missing or unsuitable or in such condition that it would not prevent fuel leaking or spilling. Temporary/emergency fuel caps are not permitted.</p> <p>No damaged, chafed, insecure pipes or pipes so positioned that there is a danger of them fouling moving parts.</p> <p>Fuel pipes not immediately adjacent to or in direct contact with electrical wiring or exhaust system.</p>   |
| Battery/Wiring                        | <p>Shall be securely fitted and be of a type suitable for the vehicle.</p> <p>Wiring not to be fitted along fuel lines, positioned so that it is chafing or clipped to a fuel line or likely to be damaged by heat so that insulation will become ineffective.</p> <p>Wiring to show no evidence of overheating or heavy oil contamination.</p> <p>All wiring including that fitted for any ancillary items such as roof signs, communication devices, payment terminals, and meters shall be fitted securely and in such a manner as to be free from accidental interference.</p>   |

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| Oil Leaks                           | <p>No oil leak from any assembly, which deposits fluid underneath the vehicle whilst stationary.</p> <p>No leak which, when the vehicle is moving, could be deposited upon the surrounding bodywork, exhaust and brake system so that it would contaminate areas or potentially cause a health, safety or fire risk.</p>  |
| Water, Coolant or other Fluid Leaks | <p>No water, coolant or other fluid leak from any assembly, which deposits fluid underneath the vehicle whilst stationary.</p> <p>No leak which, when the vehicle is moving, could be deposited upon the surrounding bodywork, exhaust and brake system so that it would contaminate areas or potentially cause a health, safety or fire risk.</p>  |
| Clutch and Throttle                 | <p>Free from any excessive play and in good smooth working order.</p>   |
| Transmission                        | <p>No loose or missing flange bolt(s) or flange which is cracked, or loose on the transmission shaft.</p> <p>No excessive wear in shaft bearing.</p> <p>No bearing housing, cracked, fractured or insecure to its fixing.</p> <p>No excessive wear in a universal joint.</p> <p>No deterioration of a transmission shaft flexible coupling or damaged, cracked or bent shaft.</p> <p>No deterioration of a flexible mounting of a bearing housing.</p> <p>No evidence of fouling between any transmission shaft and an adjacent component.</p>  |
| General Condition - Exterior        | <p>No insecure or missing body panel, trim, step or accessory.</p> <p>No sharp edge whatsoever which may cause injury.</p> <p>No heavy scuffing, abrasions or deformation to front and rear bumper</p> <p>No dull, faded paintwork which has lost its gloss finish or paint miss-match to a panel(s) to such an extent that it detracts from the overall appearance of the vehicle</p> <p>Exterior bodywork and paintwork, including livery material and vehicle signage should be free from scratches, tears, dents, chips and be securely fitted.</p> <p>Evidence of poor repairs and or paint finish to a repaired panel(s) including runs and overspray to adjoining panels/trim that detracts from the overall appearance of the vehicle is not permitted.</p> <p>No obvious signs of rust/corrosion of any size particularly those that are covered by advertising signs.</p> <p>No loose or weakened or insecure bumper bar or mounting.</p> <p>No fractured mounting bracket or mounting bolts so worn or elongated that the bumper bar is likely to detach partially or completely from the vehicle when in use.</p> <p>No bumper bar secured by wire or other temporary means</p> |

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|                              | <p>No bumper bars which have jagged edges, cracks, splits or projections, which may cause injury to persons near the vehicle.</p> <p>The vehicle must not be fitted with 'bull bars' or other modification that increases the risk to passengers, pedestrians or other road users.</p>   |
| General Condition - Interior | <p>No missing, dirty, soiled, stained worn or insecure trim, carpets, headlining, and mats in such a condition that they are likely to soil or damage passengers' clothing or luggage.</p> <p>No defects in any seats or seat covers, carpet or other upholstery that have not been rectified suitably. Covers that have not been tailored to fit front or rear seats shall not be permitted. The use of car blankets as covers shall not be permitted.</p> <p>The entire interior shall be clean, tidy and free from unpleasant odours.</p> <p>No insecure and loose fixtures, fittings or accessories.</p> <p>No inoperative interior lights (all lights must illuminate if they are part of the manufacturer's standard equipment).</p> <p>Missing or defective motion switch/lock or warning lamp not illuminated.</p> <p>A system(s) which does not function correctly, or any part is missing including vents, controls and switches.</p> <p>Missing, defective or loose door locks, child locks, protective covers grab handles and rails. Grab handles/rails, which are rigid to aid the blind and partially sighted, and are worn to excess.</p> <p>A grill/partition which is insecure or has sharp edges which may cause injury to passengers or driver.</p> <p>Frayed, chaffing wiring, non-shielded terminals and cables so routed that they cause a trip hazard, cables that can be easily disconnected. Intercom system defective, warning light inoperative and signs illegible/missing.</p> <p>Unable to open, close and or lock boot lid, failure of boot lid support mechanism, defective seals/evidence of water ingress, dirty boot and/or carpets, loose items stored in boot (ie spare wheel tools and equipment etc)</p> |
| Window & Winding Operations  | <p>All winding mechanisms shall allow all windows to be opened and closed normally.</p> <p>An opening window that is inoperative or difficult to open and or close mechanism broken/missing is not permitted.</p> <p>All windows must be of approved safety glass type.</p> <p>Windows which leak are not permitted.</p> <p>No additional tinting permitted to windows.</p> <p>No cracks, chips, surface damage or discolouration to windows.</p>  |
| Doors                        | <p>All doors including sliding doors shall open and close from inside and out without the need for excessive force.</p> <p>A door or emergency exit must latch securely in the closed position.</p>  |

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|   | <p>A door or emergency exit must be openable from both the inside and outside the vehicle from the relevant control in each case.</p> <p>No missing, loose or worn handles, lock or striker plate.</p> <p>Any markings describing the presence and method of opening an emergency exit should not be missing, illegible or incorrect.</p> <p>A door stay catch or device missing, excessively worn or not fulfilling its function is not permitted.</p> <p><b>For accessible vehicles:</b> any door which does not open to a full 90 degrees and cannot be secured in the open position; or twin doors which do not open to a full 180 degrees and cannot be secured in the open position are not permitted.</p>  |
| Mirrors                                     | <p>All vehicles shall have three mirrors fitted in the following manner:</p> <p>One fitted internally (rear view)</p> <p>One fitted to the offside drivers (externally) door</p> <p>One fitted to the nearside passenger (externally) door</p> <p>All shall be fitted so as to give the driver good visibility to the rear and be free from cracks, blemishes or other defects.</p> <p>The housing holding the mirrors must also be free from damage and any mechanisms fitted to enable the positioning of the mirrors shall be in working order.</p>  |
| Seat Security                               | <p>All seats must be securely fixed to the vehicle and be properly upholstered.</p>   |
| Luggage/Load Space                          | <p>Load restraint system, if required, to be present.</p> <p>No load restraint system to be faulty or unserviceable.</p>  |
| Wheelchair Access and Equipment (if fitted) | <p>A wheelchair restraint must not be defective, worn or missing.</p> <p>Wheelchair anchorage systems and devices should conform to European Directive 76/115 EEC (as amended).</p> <p>Ramps must not be missing, insecurely stored, damaged/deformed, anti-slip covering in poor condition or missing.</p> <p>The installed ramp must have a visible reference to a maximum safe working load or certification to BS 6109.</p> <p>Wheelchair access equipment must not be fitted to the offside access door of the vehicle.</p> <p>All wheelchair tracking must be fit for purpose, free from debris and structurally sound.</p> <p>A purpose designed wheelchair lift shall conform to the LOLER Regulations. A report, confirming that the lifting equipment is safe to use, shall be presented at the time of the vehicle inspection. Vehicles presented for inspection with a wheelchair lift will require a LOLER</p> |

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|                        | <p>certificate that is valid for a period of six months from the date of issue.</p> <p><i>Note: Passenger lifting equipment will need to be thoroughly examined by a competent person, in use, at least once every six months</i></p>   |
| Internal Window Disc   | Must be displayed (in a prominent position and clearly visible to passengers) at all times and correspond with the rear plate.  |
| Fare Card (HC Only)    | Must be displayed in a prominent position and clearly visible to passengers at all times.   |
| Fire Extinguisher      | A 1kg hand held fire extinguisher, containing no CFC gases and complying with British Standards (BS) EN3, must be kept in good working order either mounted in the driver's compartment or mounted in the boot in such a position as to be readily available for use. The fire extinguisher must display a valid upcoming expiry date or must be fitted with a pressure gauge indicating that the pressure is still within working parameters. The extinguisher must be indelibly marked with the plate number of the vehicle prefixed by either HC/PH (Hackney Carriage/Private Hire) corresponding to the type of hire vehicle. |
| First Aid Kit          | <p>The first aid kit must be kept in an accessible position inside the vehicle. The first aid kit may be carried out of view, ie in a fastened glove compartment provided there is a clear sign on the dashboard, stating the location.</p> <p>The identification number of the vehicle must be painted / indelibly marked on the body of the kit. The contents of the first aid kit must be compliant with British Standard BS 8599-2 and hold suitable content for the number of passengers.</p> <p>The first-aid kit must be maintained in full and proper order with items replaced before expiry.</p>                        |
| Replacement Auto Lamps | Replacement auto lamps (bulbs) must be carried for each standard bulb light fitting.  |
| Advertising & Displays | <p>No internal or external advertisement or display shall obscure the driver's vision through any window or mirror of the vehicle.</p> <p>Any proprietor's/operator's own business cards shall be stored in a single storage area not above window level.</p> <p><u>Hackney Carriages</u></p>   |



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|                            | <p>May display livery signage provided it does not infringe on driving safety or the driver's vision.</p> <p><u>Private Hire Vehicles</u></p> <p>No advertisement on any Private Hire Vehicle may display any of the following words, 'TAXI', 'CAB', 'HACKNEY CARRIAGE' or 'FOR HIRE'. No other similar words (e.g. 'kab') are to be used.</p>  |
| Roof Signs                 | <p>Hackney Carriages must be fitted with an illuminated roof sign. It <u>must</u> carry the word 'TAXI' in black on the front of the sign together with the title 'Surrey Heath Borough Council' and the words 'Taxi' on the back. The base of the roof sign must be white and it must measure not less than 40 cm long x 15 cm wide x 11 cm high (purpose built taxis may be excluded from this specification if a sign is part of the taxi's structure).</p> <p>The roof sign must be connected to the taximeter so that it works in conjunction with it, i.e. when the meter is not in use the sign is illuminated and when the meter is in use the sign is NOT illuminated.</p> <p>Private Hire Vehicles must not be fitted with a roof sign.</p> |
| Vehicle Licence Plate      | <p>Hackney Carriage Vehicles shall be fitted with a unique yellow plate bearing the number allocated by Surrey Heath Borough Council and information identifying the registration mark of the vehicle along with the expiry date.</p> <p>Private Hire Vehicles shall be fitted with a unique white plate bearing the number allocated by Surrey Heath Borough Council and information identifying the registration mark of the vehicle along with the expiry date.</p> <p>In both cases the plate shall be fitted externally at the rear of the vehicle. The plate shall be in a clean and easily readable condition. The plate must not obscure or partially obscure the registration plate.</p>   |
| Registration Number Plates | <p>Both back and front plates shall be clean and free from any defects including splits or cracks and delaminating.</p>   |
| Meter                      | <p>Hackney Carriage: Must be fitted and shall be securely fastened in a position where the face can easily be seen by passengers and in a position where it will not be dangerous or obscure the driver's vision.</p> <p>All security anti tamper seals must be present and secured without any sign of disturbance in any way.</p> <p>Private Hire: Must not be fitted.</p>  |
| Card Payment Terminals     | <p>Hackney carriages must carry a card payment terminal to the Council's specification which is operational and able to print a receipt.</p>  |
| Other Signage and Notices  | <p>Vehicles must display a 'no smoking' sign in a prominent position on the glazing of each of the rear passengers doors.</p>   |

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|  | CCTV<br>Driver badge.  |
| Items which do not comply with Licensing Authority Requirements (not an exhaustive list) | Example:<br>Bonnet insulation hanging down onto engine.<br>Fan belt frayed or torn.<br>Fittings and fixtures not maintained in full working order (e.g. interior heater/air conditioning inoperative, windows not winding etc).<br>All systems on the vehicle to that of the original specification and standard and to operate as originally intended.<br>Where a reversing horn/alert is fitted to the vehicle there must be an isolation switch in order to turn it off at night. |

## Appendix 10

### Private Hire Operators Licence -conditions

#### **CONDITIONS OF PRIVATE HIRE OPERATOR'S LICENCE**

In these conditions unless the subject or context otherwise requires:

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|------------------------|--|
| 'Council'              | means the Surrey Heath Borough Council   |
| 'Operator'             | means the holder of a Private Hire Vehicle Operator's Licence  |
| 'Private Hire Vehicle' | means a motor vehicle constructed or adapted to seat fewer than eight passengers other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers and is licensed by the Council |
| 'Vehicle'              | means private hire vehicle licensed by the Council   |
| 'Proprietor'           | includes a part-proprietor and, in relation to a vehicle which is the subject of a hiring agreement or a hire purchase agreement, means the person in possession of the vehicle under that agreement   |
| 'Licence'              | means Private Hire Operator's Licence issued by the Council  |
| 'Driver's Licence'     | means, a private hire driver's licence, issued under Section 51 of the said Act  |
| 'Driver'               | means a person holding and acting in accordance with a   |

private hire driver's licence  
issued by the Council

1. The operator of a private hire vehicle shall not by calling out or otherwise importune any person to hire such vehicle and shall not make use of the services of any other person for that purpose.
2. The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for that purpose shall in particular:
  - (a) Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place.
  - (b) Keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting.
  - (c) Ensure that any waiting area provided by the operator has adequate seating facilities.
  - (d) Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.
3. The operator of a private hire vehicle shall not incite the proprietor or driver thereof to convey in such private hire vehicle any greater number of persons than the number of persons specified on the plate provided by the Council for the said private hire vehicle pursuant to Section 48(5) of the Act.
4. (a) No advertisement shall be displayed on, in or from the vehicle and this includes the words "taxi" or "cab" whether in singular or plural and whether alone or as part of another word even if the name of the operator or his or its trade name includes such words. It also includes the specific address of the operator and any telephone number.  
  
(b) In this condition the word "advertisement" shall include every form of advertising whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition or photographs or a cinematograph film or by way of sound broadcasting on television and references to the issue of an advertisement shall be construed accordingly.
5. In accordance with the provisions of Section 56(2) of the said Act the operator shall keep in bound volumes a record and enter therein before the commencement of such journey every booking of a private hire vehicle invited or accepted by him whether by accepting the same from the hirer or by undertaking it at the request of another operator and the record shall contain the following particulars:-
  - (a) The time and date of the booking.
  - (b) Name and address (if known) of the hirer.

- (c) The time and date of start of the journey, the point of commencement of the journey and the point of termination of the journey.
- (d) The name of the driver and the registration mark of the vehicle undertaking the journey.

Such records shall be retained for a period of one year and shall not be destroyed or otherwise disposed of before the expiry of such period without the previous written consent of the Council.

6. In accordance with the provisions of Section 56(3) of the said Act the operator shall keep a record in a bound volume of all private hire vehicles operated by him and such record shall include the following particulars:-

- (a) The registration mark of each vehicle.
- (b) The make of the vehicle.
- (c) The name and address of the proprietor thereof (if different from the operator).
- (d) The names, addresses and driver's licence numbers of drivers driving the vehicles.
- (e) Details of any radio call sign used.

Such records shall be retained for a period of three years and shall not be destroyed or otherwise disposed of before the expiry of such period without the previous written consent of the Council.

7. When a particular vehicle ceases to be operated by him or a new vehicle commences to be operated by him, he shall inform the Council in writing as soon as possible but not later than within seven days of such fact.

8. The operator shall notify the Council in writing within seven days of:-

- (a) The change of his address from that shown on the face of this licence.
- (b) Any conviction imposed on him (or if the operator is a company or partnership, on any of the directors or partners) during the period of the licence.

9. The operator shall ensure that any private hire vehicle operated by him is in a suitable mechanical condition, safe, comfortable, clean and presentable and that the private hire plate provided by the Council is affixed to the vehicle in such a manner and position as shall be prescribed by the Council.

10. The operator shall ensure that all premises from which he operates have full planning permission in accordance with the Town and Country Planning Acts and that all licences

and permissions of any nature necessary to operate private hire vehicles are obtained before the business is commenced.

11. The operator shall immediately upon receipt notify the Council in writing of any complaints concerning a contract for hire or purported contract for hire relating to or arising from his business and of the action (if any) which the operator has taken or proposes to take in respect thereof.
12. The operator will ensure that an application for a licence or renewal of licence will be received at least one calendar month before the licence is intended to commence or expires.

It is intended that these licences shall be granted for a period of one year.

### **APPEALS PROCEDURE**

1. Any applicant aggrieved by any conditions attached to the grant of the licence may appeal to a Magistrates' Court.
2. The procedure shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings.
3. The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the requirement or other decision was served upon the person desiring to appeal, and for this purpose the making of the complaint shall be deemed to be the bringing of the appeal.

August 1985

## Appendix 11

### Guidance for drivers and Operators – Covid-19

#### Guidance for Drivers and Operators – COVID-19

##### Carrying out a COVID-19 risk assessment – drivers

As a self-employed driver of a vehicle you must conduct a risk assessment to understand the risks and what you can do about them. You should think about how you work and ways you can protect yourself and your passengers. For more guidance

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/vehicles>

As a driver, you do not have to write anything down about your risk assessment.

As part of the risk assessment you undertake, you may decide you want to install a safety screen behind the front row seats to separate yourself from the passengers in the rear of the vehicle. The decision on whether to use a screen rests with you and the local licensing authority. If you decide to fit one, guidance on how to choose and fit a screen safely in a vehicle is available. <https://www.gov.uk/government/publications/coronavirus-covid-19-safety-screens-for-taxis-and-phvs>

##### NHS COVID-19 app

To help control the spread of COVID-19, drivers should download and use the NHS COVID-19 app <https://covid19.nhs.uk/>

##### Picking up passengers

Before a passenger enters your vehicle, you should ask if they have:

- Coronavirus symptoms – a fever, new cough or loss of smell or taste
- Had a positive coronavirus test in the last 10 days

You should refuse service if they have.

You should wash or sanitise your hands if you come into contact with a passenger or their luggage. You should do this before and after contact.

You must continue to provide support to disabled passengers to safely enter and exit your vehicle. You must continue to assist disabled passengers with their luggage and mobility equipment.

Show passengers your face while socially distancing so that they can identify you as their driver.

To help control the spread of the virus, you should remind passengers of the rules on social distancing in place, but you do not have to refuse to carry them.

##### In the vehicle

Passengers must wear a face covering in a taxi or PHV, unless they are exempt. You can refuse to take a passenger if they are not wearing a face covering and they are not exempt. Passengers do not have to provide proof that they are exempt.

You do not have to wear a face covering, but we recommend that you do if it does not affect your ability to drive safely. Your licensing authority or operator may ask you to wear a face covering. You should follow their guidance if it does not affect your ability to drive safely.

You may need to remove your face covering in order to communicate with passengers who are deaf or hard of hearing.

You should ask passengers to sit as far from you as possible or put a mark where you would like them to sit. Where possible they should not sit in the front of the vehicle. Open windows when carrying passengers and/or use the car's vents to bring in fresh air from outside. You should not use the recirculated air option for the car's ventilation system when carrying passengers.

### **End of journey – leaving the vehicle**

Take contactless payment if you can.

If not, you should wash your hands with soap and water or sanitiser after handling money. You should remind passengers to wash or sanitise their hands after the journey.

### **Preparing your vehicle for the next passenger**

COVID is carried in the air by tiny droplets. Larger droplets can land on surfaces they touch. Smaller droplets (called aerosols), can stay in the air for at least 5 minutes and often much longer if there is no ventilation.

Between every journey you should:

- clean those parts of your vehicle that you or passengers may have touched, for example, door handles, payment devices, protective screens, buttons, seats
- open doors / windows to ventilate the car for 5 minutes
- wash your hands for at least 20 seconds or use hand sanitiser

### **If you have coronavirus symptoms or have been told to self-isolate**

You should not work if you have coronavirus symptoms or you have been told to self-isolate. If you have coronavirus symptoms you should get a test as soon as possible. You should stay at home until you get the result.

### **Financial help for drivers**

If you are told to self-isolate by NHS Test and Trace, you may be entitled to a payment of £500 from your local council under the Test and Trace Support Payment scheme.

Self-employed drivers may also be eligible for:

- the self-employed income support scheme <https://www.gov.uk/guidance/claim-a-grant-through-the-coronavirus-covid-19-self-employment-income-support-scheme>
- the coronavirus business interruption loan scheme <https://www.gov.uk/guidance/apply-for-the-coronavirus-business-interruption-loan-scheme>
- a coronavirus bounce back loan <https://www.gov.uk/guidance/apply-for-a-coronavirus-bounce-back-loan>

If you are clinically extremely vulnerable and have received a formal shielding notification, you are entitled to either Statutory Sick Pay or Employment Support Allowance.

Read more about coronavirus (COVID-19): what to do if you are self-employed and getting less work or no work <https://www.gov.uk/guidance/coronavirus-covid-19-what-to-do-if-youre-self-employed-and-getting-less-work-or-no-work>

### **PHV operators and taxi intermediaries**

#### **Carrying out a COVID-19 risk assessment – operators and intermediaries**

PHV operators and taxi intermediaries that are employers must carry out a risk assessment in line with government guidance.

<https://www.gov.uk/government/publications/coronavirus-covid-19-safer-transport-guidance-for-operators/coronavirus-covid-19-safer-transport-guidance-for-operators#risk-assessment>

If you have fewer than 5 employees including non-drivers (dispatchers, booking agents etc.), you don't have to write anything down as part of your risk assessment.



### **Providing health information to drivers and passengers**

You should provide health information to drivers and passengers through your smartphone apps, text message and displaying posters within operating centres. You should also:

- encourage the drivers you work with to read the drivers guidance
- display posters to remind drivers and passengers of hygiene good practice
- share messages to encourage drivers and passengers to download and use the NHS COVID-19 app
- remind passengers of social distancing rules when they make a booking
- make clear to passengers that unless they are exempt, they must wear a face covering at all times when in the vehicle
- remind passengers to wash their hands for at least 20 seconds or use hand sanitiser before entering the vehicle

Drivers do not have to wear a face covering, but we recommend that they do if it does not affect their ability to drive safely.

Ride-sharing or pooled ride services should not be provided online or at taxi ranks.

### **Financial help for PHV operators and taxi intermediaries**

Businesses and self-employed drivers may be eligible for:

- the Coronavirus Business Interruption Loan scheme
- a coronavirus Bounce Back loan

Find out what financial support schemes you may be eligible for

<https://www.gov.uk/business-coronavirus-support-finder>

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## **Business and Planning Act 2020: Pavement Licence Fees**

### **Summary:**

The purpose of this report is to seek permission from the Licensing Committee to allow officers to waive the discretionary pavement licence fee.

### **Recommendation**

The Committee is asked to RESOLVE that

- (i) The discretionary licence fee of £100 for Pavement Licence applications, made under the Business and Planning Act 2020, is waived in light of the current and ongoing impact of the COVID-19 pandemic.
- (ii) To authorise the repayment of pavement licence fees to applicants where these have already been paid, to ensure a fair and consistent treatment of applicants.

## **1. Background**

- 1.1 The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months at a time, while others have had to significantly modify their operations.
- 1.2 The Business and Planning Act 2020(the Act) received Royal Assent on the 22<sup>nd</sup> July 2020. Part 1 of the Act, provisions relating to Pavement Licences, transferred authority to grant pavement licences from Surrey County Council in its capacity as the Highways Authority to Surrey Heath Borough Council. It also reduced the timescales for the approval of these applications.
- 1.3 These changes were introduced to make it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers outside, whilst at the same time complying with social distancing rules.
- 1.4 On the 29<sup>th</sup> July 2020 the Licensing Committee received details of proposed arrangements for Surrey Heath to process applications for pavement licences.
- 1.5 These arrangements were approved by the Licensing Committee and the fee for a pavement licence was set at £100. (This is the maximum fee allowed under the Act).
- 1.6 It is likely that these arrangements could come to an end in September 2021 unless extended. The Government has recently indicated its intention to introduce secondary legislation to extend these provisions for a further 12

months subject to Parliamentary approval. We will monitor this closely in the coming months and respond accordingly.

## **2. Current Impact of Covid-19**

- 2.1 Covid -19 continues to have a major impact on businesses within the Borough. Licensed premises remain closed with the exception of a limited food takeaway offering.
- 2.2 The Government recently published a 'road map' to recovery subject to conditions. It is planned that licensed premises will be allowed to open in a phased manner no earlier than the 12th April. With outdoor space having a greater part to play in helping to make businesses financially viable.
- 2.3 In Step 2 of the Government's plans, no earlier than the 12<sup>th</sup> April- Outdoor areas at hospitality venues( cafes, restaurants, bars, pubs, social clubs, including in member's clubs) can reopen, including for takeaway alcohol. The outdoor areas are only allowed to be used by groups of 6 people or 2 households.
- 2.4 In Step 3 – no earlier than the 17<sup>th</sup> May. Indoor areas of hospitality venues will be allowed to open. They can be used by groups of 6 or two households indoors; or in a group of no more than thirty people outdoors.
- 2.5 In Step 4- no earlier than the 21<sup>st</sup> June. All remaining settings, not opened in previous steps, will be allowed to open There will be a lifting of the restrictions on social contact that apply in Step 3.
- 2.6 It is likely that a number of premises will apply for pavement licences to allow them to open in the first phase (Step 2) using the adjacent pavement where appropriate.
- 2.7 Recognising that this has been a very difficult time the Council is keen to support businesses throughout the current restrictions and the phased re-opening of the hospitality sector. As a goodwill gesture we would like to be in a position to waive the fee for pavement licences as set out in this report. We hope that this will play a small part in helping to rebuild the economy as we emerge from the current restrictions.
- 2.8 All pavement licences issued by Surrey Heath will expire on 30 September 2021. This will change if the proposed extension to these provisions is introduced.

## **3. Resource and Financial Implications**

- 3.1 The Licensing Service is ready to proceed with applications for pavement licences as part of the wider work to be ready for the reopening of the licensed trade as lockdown restrictions are eased.

3.2 We have currently received 9 applications for pavement licences. Of these 2 have been granted, 3 have been received recently and are still within the time limits for approval. Four applications were incomplete and despite chasing, we have not received the information required as part of their application. Reimbursing the applicants will mean that we will repay a total of £900.

3.3 The costs are expected to be accommodated within the existing Licensing Services budget.

**4. Recommendations**

- The discretionary licence fee of £100 for Pavement Licence applications, made under the Business and Planning Act 2020, is waived in light of the current and ongoing impact of the COVID-19 pandemic.
- To authorise the repayment of pavement licence fees to applicants where these have already been paid.

|                               |  |
|-------------------------------|--|
| <b>Annexes</b>                | Business and Planning Act 2020- licensing implications- Licensing Committee report and minutes of – 29 <sup>th</sup> July 2020 |
| <b>Background Papers</b>      | Business and Planning Act 2020   |
| <b>Author/Contact Details</b> | Helen Lolley<br><a href="mailto:Helen.Lolley@surreyheath.gov.uk">Helen.Lolley@surreyheath.gov.uk</a>                           |
| <b>Head of Service</b>        | Tim Pashen – Executive Head of Community   |

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## Business and Planning Act 2020: Licensing Implications

### Summary:

The purpose of this report is to brief members of the Licensing Committee on the implications of the Business and Planning Act 2020 which received Royal Assent on the 22<sup>nd</sup> July and to seek a delegation of powers to enable the licensing provisions contained within the Act to be implemented.

### Recommendation

The Committee is asked to RESOLVE that

- (i) authority be delegated to the Executive Head of Community to determine any application for a pavement licence made in accordance with the Business and Planning Act 2020;
- (ii) authority be delegated to the Executive Heads of Community, Regulatory and Transformation with regards to the remaining licensing provisions in the Act, including enforcement;
- (iii) The fee for the Pavement Licence be set at £100.
- (iv) The Guidance to Businesses, attached at Annex A, be noted

The Committee is also asked to confirm

- (a) arrangements for determining any appeals made against the decisions made at recommendation (i) above.

## 1. Background

- 1.1 The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.
- 1.2 On 25 June 2020, The Government announced relaxations to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown. The Business and Planning Act 2020 (The Act) proposes to make it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.
- 1.3 For the hospitality industry these measures will provide some much-needed flexibility as they seek to reopen fully under social distancing requirements from 4 July 2020.

- 1.4 The Business and Planning Act 2020 received Royal Assent on the 22<sup>nd</sup> July. Part 1 of the Act, provisions relating to Pavement Licences and Alcohol licensing came into force on the same day.

## **2. Licensing Provisions in the Business and Planning Act**

- 2.1 The Act sets out two significant changes to licensable activities:
- i. It transfers authority to grant pavement licences from the Highways authority to the Borough Council and reduces the timescales for the approval of any applications. It is proposed that these arrangements will come to an end in September 2021 unless extended.
  - ii. It modifies provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. These extensions only apply up to 11pm where the Premises Licence allows this. Where a Premises Licence has an earlier cut-off time, off sales must end at this earlier time.

### Pavement Licences

- 2.2 Currently, permission for businesses to place tables and chairs outside their premises on the public highway is granted by Surrey County Council, in its capacity as the Highways Authority. This takes the form of a permit ('pavement licence') issued under Part 7A of the Highways Act 1980. The fee for a 'Pavement Licence' varies between local authorities and there is a time consuming 28 day consultation period that must be adhered to before a decision can be made on whether or not to grant a licence.
- 2.3 The Act introduces a new, temporary, fast-track process for these businesses to obtain permission, in the form of a "pavement licence", from Surrey Heath Borough Council for the placement of furniture such as tables and chairs on the pavement outside their premises which will enable them to maximise their capacity whilst still adhering to social distancing guidelines.

### *Application Process*

- 2.4 Under the Act, an application for a Pavement Licence must be made in writing in a form specified by the local authority and must:
- i. specify the premises, the part of the relevant highway and the purpose or purposes specified below to which the application relates:
    - a) use of the furniture by the licence-holder to sell or serve food or drink supplied from, or in connection with relevant use of, the premises;
    - b) use of the furniture by other persons for the purpose of consuming food or drink supplied from, or in connection with relevant use of, the premises.
  - ii. specify the days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
  - iii. describe the type of furniture to which the application relates,



- iv. specify the date on which the application is made,
- v. contain or be accompanied by such evidence of public liability insurance in respect of anything to be done by the licence-holder pursuant to the licence as the authority may require, and
- vi. contain or be accompanied by such other information or material as the local authority may require.

A draft of the proposed application form is attached to this report as Annex B.

2.5 To ensure that businesses can obtain Pavement Licences in a timely and cost effective (for the business) manner aiding to their financial recovery, the Act places an onus on the local authority to determine the application within 14 days which must begin with the day after that on which the application is made.

2.6 It should be noted that, an application for a Pavement Licence is deemed to have been made on the day it is sent to the local authority by the applicant.

*Public Consultation on an Application*

2.7 Within this determination period of 14 days, provision must be made for a public consultation period of 7 days, which must begin with the day after that on which the application is made.

2.8 Christmas Day, Good Friday and any day which is a bank holiday is not included in the consultation period or the determination period.

2.9 On receipt of an application the Council must:

- i. Publish the application and any material requested as part of the application
- ii. Publicise the fact that representations relating to the application may be made to the authority during the public consultation period (indicating when this period comes to an end)

2.10 It is proposed that the Council will publish applications on our website with information on how to make representations.

2.11 Under the terms of the Act, the applicant must:

- i. On the day that the application is made fix a notice (Site Notice) of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises, and
- ii. Secure the Site Notice so that it remains in place until the end of the public consultation period.

2.12 The Site Notice must:

- i. be in a form specified by the local authority
- ii. state that an application has been made, the date on which it was made and the date that the public consultation period will end.
- iii. State that representations relating to the application may be made to the local authority during the consultation period and
- iv. Contain any other information or material as the local authority may require.

#### *Determination of Applications*

2.13 When determining an application, the local authority must:

- i. Take into account any representations received during the public consultation period
- ii. Consult the relevant highway authority
- iii. Consult any other persons that are considered appropriate.

2.14 In making its decision, the local authority can either grant a pavement licence or chose to reject the application. If a decision is made to grant the licence then the licence can be granted subject to a) any or all of the purposes in relation to which the application is made; (b) some or all of the part of the relevant highway specified in the application

2.15 The local authority can grant a licence subject to such conditions as it considers reasonable and a proposed set of standard licensing conditions are set out in the draft Guidance for Businesses attached as annex A to this report.

2.16 It should be noted that if the local authority does not make a decision on an application by the end of the 14 day determination period outlined at paragraph 2.5 above then the licence for which the application was made is deemed, under the Act, to be granted.

#### *Duration of Licence*

2.17 The Act states that a pavement licence may be granted by a local authority for:

- (a) For such period as the local authority may specify in the licence, or
- (b) With no limit on its duration, in which case it expires at the end of 30 September 2021.

If a decision is made to specify a shorter time period as set out at paragraph 2.16(a) above the period specified:

- a) May not be less than three months, and
- b) May not extend beyond 30 September 2021

- 2.18 Where a pavement licence has been deemed to be granted as per paragraph 2.15 above then the licence will last for a period of one year starting with the first day after the determination period or at the end of 30 September 2021 whichever comes sooner.

#### *Cost of Licence*

- 2.19 Although it is envisaged that the resources required to process an application is likely to cost in excess of £100 the maximum licence fee allowed under the Act is £100. It is therefore proposed that the licence fee be set at £100.

#### *Right of Appeal*

- 2.20 The Act makes no provisions to enable businesses to appeal against a decision not to grant a Pavement Licence. Notwithstanding this, it is considered that to not have an appeal process would go against the tenets of natural justice.
- 2.21 Appeals under the Licensing Act 2003 are currently heard by a three member sub-committee of the Licensing Committee. In view of the tight 10 working day deadline that the Government has set for determination of applications this approach is considered unnecessarily cumbersome and would take up valuable time in the process. It is therefore proposed that any appeals against a decision should be dealt with in the same way as other complaints namely through an appeal to the Executive Head of Business.

#### *Enforcement*

- 2.22 There are enforcement powers contained in the Act to enable the Authority to attach conditions, and revoke licences for breaches of conditions, or if the highway is no longer suitable for this use. It is anticipated that there would be some enforcement required as businesses seek to adjust to the new regime. It is proposed that these enforcement powers be delegated to the appropriate sections of the Council including, but not limited to, Environmental Health, Community development (Anti-Social Behaviour) and Corporate Enforcement etc.

#### Automatic 'off sales' entitlement

- 2.23 Under the Licensing Act 2003, premises are licensed for the sale of alcohol for consumption either 'on' the premises, 'off' the premises or both. The measures included in the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. This is a temporary measure to boost the economy, with provisions lasting until the end of September 2021.
- 2.24 The measures will make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption 'off' the premises without making an application or paying a fee. This will allow businesses to trade

whilst keeping social distancing measures in place inside. A more detailed briefing on this aspect of the Act will be circulated separately to members.

### **3. Delegated Authorisation**

- 3.1 The announcement of a new pavement licence administered by borough and district councils and not the Highways Authority requires that Borough Councils will need to be ready to accept, consult on and determine these applications from 22<sup>nd</sup> July.
- 3.2 To ensure that the Council was best placed to react appropriately to the introduction of these changes an Urgent Action was agreed on XXX so that the proposed recommendations could be enacted in advance of the Act becoming law. A copy of this Urgent Action is attached at Annex C.
- 3.3 The introduction of automatic 'off sales' entitlement is a modification of the Licensing Act 2003 and under the Council's Constitution the Executive Head: Community has delegated authority to make decisions in relation to the Licensing Act 2003 and any subsequent legislation that affects it.

### **4. Resource Implications**

- 4.1 The Licensing Service is currently working to be ready to receive applications for pavement licences as part of the wider work to be ready for the reopening of the licensed trade as lockdown restrictions are eased. This work is almost complete =.
- 4.2 The introduction of the new 'pavement licence' administered by Surrey Heath Borough Council however is likely to require the Council to divert significant officer resources into setting up and administering this regime. A draft Guidance note for businesses has been compiled, and is attached as Annex A. Officers are working to set up application and consultation procedures.
- 4.3 No other immediate action is required to allow premises to undertake 'off' sales, this is an automatic entitlement and the Council does not have to issue another licence.

### **5. Options**

- 5.1 The Council is required to determine applications made in accordance with this Act so there are no substantial alternative options for the Committee to make, although alternative decisions could be taken on the decision maker and the level of fee charged.

|                               |   |
|-------------------------------|---|
| <b>Annexes</b>                | Annex A – Guidance for Businesses<br>Annex B – Draft Application form<br>Annex C – Urgent Action                                    |
| <b>Background Papers</b>      | Business and Planning Act 2020  |
| <b>Author/Contact Details</b> | Paula Barnshaw, Licensing Administrator<br><a href="mailto:Paula.barnshaw@surreyheath.gov.uk">Paula.barnshaw@surreyheath.gov.uk</a> |
| <b>Head of Service</b>        | Tim Pashen – Executive Head of Community  |

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**Minutes of a Meeting of the Licensing  
Committee held at Council Chamber,  
Surrey Heath House, Knoll Road,  
Camberley, GU15 3HD on 29 July 2020**

+ Cllr Rodney Bates (Chairman)  
+ Cllr Vivienne Chapman (Vice Chairman)

|                       |                        |
|-----------------------|------------------------|
| - Cllr Dan Adams      | + Cllr David Mansfield |
| + Cllr Peter Barnett  | + Cllr John Skipper    |
| + Cllr Richard Brooks | + Cllr Pat Tedder      |
| - Cllr Paul Deach     | + Cllr Helen Whitcroft |
| + Cllr Ben Leach      | + Cllr Valerie White   |
| + Cllr David Lewis    |                        |

+ Present

- Apologies for absence presented

Members in Attendance: Cllr Cliff Betton and Cllr Alan McClafferty

Officers Present: Paula Barnshaw, Nathita Fleet, Helen Lolley, Tim Pashen,  
Eddie Scott and Frances Soper

## **1/L Minutes of the Previous Meeting**

The minutes of the meeting held on 11 March 2020 were confirmed and signed by the Chairman.

## **2/L Food Safety Service Plan 2020-21**

The Committee was informed that the Food Standards agency required all food authorities to have a Food Safety Service Plan to ensure that national priorities and standards were addressed and delivered locally.

The number of food businesses which were 'broadly compliant' remained high at 96.4%. This figure had increased in the previous few years from a base of 87% in 2009/10. Officers continued to work with the businesses which were not broadly compliant in order to ensure that they improved their standards.

The report set out the performance of the food safety service team during 2019/20, including inspections, complaint investigations and sampling activities. The plan also provided information on expected demands on the service during 2020/21 including the impact of Covid-19 on the Food Safety Service.

It was stated when a food premise opened in the Borough it was required to be inspected by the Council's environmental health team within 28 days from being registered. The business was then given its food hygiene rating accordingly.

**RESOLVED that the Food Safety Service Plan 2019/2020, as set out in the agenda papers be agreed.**

### **3/L Health and Safety Service Plan 2020- 2021**

Under the Health and Safety at Work etc. Act 1974, local authorities were responsible for health and safety enforcement within their area of responsibility, which included a diverse range of premises. Pursuant to the “National Local Authority Enforcement Code” produced by the Health and Safety Executive (HSE), a Surrey Heath Health and Safety Service Plan had been developed.

The Environmental Health Team carried out planned risk based inspections of businesses to ensure they complied with health and safety legislation, and took appropriate enforcement as necessary. These inspections occurred at a frequency determined by the national code of practice and in accordance with HSE guidance. The Council’s performance was subject to scrutiny by the HSE and the Council was required to complete an annual return of health and safety enforcement activity.

It was noted that in 2020/21 the Council intended to continue to provide a high-quality health and safety service. This would include advising new and existing businesses on compliance, investigating complaints and accidents, taking enforcement action where necessary and participating in proactive health and safety campaigns.

**RESOLVED that the Surrey Heath Health and Safety Service Plan 2019/2020, as set out in the agenda papers, be approved.**

### **4/L Hackney Carriages and Private Vehicle - Age of Vehicles Guidance**

The Committee considered a report outlining the options in respect of the relaxation of the current guidelines relating to the age limits on vehicles submitted for licensing as Hackney Carriages and Private Hire Vehicles. It was noted a review of the guidelines was heard by the Licensing Committee at the request of Councillor John Skipper.

As it stood no vehicle could be licensed after the sixth anniversary of the car being registered by the DVLA or from its date of manufacture in the case of cars, which were first registered overseas.

In addition vehicles which were registered for more than 3 years with the DVLA at the time of being presented for licensing or, in the case of a car which had been first registered overseas, was more than three years old would also be unable to be licensed.

It was acknowledged that whilst it appeared that Surrey Heath maybe out of line with the guidelines and policies adopted by neighbouring local authorities in relation to the age of vehicles, the necessity to consider the overall picture including the conditions attached to Licences needed to be recognised.

**RESOLVED that**

- I. A temporary one year exemption to the current 6 year vehicle age limit rule be applied;**



- II. and the Licensing Committee receives a detailed report in order to conduct a full review of the current guidelines/ policies relating to Taxi Licensing within the next 12 months.**

## **5/L Business and Planning Act 2019-2021: Licensing Implications**

The Licensing Committee considered a report detailing the implications of the Business and Planning Act 2020 which received Royal Assent on the 22nd July and proposed delegated powers to enable licensing provisions in respect of street pavement licenses and automatic off sales entitlement.

The act introduced a new, temporary, fast-track process for businesses to obtain a pavement licence, from the Council for the placement of furniture such as tables and chairs on the pavement outside premises. It was envisaged that a license would enable the maximisation of a premise's capacity whilst still allowing adherence to social distancing guidelines.

It was acknowledged that the Council was required to determine applications made in accordance with the Act and that the determination of the applications would be best delegated to the Executive Head of Community. In addition it was noted that the committee were required to make a decision in order to create a suitable appeals process for the decisions made by the Executive Head of Community in respect of the granting of pavement licenses.

### **RESOLVED that**

- I. authority be delegated to the Executive Head of Community to determine any application for a pavement licence made in accordance with the Business and Planning Act 2020;**
- II. authority be delegated to the Executive Heads of Community with regards to the remaining licensing provisions in the Act;**
- III. enforcement powers in respect of the act be delegated to the Executive Head of Community in consultation with the Executive Heads of Transformation and Regulatory where required;**
- IV. the fee for the Pavement Licence be set at £100;**
- V. the Guidance to Businesses, as published as a supplement to the agenda papers, be noted;**
- VI. appeals in respect of the determination of applications, be conducted and determined by the Head of Legal Services in consultation with the Chairman and Vice Chairman of the Licensing Committee and one other Licensing Committee Member;**
- VII. and the final details of the appeals process be delegated to the Executive Head of Community in consultation with the Chairman and Vice Chairman of the Licensing Committee.**

## **6/L Licensing Act 2003 - Summary of Decisions**

The Committee received the numbers of decisions taken under delegated powers in respect of licence applications where no representations had been received from the responsible authorities or any other persons.

**7/L Reporting of Urgent Action**

The Licensing Committee noted Urgent Action which had been taken in accordance with the Scheme of Delegation of Functions to Officers.

**RESOLVED to note the urgent action taken under the Scheme of Delegation of Functions to Officers.**

**8/L Licensing Sub Committee Minutes**

The Committee noted that the Chairman would sign the minutes of the Licensing Sub Committee meetings which had taken place since the previous meeting.

**9/L Committee Work Programme**

It was acknowledged that Members were able to request items to be added to the Licensing Committee's work programme; including the review of guidelines and policies as undertaken at minute 4/L.

**RESOLVED to note the Committee's Work Programme**

Chairman

**Amendment to taxi rank o/s No 72 to 84 High Street Camberley**

|                   |                        |
|-------------------|------------------------|
| Portfolio         | Non-executive function |
| Ward(s) Affected: | Town                   |

**Purpose**

To report to the Committee the need to reduce the size of the taxi rank on High Street, Camberley taxi rank from 7 spaces to 4 spaces for taxis as part of the parking strategy of the High Street Public Realm Project.

**1. Background**

- 1.1. Surrey Heath Borough Council in accordance with the Local Government (Miscellaneous Provisions) Act 1976 s63 and in agreement with Surrey County Highways and Surrey Police make provision for Hackney Carriage Stands (taxi ranks) on the highway in the Borough of Surrey Heath.
- 1.2. The High Street Public Realm project will reduce the kerbside parking provision in High Street, Camberley from its junction with Pembroke Broadway to its junction with St Georges Road and Obelisk Way.
- 1.3. The reduction in kerbside parking affects all parking provisions and will reduce the taxi rank in High Street from 7 spaces to 4 spaces.
- 1.4. Surrey County Council’s Surrey Heath Local Committee agreed that the proposed change in traffic management for the Public Realm works be progressed at their meeting on Thursday 25 February 2021.

**2. Current Position**

- 2.1. The High Street Public Realm works is a £4.4m project to make structural improvement to High Street Camberley between it’s junctions with Pembroke Broadway and St. Georges Road. The works will improve the roads and pavements and will also incorporate installation of public art and improved public seating and walkways in Knoll Walk and Princess Way.
- 2.2. Due to the widening of the footways to improve pedestrian priority along High Street, Camberley, the kerbside parking in this area has been reduced by 50%, which has impacted on all road users.
- 2.3. Attached at Annex A to this report is a plan of the Proposed Car Parking Provision for this section of High Street, Camberley.
- 2.4. A new rank with space for 3 taxis is being considered on Pembroke Broadway to replace temporary Bus Stop C, when this bus stop is

removed following completion of the Ashwood House Development.  
This new rank should be available towards the end of the year?

### **3. Options**

3.1. The Committee has the options to:

- (i) agree the proposal to reduce the High Street rank from 7 taxis to 4 taxis and advertise the proposals in accordance with Local Government (Miscellaneous Provisions) Act 1976 s63; or
- (ii) reject the proposal

### **4. Proposal**

4.1. The proposal is for the Licensing Committee to approve the recommendations within this report.

### **5. Resource Implications**

5.1. It is estimated that the cost to amend the taxi rank in High Street, Camberley, will be approximately £2,000 to advertise the change in the local paper.

### **6. Recommendation**

6.1. The Committee is advised to RESOLVE that the proposal to reduce the High Street rank from 7 taxis to 4 taxis be agreed.

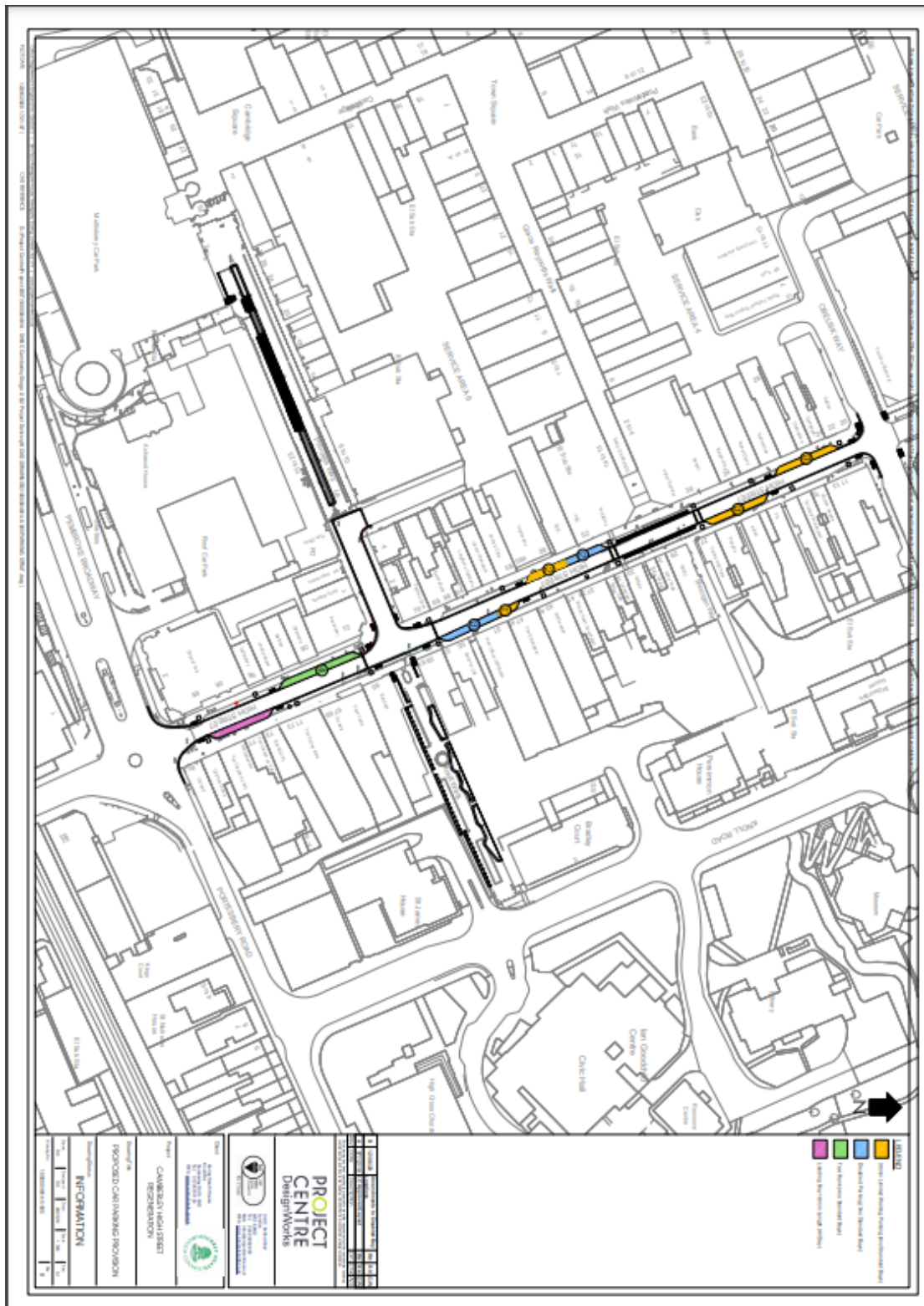
Annexes: Annex A - Proposed Car Parking Provision for High Street, Camberley

Background Papers: None

Report Author Eugene Leal – Parking Team Leader  
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Service Head: Daniel Harrison - Executive Head of Business

# Annex A: Proposed Car Parking Provision for High Street, Camberley



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**LICENSING ACT 2003: SUMMARY OF DECISIONS**

|                   |                        |
|-------------------|------------------------|
| Portfolio:        | Non-executive function |
| Ward(s) Affected: | All                    |

**Purpose**

**To report decisions that have been taken in respect of licence applications that have been dealt with under powers delegated to the Executive Head – Community and to the Licensing Administration Officer.**

**This report covers decisions made between 1 October 2020 and 28 February 2021.**

**1. Background**

1.1 Details of decisions taken under delegated powers in relation to applications, representation etc., must be reported to the Licensing Committee in accordance with the provisions of the Licensing Act 2003.

**2. Current Position**

2.1 In accordance with the provisions of the Licensing Act 2003 powers have been delegated to the Executive Head of Community and to the Licensing Administration Officer to determine applications for premises licences, club premises certificates and personal licences where no representations have been received from responsible authorities or interested parties.

2.2 If representations are received, consideration must be given to whether such representations are relevant, vexatious or frivolous and have been submitted in accordance with statutory requirements. No representations have been rejected on these grounds since the last report on these matters.

2.3 When representations have been received powers are delegated to the Licensing subcommittee to determine the licence following consideration of these representations.

2.4 A summary of the decisions that have been taken in respect of applications that have been considered and determined since the last report to committee is attached at Annex A.

2.5 These details are submitted for information only and do not require ratification by the committee.

**3. Recommendation**

3.1 The committee is advised to note this report.

|                    |   |
|--------------------|---|
| Background Papers: | None  |
| Report Author:     | Annex A – Summary of decisions made under delegated authority.<br>Paula Barnshaw,<br>Licensing Administration Officer<br>01276 707625<br><a href="mailto:paula.barnshaw@surreyheath.gov.uk">paula.barnshaw@surreyheath.gov.uk</a> |
| Head of Service:   | Tim Pashen  |



## ANNEX A

Issued Under Delegated Authority 01/10/2020 – 28/02/2021

|  |    |
|--|----|
| New Personal Licence                     | 12 |
| Variation to Personal Licence            | 8  |
| Temporary Event Notices                  | 3  |
| New Premises Licence                     | 6  |
| Variation to a Premises Licence          | 13 |
| Premises Licence Transfer                | 7  |
| New Club Premises Certificate            | 0  |
| Variation to a Club Premises Certificate | 0  |
| Transfer of a Club Premises Certificate  | 0  |

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