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Contact Officer:

Sophie Butcher, Committee Officer
Tel no: 01483 444056

21 September 2021

Dear Councillor

Your attendance is requested at a meeting of the **LICENSING COMMITTEE** to be held in the Council Chamber, Millmead House, Millmead, Guildford, Surrey GU2 4BB on **WEDNESDAY 29 SEPTEMBER 2021 at 7.00 pm.**

Yours faithfully

James Whiteman
Managing Director

MEMBERS OF THE COMMITTEE

Chairman: Councillor David Goodwin
Vice-Chairman: The Deputy Mayor, Councillor Dennis Booth

Councillor Tim Anderson
Councillor Gillian Harwood
Councillor Nigel Manning
Councillor Ted Mayne
Councillor Ann McShee
Councillor Bob McShee
Councillor Masuk Miah

The Mayor, Councillor Marsha Moseley
Councillor Maddy Redpath
Councillor Will Salmon
Councillor James Steel
Councillor Keith Witham
Councillor Catherine Young

QUORUM 5

THE COUNCIL'S STRATEGIC FRAMEWORK

Vision – for the borough

For Guildford to be a town and rural borough that is the most desirable place to live, work and visit in South East England. A centre for education, healthcare, innovative cutting-edge businesses, high quality retail and wellbeing. A county town set in a vibrant rural environment, which balances the needs of urban and rural communities alike. Known for our outstanding urban planning and design, and with infrastructure that will properly cope with our needs.

Three fundamental themes and nine strategic priorities that support our vision:

Place-making	Delivering the Guildford Borough Local Plan and providing the range of housing that people need, particularly affordable homes
	Making travel in Guildford and across the borough easier
	Regenerating and improving Guildford town centre and other urban areas
Community	Supporting older, more vulnerable and less advantaged people in our community
	Protecting our environment
	Enhancing sporting, cultural, community, and recreational facilities
Innovation	Encouraging sustainable and proportionate economic growth to help provide the prosperity and employment that people need
	Creating smart places infrastructure across Guildford
	Using innovation, technology and new ways of working to improve value for money and efficiency in Council services

Values for our residents

- We will strive to be the best Council.
- We will deliver quality and value for money services.
- We will help the vulnerable members of our community.
- We will be open and accountable.
- We will deliver improvements and enable change across the borough.

A G E N D A

1 APOLOGIES FOR ABSENCE

2 LOCAL CODE OF CONDUCT - DISCLOSABLE PECUNIARY INTERESTS

In accordance with the local Code of Conduct, a councillor is required to disclose at the meeting any disclosable pecuniary interest (DPI) that they may have in respect of any matter for consideration on this agenda. Any councillor with a DPI must not participate in any discussion or vote regarding that matter and they must also withdraw from the meeting immediately before consideration of the matter.

If that DPI has not been registered, the councillor must notify the Monitoring Officer of the details of the DPI within 28 days of the date of the meeting.

Councillors are further invited to disclose any non-pecuniary interest which may be relevant to any matter on this agenda, in the interests of transparency, and to confirm that it will not affect their objectivity in relation to that matter.

3 MINUTES (Pages 5 - 8)

To confirm the minutes of the meeting of the Licensing Committee held on 26 May 2021.

4 ANNOUNCEMENTS

To receive any announcements from the Chairman of the Committee.

5 LICENSING OF SEX ESTABLISHMENTS: STATEMENT OF LICENSING POLICY 2022-25 (Pages 9 – 52)

6 EXTENSION OF PAVEMENT LICENSING (Pages 53 – 68)

7 LICENSING COMMITTEE WORK PROGRAMME (Pages 69 – 72)

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AN ALTERNATIVE FORMAT**

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LICENSING COMMITTEE

Councillor David Goodwin (Chairman)

* The Deputy Mayor, Councillor Dennis Booth (Vice-Chairman)

* Councillor Tim Anderson
* Councillor Gillian Harwood
Councillor Nigel Manning
* Councillor Ted Mayne
Councillor Ann McShee
Councillor Bob McShee
* Councillor Masuk Miah

The Mayor, Councillor Marsha Moseley
* Councillor Maddy Redpath
* Councillor Will Salmon
Councillor James Steel
Councillor Keith Witham
* Councillor Catherine Young

*Present

L1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors David Goodwin (Chairman), Ann McShee, Bob McShee, Nigel Manning, The Mayor, Councillor Marsha Moseley and James Steel.

Councillor Dennis Booth chaired the meeting in his capacity as Vice-Chairman.

L2 LOCAL CODE OF CONDUCT - DISCLOSABLE PECUNIARY INTERESTS

There were no disclosures of interest declared.

L3 MINUTES

The minutes of the Licensing Committee held on 24 March 2021 were approved and signed by the Chairman.

The Committee queried whether the Police and Crime Commission (PCC) had agreed to fund the cost of installing CCTV units into taxi cabs. The Senior Specialist for Licensing and Community Safety confirmed that funding may not after all be secured via the PCC, but that funding was still being sought and updates would be given when known.

L4 ANNOUNCEMENTS

The Acting Chairman wished to thank Bridget Peplow, Lawyer for the Licensing Committee, for all of her advice and hard work over the years. The Committee wished her all the best in her retirement.

L5 LICENSING OF SEX ESTABLISHMENTS: STATEMENT OF LICENSING POLICY 2022-25

The Committee noted that the Council was the Licensing Authority for regulating sexual entertainment venues in Guildford. Guildford currently did not have any such venues, however the policy for regulating sexual entertainment venue was subject to review every three years and was required should somebody come forward with an application. No changes were envisaged to be made to the policy and therefore the Committee was asked to approve that the policy went for public consultation, for a period of 6 weeks, after which it would be submitted for approval by the Committee later this year.

The Committee discussed the policy and asked for clarification as to whether the Licensing Team were aware of venues operating sexual entertainment venues without a licence and how that was effectively monitored with the Police.

The Senior Specialist for Licensing and Community Safety confirmed that the Licensing Authority worked closely with the Police in monitoring venues activities with routine checks undertaken. Pubwatch was another means through which venues were monitored. The Police and Licensing Authority shared information and worked closely together.

The Committee having considered the report;

RESOLVED to approve the draft Licensing of Sex Establishments Policy 2022-2025 for public consultation and instruct officers to carry out the consultation over a 6-week period.

L6 GAMBLING ACT 2005: STATEMENT OF PRINCIPLES 2022-25

The Committee noted that the Gambling Act 2005 required the Council as licensing authority to prepare and publish a Statement of Principles every three years. The existing Statement of Principles was published in January 2019 and was due for renewal by January 2022. The current statement was comprehensively reviewed in 2018 to reflect updated Guidance published by the Gambling Commission (5th Edition September 2015) and to include a Local Area Profile for Guildford. There had not been any further update in Guidance from the Commission since the publication. As such, there were no changes proposed to the current policy. The Committee was therefore asked to approve the Gambling Act 2005: Statement of Principles for consultation for a 12-week period after which it would be considered by the Licensing Committee for approval later this year.

The Committee discussed the Statement of Principles and asked whether it included gaming activities. The Senior Specialist for Licensing and Community Safety confirmed that betting shops, casinos, bingo halls were all covered under the Act, but Guildford did not have any casinos or bingo halls. The Committee was interested to know if the Act covered the regulation of children using online gaming sites that were age prohibited. It was confirmed that the regulation of online gaming sites fell under the remit of the Gambling Commission and was not something controlled by the Licensing Authority.

The Committee queried what sort of training staff had in gambling venues to detect potentially vulnerable or under-age people using the machines. Did the Licensing Authority enforce that and how was it regulated. Also, whether conditions could be applied to gambling premises to ensure that fixed odds betting machines were installed which decreased the risk of people losing excessive sums of money.

The Licensing Team Leader confirmed that under the Gambling Act when setting up a betting premises, before applying for a licence for the premises, an operator's licence needed to be applied for with the Gambling Commission. They had the responsibility to ensure that operators were deemed fit to adhere to the appropriate safeguarding measures. Reports from the Gambling Commission had identified cases where operators had failed to abide by the safeguarding measures and in turn would receive a significant fine. There were always conditions attached to how betting premises were run as well as being detailed in the policy. The Senior Specialist for Licensing and Community Safety confirmed that he was not aware of any operator whose activities were concerning so to trigger a Test Purchase and that there were only 8-9 betting shops in Guildford in total. With regard to fixed odds betting machines, the number and type of machines permitted in any one shop was legislated for and ranged from Category A-D type machines.

The Committee having considered the report:

RESOLVED to approve the draft Gambling Act 2005 Statement of Principles 2022-25 for public consultation and instruct officers to carry out the consultation over a 12-week period.

L7 LICENSING COMMITTEE WORK PROGRAMME

The Committee discussed its work programme and was glad to see Purple Flag and Best Bar None listed. Owing to the limited number of items on the work programme, it was queried as to whether pavement licences could be added for consideration at a future meeting to assess their success.

The Senior Specialist for Licensing and Community Safety confirmed confirmed that the pavement licensing policy was ending in September 2021 with an extension provisionally applied until September 2022. The legislation had not yet been enacted but was likely to happen. After September 2022, the issuing of pavement licences fell to Surrey County Council and planning permission had to be applied for which involved a 28-day consultation period and the fees would be higher than the fee capped at £100 under the Business and Planning Act

The meeting finished at 8.00 pm

Signed

Chairman

Date

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Licensing Committee Report

Ward(s) affected: All Wards

Report of the Director of Service Delivery

Author: Mike Smith, Senior Specialist for Licensing and Community Safety

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Email: mike.smith@guildford.gov.uk

Lead Councillor responsible: James Steel

Tel: 07518 995615

Email: james.steel@guildford.gov.uk

Date: 29 September 2021

Licensing of Sex Establishments: Statement of Licensing Policy 2022-2025

Executive Summary

The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues (SEVs). This brought into force for lap dancing, pole dancing and other “relevant entertainment” a new licensing regime. The legislation enables local authorities to adopt a policy and standard conditions relating to sexual entertainment venues, sex shops and sex cinemas.

Guildford Borough Council adopted the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 on 7 October 2014 with effect from 17 November 2014. Guildford Borough Council originally adopted a policy and standard conditions on 14 April 2015 to be applied when determining applications for sex establishment licences in the Borough, and subsequently the Executive agreed a revised policy on 30 October 2018

The current policy is due to expire and a revised policy was approved for public consultation by Licensing Committee on 26 May 2021. This report seeks to inform Licensing Committee of the results of the consultation and asks that the Committee recommends that the Executive approves the draft Policy.

Recommendation to Licensing Committee

That the Committee recommends Executive approves the draft Licensing of Sex Establishments Statement of Licensing Policy 2022-2025, as set out in Appendix 1 to this report.

Reasons for Recommendation:

Adopting an updated Licensing of Sex Establishments Policy will provide guidance to applicants and a framework to enable the Council to make consistent and transparent decisions when determining applications for sex establishments.

Is the report (or part of it) exempt from publication? No
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1. Purpose of Report

- 1.1 The report informs the Committee of the consultation results received to the review of the Sexual Entertainment Venues Licensing Policy.
- 1.2 It asks the Committee to recommend that the Executive on 26 October approves the Policy as consulted upon in Appendix 1.

2. Strategic Framework

- 2.1 The Licensing of Sex Establishments Policy will contribute to our fundamental themes as follows:

- **Place making** – regenerating and improving Guildford town centre and other areas across the Borough through well-regulated licensed establishments.
- **Community** – enhancing sporting, cultural, community and recreational facilities.
- **Innovation** – Encouraging sustainable and proportionate economic growth to help provide the prosperity and employment that people need.

- 2.2 It is best practice to publish a Policy setting out our general approach to the licensing of sex establishments. The policy will assist a business making an application as it provides a background and rationale around granting a licence. The Council will use the policy in making a decision whether to grant a licence.

3. Background

- 3.1 The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This brought a new licensing regime into force for lap dancing, pole dancing and other “relevant entertainment”.
- 3.2 The provisions allow the Council to improve the regulation of sexual entertainment venues, as there are increased powers to control numbers and location of venues in the area.
- 3.3 Guildford Borough Council adopted the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 on 7 October 2014 with effect from 17 November 2014.
- 3.4 Guildford Borough Council adopted a Policy and standard conditions on 14 April 2015 to be applied when determining applications for sex establishment licences in the Borough.

- 3.5 The policy is due for review every 3 years, to ensure that the policy reflects best practice and to ensure it contributes to the strategic direction of the Council.
- 3.6 There are currently no licensed sexual entertainment venues in the Borough. A SEV licence was held between August 2015 to August 2016 for a premises within a proposed development at the Quadrant, Bridge Street. This licence was however never used and subsequently expired without being renewed.

4. Proposed Changes

- 4.1 There are no changes to the intent or direction of the policy, which sets out how the Council seeks to regulate sexual entertainment venues under its control and provides a framework for consistent decision making.
- 4.2 The draft policy contains no changes to the previous version. The policy was updated in 2018 to reflect the new corporate strategy, and corporate aims to maintain a safe, diverse night-time economy and the Purple Flag award.

5. Consultation

- 5.1 Consultation is critical to ensure any changes to the policy are clear and transparent for businesses, responsible authorities and the public.
- 5.2 Following the approval of the Licensing Committee, consultation was carried out over a 6 week period between 5 July and 20 August 2021. Officers consulted with interested parties by:
- Writing/emailing the chief officer of police and other responsible authorities
 - Writing/emailing other persons considered to be interested groups
 - Publicising the consultation on the Council's website
 - Using social media to inform the public of the consultation and direct them to the website.
- 5.4 During the consultation period one consultation response was received, which are shown in Appendix 2. The consultation response did not indicate any changes were required to the draft policy consulted upon.

6. Financial Implications

- 6.1 Under the adopted licensing regime, the Council has the power to recover its costs and set fees and charges at such a level that the licensing process is cost neutral to the Council. The fee set and approved by Council for 2021-22 in respect of an application for a sexual entertainment venue is £1,677.

7. Legal Implications

- 7.1 The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This brings into force a licensing regime for lap dancing, pole dancing and other "relevant entertainment".

- 7.2 The legislation enables local authorities to adopt a policy and standard conditions relating to sexual entertainment venues, sex shops and sex cinemas.
- 7.3 Guildford Borough Council adopted the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 on 7 October 2014 with effect from 17 November 2014.
- 7.4 The Home Office Guidance confirms that Local Authorities are not required to publish a licensing policy relating to sex establishments, and if they do so it must not prevent any individual application from being considered on its merits at the time the application is made.

8. Human Resource Implications

- 8.1 The revision of the Licensing of Sex Establishments Policy is being managed from within the current licensing resource.

9. Equality and Diversity Implications

- 9.1 Under the public sector equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.
- 9.2 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.
- 9.3 The law requires that this “duty to have due regard” be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of equality duty.
- 9.4 Adopting a Policy will assist in this decision making as it ensures that the implications for any protected group are considered when deciding whether to grant an application.

10. Climate Change/Sustainability Implications

- 10.1 There are no climate change/sustainability implications arising from the SEV Licensing Policy.

11. Summary of Options

- 11.1 After considering the report, the Committee may either recommend that the Executive:
- Approves an extension of the current Policy at Appendix 1, or
 - Approves an extension of the current Policy at Appendix 1 with amendments.

12. Conclusion

- 12.1 It is considered good practice to review an SEV Licensing Policy every 3 years. A review of the Policy has been completed and the draft policy consulted upon. There are no changes to the consultation draft, which is presented to the Licensing Committee so that it may recommend its approval by the Executive.

13. Background Papers

[Minutes of Licensing Committee 18 March 2015](#)

[Local Government \(Miscellaneous Provisions\) Act 1982](#)

[Policing and Crime Act 2009](#)

[Sexual Entertainment Venues, Guidance for England and Wales, Home Office](#)

[Open for business, LGA guidance on local set fees, Local Government Association](#)

14. Appendices

Appendix 1: Licensing of Sex Establishments – Draft Statement of Licensing Policy approved for consultation on 26 May 2021.

Appendix 2: Consultation Response Received

Service	Sign off date
Finance / 151 Officer	2 September 2021
Legal / Governance	2 September 2021
HR	3 September 2021
Equalities	3 September 2021
Lead Councillor	
CMT	7 September 2021
Committee Services	23 August 2021

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Licensing of Sex Establishments

Statement of Licensing Policy 2022-2025

Local Government (Miscellaneous Provisions) Act
1982 as amended by the Policing and Crime Act 2009

Further copies of this document can be obtained from:

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Executive Summary

The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This brings into force for lap dancing, pole dancing and other “relevant entertainment” a new licensing regime.

The legislation enables local authorities to adopt a policy and standard conditions relating to sexual entertainment venues, sex shops and sex cinemas.

Guildford Borough Council adopted the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 on 7 October 2014 with effect from 17 November 2014.

Guildford Borough Council adopted this policy and standard conditions on ##date## to be applied when determining applications sex establishment licences in the Borough.

This policy:

- Sets out the council’s approach for the benefit of operators
- Guides and reassures the public and other public authorities
- Ensures transparency
- Ensures consistency
- Guides and focuses the Licensing Committee when making determinations under this legislation.

The policy deals with:

- The mandatory and discretionary grounds for refusal
- Standard conditions
- The application process
- Waiver

Section 1 The purpose of the licensing policy

- 1.1 This policy is prepared under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009. It was approved by Guildford Borough Council as the licensing authority for the Guildford Borough Council area on ##date## with immediate effect. It will be reviewed every three years.
- 1.2 This policy is concerned with the regulation of sex establishments, namely sexual entertainment venues, sex shops and sex cinemas.
- 1.3 The council's licensing regime aims to ensure that sex establishments in the Borough operate in a safe, fair and discreet manner and are sensitive to the local area in which they are situated. Specific attention has been given to advertising, staff welfare, external appearance, locality and the number of licensed premises.
- 1.4 This policy also has regard to the guidance issued by the Home Office.
- 1.5 The council adopts the overall approach of encouraging the responsible promotion of licensed activities. However, in the interests of all its residents, it will not tolerate irresponsible licensed activity. The council will impose conditions where necessary to promote responsibility and will use effective enforcement to address premises where there are problems, in partnership with key agencies such as:
 - Surrey Police/ British Transport Police
 - Surrey Fire and Rescue Service
 - Health and Safety Executive
 - Safer Guildford Partnerships
 - Surrey Trading Standards
 - UK Border Agency
- 1.6 The council will monitor the effectiveness of this policy by way of regular meetings with key agencies and by regular open dialogue with the industry.

Public consultation

- 1.7 Prior to the adoption of the policy in 2021, a full public consultation took place. The consultation on the current version of the Policy took place between 5 July and 20 August 2021.

Review

- 1.8 This latest draft of the policy contains only minor amendments and no changes to the intent or direction of the previous policy approved in September 2018.

Section 2 The scope of the licensing policy

- 2.1 This policy covers licensable premises and activities as defined by the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 (the Act) within the Guildford Borough Council area. Schedule 3 of the Act is concerned with the control of sex establishments. A sex establishment means a sexual entertainment venue, sex cinema or sex shop.
- 2.2 A sexual entertainment venue (SEV) is a premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. Relevant entertainment means any live performance or any live display of nudity which is provided solely or principally for the purpose of sexually stimulating any member of the audience. The full legal definition of a sexual entertainment venue can be found at paragraph 2A of Schedule 3 to the Act.
- 2.3 A sex cinema is a premises used to a significant degree for the exhibition of moving pictures which primarily portray sexual activity or acts of force or restraint which are associated with sexual activity. A full legal definition of a sex cinema can be found in paragraph 3 of Schedule 3 to the Act.
- 2.4 A sex shop is a premises used to a significant degree for the selling, etc. of sex articles or other items intended for use for the purpose of stimulating sexual activity or acts of force or restraint. A full legal definition of a sex shop can be found at paragraph 4 of Schedule 3 to the Act.
- 2.5 Advice on whether a licence is required can be obtained from the Licensing team, Guildford Borough. Contact details are set out in Appendix 2.
- 2.6 Throughout this policy the wording will refer to 'applicants' for licences. However it should be noted that the principles set out within this policy apply equally to new applications, renewals and transfers.
- 2.7 This policy seeks to provide guidance to applicants about the approach they should take to making applications and the view the council is likely to take on certain key issues.
- 2.8 The Council will take this policy into account when determining applications, however each application will be considered on its merits at the time the application is made.

Section 3 The Guildford Borough Council area

- 3.1 The borough is the second highest populated district in Surrey with 146,800 residents in 2016. The major urban areas are located in the town centre of Guildford and on the western fringes of the borough adjacent to Aldershot town.
- 3.2 Guildford Borough is also the second largest borough in the county, covering approximately 269 square kilometres (104 square miles) of which 89% is land designated as Green Belt. Outside the urban areas and villages, rural areas contain the Surrey Hills Area of Outstanding Natural Beauty covering 99 square kilometres, several sites of importance for nature protection and areas of special scientific interest. The borough also has a rich and varied architectural heritage, including 36 scheduled ancient monuments.
- 3.3 Guildford is mostly an affluent area with relatively low unemployment and low levels of crime. Most residents are healthy and enjoy well above average life expectancy. The workforce is generally well-educated and highly skilled.
- 3.4 The town centre is a focus for major commercial and administrative functions and is a principal regional shopping destination, with a vibrant night time economy.
- 3.5 In 2014 the town was awarded Purple Flag, recognising excellence in the management of the town centre at night. This prestigious award demonstrates the Council and the other Purple Flag Partners' ambitions to develop and improve the night time economy, encouraging a broad outlook on how the town is presented at night and tackling all aspects from cleanliness to access and transport, street lighting to signage, entertainment variety and choice of styles in bars, clubs and restaurants. In order to retain this award, the Council, corporately, is keen to encourage a diverse entertainment economy, and recognises that the SEV sector may contribute to this area.
- 3.6 The borough attracted over 4.9 million day visitors in 2016 and 351,000 staying trips, generating about £338.4 million in tourism income for local businesses, supporting around 6,167 actual jobs.
- 3.7 Guildford's successful economy measured against a range of indicators has made it a place where businesses want to locate and grow.
- 3.8 The Vision in The Corporate Plan 2018-2023 states the desire is for Guildford to be:
- "..a town and rural borough that is the most desirable place to live, work and visit in South East England."*
- 3.9 The fundamental themes and strategic priorities which support this vision are:
- Place-making** Delivering the Guildford Borough Local Plan and providing the range of housing that people need, particularly affordable homes
- Making travel in Guildford and across the borough easier

Regenerating and improving Guildford town centre and other urban areas

Community

Supporting older, more vulnerable and less advantaged people in our community

Protecting our environment

Enhancing sporting, cultural, community, and recreational facilities

Innovation

Encouraging sustainable and proportionate economic growth to help provide the prosperity and employment that people need

Creating smart places infrastructure across Guildford

Using innovation, technology and new ways of working to improve value for money and efficiency in Council services

- 3.10 This licensing policy seeks to promote licensing within the overall context of the three fundamental themes of the Corporate Plan 2018-2023.

Section 4 Integrating other guidance, policies, objectives and strategies

4.1 In preparing this licensing policy the council has had regard to, and sought to integrate the licensing policy with, the following strategies:

- Corporate Plan 2018 - 2023
- Visitor Strategy
- Economic Strategy
- Local Plan
- Public Health and Wellbeing Strategy
- Community Safety Strategy
- The Purple Flag Award

Other policies

4.2 The council (through its Licensing Committee) may, from time to time receive reports on other policies, strategies and initiatives that may impact on licensing activity within the remit of the committee. Subject to the general principles set out in Section 7 it may have regard to them when making licensing decisions.

4.3 The Committee may, after receiving such reports, make recommendations to the council or other bodies about the impact of the licensing policy on such policies, strategies and initiatives. Equally the Committee may make recommendations relating to the impact of such policies, strategies and initiatives on the licensing policy. This may include recommendations to amend the licensing policy itself.

Section 5 General principles

- 5.1 In determining a licensing application the overriding principle will be that each application will be determined on its own merit, taking into account local knowledge, this licensing policy and the guidance issued by the Home Office. Where it is necessary to depart from the guidance or this Policy the council will give clear and cogent reasons for doing so.

Mandatory grounds for refusal

- 5.2 Applications for sex establishment licences must be refused on the following mandatory grounds:
- if the applicant is under 18,
 - if the applicant has a disqualification following the revocation of a previous licence,
 - if the applicant does not have the required right to work,
 - if the applicant has been refused a licence for the same premises within the previous 12 months.
- 5.3 These matters are considered by licensing officers with the appropriate delegations on determination of the licence.

Discretionary grounds for refusal

- 5.4 There are also a number of discretionary grounds. These are:
- if the applicant is considered unsuitable,
 - if the business would be managed by or for the benefit of a third party who would be refused a licence in their own right,
 - that the number of sex establishments or of sex establishments of a particular kind in the locality equals or exceeds the number considered appropriate,
 - if the grant is inappropriate having regard to:
 - the character of the relevant locality
 - the use of any premises in the vicinity
 - the layout, character, or condition of the premises.

Suitability of applicant

- 5.5 In considering whether the applicant is suitable to hold a licence, the council will take into account such matters as it considers to be relevant, including but not limited to whether the applicant:
- is honest
 - has a clear understanding of the conditions that may be attached to the licence
 - has a suitable business plan which will deliver compliance with the standard conditions.
 - has no unspent convictions of a nature that deem him/her unsuitable.
 - Suitability of manager or person for whose benefit the business would be carried on
- 5.6 The council will require the applicant to identify the proposed manager or person for whose benefit the business would be carried on. In considering the suitability of these

persons the council will apply the principles at 5.5.

Appropriate numbers and localities

- 5.7 The council may set the upper and lower limit that it considers an appropriate number of SEVs for a particular locality and it can be set as nil. The Council may also refuse an application if we are satisfied that the number of sexual entertainment venues in the relevant locality at the time the application is made is equal to or exceeds the number, which we consider is appropriate for that locality.
- 5.8 In deciding the policy to adopt in relation to this discretionary ground, the council has taken into account the matters set out in sections 2 to 6 of this policy. It has been influenced by the following considerations.
- 5.9 The Council has taken account of its own corporate strategies and priorities as represented by its Corporate Plan 2018-2023, Visitor Strategy and Economic Strategy. The council believes that, in taking these strategies into consideration, SEVs are not in accordance with a culturally rich and diverse Borough. In particular SEVs tend not to be inclusive facilities, appeal only to a narrow sector of the community and are unlikely to enhance the cultural reputation of the Borough.
- 5.10 It recognises that a nil per locality policy may reduce the employment opportunities for dancers. However it also recognises that those working in SEVs are often peripatetic and self-employed and will retain the opportunity to find employment as performers in other venues in Surrey or in other roles in the entertainment industry. The council believes that, on clear balance, in gender equality terms, its policy is both supportable and correct. The Council have decided not to set an upper or lower limit but to consider each application on its merits.
- 5.11 The council believes that the types of premises listed below are sensitive and that SEVs are generally not appropriate near them.
- Schools and other areas of education
 - Play areas/parks
 - Youth facilities
 - Residential areas
 - Women's refuge facilities/ rape and sexual assault counselling venues
 - Family leisure facilities such as cinemas, theatres and concert halls
 - Places of worship
 - Places used for celebration or commemoration
 - Cultural leisure facilities such as libraries, museums

- Retail shopping areas
- Historic buildings
- Hotels

- 5.12 The Council has determined that rural and residential are particularly unacceptable as localities for SEVs to be located in.
- 5.13 The council has not determined a limit on numbers or locality in relation to sex shops or sex cinemas. These applications will be dealt with on a case by case basis but applicants can be guided by the criteria mentioned at 5.4 to 5.6.

Human Rights

- 5.14 The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a Convention right. The council will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- **Article 6** that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
 - **Article 8** that everyone has the right to respect for his home and private life.
 - **Article 10** that everyone has the right to freedom of expression.
 - **Article 1 of the first protocol** that every person is entitled to the peaceful enjoyment of his or her possessions, including for example a licence.

The Provision of Services Regulations

- 5.15 The Provision of Services Regulations 2009 implements the European Services Directive.
These regulations ensure that any refusal of a licence is:
- **non-discriminatory** in regard to nationality,
 - **necessary** for reasons of public policy, public security, public health or the protection of the environment and
 - **proportionate** with regard to the objective pursued by the legislation.
- 5.16 The council will consider these three issues in relation to the refusal of licence applications.

Crime and Disorder Act 1998

- 5.17 The Crime and Disorder Act 1998 places a duty on the council to exercise its functions with due regard to:
- Crime and disorder in its area (including anti-social and other behavior) adversely affecting the local environment;
 - The misuse of drugs, alcohol and other substances.
 - Re-offending in its area.
- 5.18 The council will have particular regard to the likely effect of the determination of licence applications on these issues and the need to do all that it reasonably can to prevent them.

Equality Act 2010

- 5.19 The Equality Act 2010 places a duty on the council to exercise its functions with due regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010;
 - Advance equality or opportunity between persons who share relevant protected characteristics and person who do not;
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 5.20 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 5.21 The council is aware that sex establishments tend to be predominantly marketed to men and that the licensing of these establishments must not encourage discrimination against women especially in regard to women who work at the premises, women who may wish to visit the premises or women who are using the area for other purposes but who may feel intimidated by the presence of such premises.
- 5.22 Accordingly, due regard has already been and will continue to be given during the review of this policy, to the determination of licences and the attaching of conditions.

Planning

- 5.23 The use of premises is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is generally required for the establishment of new premises or the change of use of premises.
- 5.24 In general, all premises which are the subject to an application should have the benefit of appropriate planning permission, or be deemed permitted development. The onus will be on the applicant to demonstrate that planning permission has been granted or that the premises have the benefit of permitted development rights. Failure to do so may result in objections and the licence being refused or granted subject to conditions which take account of the planning permissions in existence.
- 5.25 In addition, all new developments and premises which have been subject to structural alterations since 1994 will have building control approval in the form of a Building Regulations Completion Certificate. The onus will be on the applicant to demonstrate that any structural alterations have been approved by building control. Failure to do so may result in objections and the licence being refused or granted subject to conditions.
- 5.26 Any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful or correct.

Staff Training

- 5.27 The council recommends that all persons employed on licensed premises be encouraged to attend training programmes to raise awareness of their responsibilities and particularly of the offences contained within the Act and the conditions of the

licence. Where recognised training programmes are not available employers should ensure that their employees are advised of their responsibilities and the offences under the Act.

- 5.28 All persons employed on licensed premises should be provided with in-house training on basic public safety and the housekeeping arrangements relative to those premises. Depending on their job role, this may include training in first aid, age verification policies, basic health and safety, fire safety and so on.
- 5.29 Licensed premises will be required to record training undertaken by staff in their staff records. These records will be made available for inspection on request to an authorised officer or the police.

Advertising

- 5.30 As part of the standard conditions attached to licences there is a requirement that all advertising and the external appearance of the premises must be approved by the council.
- 5.31 This approval will be considered at a sub-committee hearing or officer with appropriate delegated authority. Applicants will be entitled to attend the hearing. Please contact Licensing for further information on how to submit changes to advertising material and external appearance. Planning permission may also be required which is a separate process.

Exemptions

- 5.32 Under the Act there is an exemption from the licensing requirements for sexual entertainment venues which provide relevant entertainment on an infrequent basis. These are defined as premises where:
- relevant entertainment has been provided on no more than 11 occasions within a 12 month period;
 - no such occasion has begun within a period of one month beginning with the end of any previous occasions and
 - no such occasion has lasted longer than 24 hours
- 5.33 This exemption does not apply to sex shops or sex cinemas.

Section 6 Application Procedure

The application process

- 6.1 Applications must be made to the council in the form prescribed. Guidance is available to applicants setting out the detail of the process.
- 6.2 An operator's suitability will be checked before a licence for a sex establishment is granted. Depending on the individual circumstances this may be achieved by the following means:
- Application form
 - Disclosure and Barring Service check (basic or enhanced)
 - Personal interview either in person, at a hearing, by phone or in writing
- 6.3 In the first instance, the application will be sent to Surrey Police who may conduct a check. The operator's suitability will be checked using the application form and the personal information forms. Applicants may be asked to provide basic or enhanced DBS checks, or attend an interview, to support their application.
- 6.4 The suitability of the applicant is important to ensure that the interests of the public are protected. The council will use the methods described above to ensure that the proposed operator:
- is honest
 - has a clear understanding of the conditions that may be attached to the licence
 - has a suitable business plan which will deliver compliance with the standard conditions.
 - has no unspent convictions of a nature that deem him/her unsuitable.
- 6.5 Applicants for sexual entertainment venue licences will also need to show they have:
- a clear employees' welfare policy
 - a clear code of conduct for employees
 - a clear code of conduct for customers
 - a clear policy on pricing, and
 - protect the interests of their customers
- 6.6 The council will take all of these criteria into account when determining the licence. Non-compliance with one or more of the criteria will not necessarily exclude the operator from holding a sex establishment licence, providing the applicant is able to prove to the council that the interests of the public are protected.

Third Party Beneficiaries

- 6.7 In order to protect the public interest it is important to establish the hierarchy of the operator's business. Information will be sought and enquiries made into the operator's company structure to ensure that the operator is not working on behalf of an individual or company that would not be granted a licence in their own right.
- 6.8 Enquiries may be made via the application form, checks with Companies House, Surrey Police, British Transport Police, personal interview or applicants may be asked to provide business records.

Fees

- 6.9 The council has set a reasonable fee. The fee is based on the recovery of costs incurred by the council in determining the application.

Notices

- 6.10 The applicant must advertise the application in three ways:
- Advertisement in a local newspaper within 7 days of making the application
 - Advertisement at the premises by way of a site notice for 21 consecutive days
 - Notice of the application must be sent to the Chief Officer of Police for Surrey within 7 days of making the application (unless the application is made electronically).
- 6.11 Proof that the applicant has advertised the application will be required.

Objections

- 6.12 Anyone can object to an application for a sex establishment licence. Objections must be received by the council no later than 28 days after the date of the application. These objections can be received from individuals or businesses and should be relevant to the grounds on which a licence can be refused set out in Section 7. The Council cannot take into account objections based on moral values.
- 6.13 Guidance on making an objection can be found on the council's website.
- 6.14 The council will notify the applicant in writing of the general terms of any objection it receives. However objectors will remain anonymous, unless they agree that their identity may be revealed and efforts will be made to ensure that the contents of the objection do not disclose the objector's identity.
- 6.15 If objectors wish for their details to be released to the applicant they should make this clear in their objection.

Hearings

- 6.16 The council has appointed a licensing committee of 15 Councillors. Licensing functions will often be delegated to a licensing sub committee of 3 councillors or, in appropriate cases, to officers of the council such as applications where there are mandatory grounds for refusal.
- 6.17 All new, renewal and transfer applications will be determined by a sub-committee of three members of the Licensing Committee or officers with the appropriate delegation.
- 6.18 It is the council's practice to provide notice of the hearing to all interested parties (applicants and objectors) five days before the hearing.
- 6.19 This notice will give the date of the hearing, the procedure for the hearing, state any points on which the council requires clarification at the hearing, and will require the addressee to confirm their attendance and the attendance of any witnesses they may wish to call.

The hearing will normally take place in public.

- 6.20 Councillors will have regard to the Guildford Borough Council Code of Conduct for Councillors. Where a Councillor who is a member of the Licensing Committee or sub-committee has a prejudicial interest in the application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision making process in respect of that application. Wherever possible, members will not hear applications from within their own ward to avoid any appearance of bias.
- 6.21 The Licensing Committee will refer an application to the council where it is unable to deal with the application because of the number of members unable to vote on the matter in question.

Reasons for decisions

- 6.22 In determining licence applications under the Act the council will take into consideration the application before it and any relevant objections received, as well as local knowledge including knowledge as to local issues and cultural sensitivities.
- 6.23 Every decision to refuse a licence will be accompanied by clear reasons for the decision.
- 6.24 Every effort will be made to provide an oral decision at the sub-committee hearing, with the written reasons to follow in due course. However if the Sub-Committee feel that they need further time to consider the matter fully, they may reserve their decision, in which case the parties will be notified of the decision and reasons for it in writing as soon as possible after the conclusion of the hearing.

Conditions

- 6.25 The council will normally impose standard conditions on all licences. However, if deemed necessary in any particular case, the council may change, alter or replace the standard conditions or any of them with conditions that are specific to the application before them. Please see Appendix 1 for the standard conditions.
- 6.26 If the standard conditions are changed, the revised conditions will be applied to existing licences when they are renewed or transferred.
- 6.27 The Home Office document "Sexual Entertainment Venues – Guidance for England and Wales" discusses the interplay between conditions on a premises licence granted under the Licensing Act 2003 and those applied to a sex establishment licensed under the Local Government (Miscellaneous Provisions) Act 1982. It states at Paragraph 4.16 that:
- "In cases where conditions on a premises licence or clubs premises certificate are inconsistent with, and less onerous than, the condition in the licence granted under the 1982 Act they shall likewise be read as though they have been deleted."*
- 6.28 Therefore if there are any conditions on the sex establishment licence which conflict with and are more onerous than a condition on the Licensing Act premises licence, the Licensing Act condition will cease to apply.
- 6.29 Conditions on the Licensing Act premises licence which only apply to relevant

entertainment shall be read as if they were deleted. This is to avoid duplication.

Right of Appeal

- 6.30 Only the applicant has the right to appeal the council's decision to the Magistrates' Court and only then on limited grounds. There is no right of appeal for objectors. Applicants and objectors are referred to paragraph 27 of Schedule 3 to the Act for further details.

Period of licence

- 6.31 A sex establishment licence will remain in force for a fixed period, which shall be no more than one year, unless brought to an end earlier as a result of the licence being surrendered or revoked. A fee is due with the application.

Renewal, Transfer

- 6.32 The process for applying for a renewal or transfer of the licence is the same as when applying for a new licence. Guidance for applicants is available on the council's website. A fee is due with the application.

Variation

- 6.33 At any time, a holder of a licence can apply to vary the terms, conditions or restrictions of a licence. There are some matters, required under the standard conditions, for which the premises licence holder is required to notify the council. These matters may include:
- Minor internal structural changes (moving of existing fixed furniture, etc.)
 - Change in personnel
 - Amendment of the approved advertising material
 - Change of name of premises
- 6.34 However as there is no requirement to advertise a variation, licence holders should contact Licensing before making their application to discuss if a new application is more suitable. In general any variation which affects the matters mentioned in Section 1 will require a new application.

Revocation

- 6.35 If information is received by the council that circumstances have changed in such a way that the licence holder is deemed unsuitable or that the manager or person for whose benefit the business is carried on is unsuitable such that an application for a new licence would be refused, the council may revoke the sex establishment licence.
- 6.36 Should the council consider revocation of the licence to be appropriate the licensee will be provided an opportunity to appear before the Licensing Sub-Committee and be heard by them.
- 6.37 If the licensee so requests, the licensee will be given a statement in writing of the reasons for revocation within seven days of the request being made.
- 6.38 The revocation will take effect once the appeal period has expired, or if an appeal is

lodged after the determination or abandonment of the appeal.

Waiver

- 6.39 Should the council decide that the requirement to hold a licence would be unreasonable or inappropriate, it may waive the need for a licence. Examples of cases where such waivers could be applied could include a medical book shop, sex clinic, in borderline cases, or for minor or temporary events.
- 6.40 The council would only waive the need for a licence where the activity is low risk and/or temporary. A waiver will not be granted in cases where it is appropriate for the activity to be covered by licence conditions.
- 6.41 The application for a waiver should be on the same form as an application for a new licence; however it should be accompanied by a letter which describes the circumstances in which the request for a waiver is made. There will be no requirement to advertise the application. Further information can be found on the council's website, or by contacting Licensing.
- 6.42 The decision on the application for a waiver will be taken at the next available licensing sub-committee hearing or by officers with the appropriate delegation and, if granted, a Notice of Waiver will be issued.
- 6.43 Unsuccessful applicants for waivers will be notified accordingly and provision will be made for them to make a formal application for a sex establishment licence.

Section 7 Enforcement

7. Enforcement principles

- 7.1 The council will work closely with partners in accordance with a locally established joint enforcement protocol and will aim to promote the licensing objectives by targeting known high risk premises following government guidance around better regulation.
- 7.2 In carrying out its enforcement duties with regards to the inspection of premises and the powers to institute criminal proceedings in respect of certain offences under the Act, the council will endeavour to be:

proportionate:	regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and costs should be identified and minimised;
accountable:	regulators must be able to justify decisions, and be subject to public scrutiny;
consistent:	rules and standards must be joined up and implemented fairly;
transparent:	regulators should be open, and keep regulations simple and user friendly; and
targeted:	regulation should be focused on the problem, and minimise side effects.

- 7.3 The council will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 The council will also adopt a risk-based inspection programme in line with government recommendations around better regulation and the principles of the Hampton Review.
- 7.5 The main enforcement and compliance role for the council in terms of the Act will be to ensure compliance with the conditions placed upon the licence and investigate and take appropriate action on unlicensed premises.
- 7.6 The council will also keep itself informed of developments as regards the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities.
- 7.7 The council's enforcement policy is available on www.guildford.gov.uk.

Appendix 1 Standard Conditions

These conditions will generally be attached to all licences granted under the Act. These conditions may be dispensed with, added to or modified by the council where appropriate. Where, in these conditions, there is a reference to the consent of the council being required, the consent may be subject to terms, conditions and restrictions as appropriate.

In accordance with Home Office guidance, where a condition is inconsistent with and is more onerous than a condition in a Licensing Act premises licence, the Licensing Act condition shall cease to apply.

Sexual Entertainment Venues

General

1. Unless stated otherwise, the licence hereby granted shall operate for one year from the date on the licence, after which it shall cease to be in effect, unless an application for renewal is submitted in the manner prescribed by the council.
2. The licensee shall operate a code of practice for dancers and code of conduct for customers. These documents must be approved by the Council and Surrey Police and shall be made available to any police officer or authorised officer of the Council on request.
3. Price lists for both drinks and sexual entertainment and the code of conduct for customers shall be clearly displayed at each table and at each entrance to the premises.
4. Price lists and the code of conduct for customers must be printed in a manner which is clear and easy to read.
5. Suitable and sufficient training is to be provided to all staff including the responsible person as described in condition 28. A training record shall be kept for each member of staff and the training record shall be made available upon request to any police constable or authorised officer of the Council.
6. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the council in writing.

Exhibition of the licence

7. The licence, or a clear copy, shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, and authorised officers of the council. A copy of the conditions attached to the licence shall be kept on the premises and be available for inspection by an authorised officer of the council, or a police officer.

Hours of opening (to be tailored to individual licences)

8. The premises shall only be open to the public during the following hours:
Monday
Tuesday

Wednesday
Thursday
Friday
Saturday
Sunday

Conduct on the premises

9. Dancers shall only perform on the stage area, or in booths/areas for VIPs, as identified on the plan attached to the licence.
10. Relevant entertainment shall only be performed by the dancer. There must be no audience participation.
11. There must be no physical contact between dancers.
12. There must be no physical contact between the dancer and the customer at any time.
13. Any performance shall be restricted to dancing and the removal of clothes. There shall not be any other form of sexual activity or stimulation which, for the avoidance of doubt, includes kissing.
14. Sex toys must not be used and penetration of the genital area by any means must not take place.
15. Customers shall not be permitted to throw money at the dancers.

External appearance

16. There shall be a notice displayed inside each entrance or doorway to the premises, which shall clearly be visible to any person entering the premises, which states the following:

Strictly No Admittance to Persons Under 18 Years of Age
This premises operates a Challenge 25 policy.
Persons who appear to be under the age of 25 will be required to show proof of age.

17. The external appearance of the premises must be approved by the council in writing.
18. Any change to the external appearance must be approved by the council. The operator must notify the Council in writing of any proposed change and shall provide a drawing of the existing and proposed street elevation. This must be approved by the council before any work is undertaken.
19. Access to the licensed area of the premises shall be through a lobby area which is constructed in such a way that the inside of the licensed premises where relevant entertainment takes place is not visible to passing members of the public when the doors of the premises are opened.
20. Signage shall only be illuminated between 10pm and 6am, and movable signs placed outside the premises shall be removed between 6am and 10pm.

Advertising

21. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, shall not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
22. Staff employed or subcontracted by the premises shall not verbally or otherwise promote, tout or advertise the premises, except by way of flyers.
23. Leafleting/distribution of flyers shall only be permitted as long as it does not cause public offence. The licensee shall remove any leaflets from the Highways within a 100 metre radius of the premises by 6am. The licensee shall operate a flyer distribution policy which must be approved by the Council.

Layout of premises

24. No access shall be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
25. No alterations (including temporary alterations) shall be made to the structure and installations on the premises, without the prior written consent of the council. This condition does not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.

Management of the premises

26. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue ("the manager") shall have personal responsibility for and be present on the premises whilst relevant entertainment is being performed. Any such nomination shall be produced on demand to an authorised officer of the council or a police constable.
27. The licensee shall ensure that any person nominated by him/her in accordance with Condition 28:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of the written nomination referred to above at all times when they are in charge of and present on the premises.
28. Where the licensee is a body corporate, or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the council within 14 days of such change. Such details as the council may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the council.
29. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue ("the manager"), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.

30. The licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.
31. The licensee shall ensure that the public is not admitted to any part or parts of the premises which have not been approved by the council for the purposes of public access.
32. No persons under the age of 18 shall be admitted to the premises.
33. The licensee shall operate a Challenge 25 age verification policy. People who appear to be under the age of 25 will be required to show proof of ID prior to admittance. A notice to this effect, in accordance with condition 18 shall be displayed on the premises.
34. The licence holder shall not employ any person under the age of 18 in any capacity.

Safety and security

35. A suitable Closed-Circuit Television (CCTV) system shall be operational at the premises at all times when licensable activities are being carried out and at any other times when members of the public are present on the premises. The CCTV system shall cover all areas of the premises to which the public are permitted to have access, including corridors and stairways (excluding WCs). The CCTV system shall cover the main entrances and exits and designated emergency exit routes from the premises. The CCTV system shall cover all external areas of the premises accessed by the public, including queuing areas, beer gardens, smoking areas and car parks. The location of the CCTV cameras shall be identified on the site plan of the premises. No amendments to the locations of the cameras shall be made without prior consultation with Surrey Police/British Transport Police and the Licensing Authority.
36. The CCTV system shall be of a sufficient resolution quality to enable the identification of persons and activities, and other details such as vehicle registration number plates. The CCTV system shall contain the correct time and date stamp information. The CCTV system shall have sufficient storage retention capacity for retention of a minimum of 31 days' continuous footage, which shall be of good quality. The CCTV footage shall be controlled and kept in a secure environment to prevent tampering or unauthorised viewing. A record shall be kept of who has accessed the system, the reason why and the date and time of access.
37. The data controller, under the Data Protection Act 1998, who is responsible for any CCTV images captured on cameras on the premises shall, on the lawful request of an authorised officer or an officer of Surrey Police/British Transport Police, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer. Where the CCTV images are not supplied at the time of the request being made, the data controller shall ensure that they are secured to prevent any overwriting.
38. The CCTV system shall be adequately maintained and be capable of transporting recorded material onto a removable media. The CCTV system replay software must

allow an authorised officer or an officer of Surrey Police/British Transport Police to search the picture footage effectively and see all the information contained in the picture footage for the purpose of detecting, investigating and preventing crime. It must be possible to replay exported files immediately e.g. no re-indexing of files or verification checks shall be required.

39. A minimum of two Security Industry Authority registered door staff shall be present on the premises during the performance of relevant entertainment. In addition, the licensee shall provide such additional SIA registered door staff as shall be reasonably required by Surrey Police or the Licensing Authority.

Staff welfare

40. Dancers shall be aged 18 years or over.
41. Before a dancer is permitted to work on the premises the licensee shall ensure that the dancer:
- a) has not been convicted of theft, drug offences or prostitution
 - b) has the right to work in the UK

The licensee shall keep records of the checks made, including copies of any documentation such as a basic disclosure, passport, visa, driving licence or national insurance number provided by the dancer.

42. The Licensee shall provide new dancers with a pack of information. This pack shall include:
- a) A copy of the Sex Establishment Licence, including the conditions applied by the Licensing Committee.
 - b) Details of any other conditions applied by the management of the premises
 - c) Details of how to report crime to the relevant authority
 - d) Details of the premises public liability insurance
 - e) Information on how dancers can obtain personal liability insurance
 - f) Details of unions, trade organisations or other bodies that represent the interests of dancers
 - g) A copy of the code of conduct for dancers
 - h) A copy of the code of conduct for customers
 - i) Price lists for drinks and sexual entertainment
43. The information required in accordance with Condition 42 shall be provided in the dressing rooms or alternatively a sign shall be placed in the dressing rooms advising that the information pack is available on request.
44. All booths and VIP areas used for private dances must be visible to supervisors and must not have closing doors, curtains or coverings of any description .
45. All booths and VIP areas used for private dances must be directly supervised by either a SIA registered door supervisor, or a member of staff who has direct contact with the SIA registered door supervisors working on the premises, at all times when the booths/areas are in use. Direct supervision does not include remote supervision by CCTV.

46. Dancers shall only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.
47. Any person on the premises who can be observed from outside the premises shall be properly and decently dressed.
48. The licensee shall ensure that dancers have secure dressing rooms, facilities to secure valuables and proper sanitation facilities available to them.
49. Panic alarms shall be fitted to all booths and VIP performance areas and shall be operational at all times.

Vessels, stalls and vehicles

50. Vehicles must not be used for personal solicitation, touting or advertising.

Sex Shops

General

1. Unless stated otherwise, the licence hereby granted will operate for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the council in writing.

Exhibition of licence

3. The licence, or a clear copy, shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police and authorised officers of the council. A copy of the conditions attached to the licence shall be kept on the premises and be available for inspection by an authorised officer of the council, or a police constable.

Hours of opening (to be tailored to individual licences)

4. The premises shall only be open to the public during the following hours:

Monday
Tuesday
Wednesday
Thursday
Friday
Saturday
Sunday

Conduct on the premises

5. The licensee, or any other person concerned in the conduct or management of the premises, shall ensure that any personal solicitation or touting from the premises to obtain custom does not cause nuisance or annoyance to the public. Any literature used shall not contain images or text of a sexually explicit, obscene or offensive nature.

External appearance

6. There shall be a notice displayed on each entrance or doorway to the premises which states the following:

<p>Strictly No Admittance to Persons Under 18 Years of Age This premises operates a Challenge 25 policy. Persons under the age of 25 will be required to show proof of age.</p>
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7. The external appearance of the premises must be approved by the council in writing.

8. Any change to the external appearance of the premises must be approved by the council. The operator must inform the Council of any proposed change in writing and provide a drawing of the existing and proposed street elevation. This must be approved by the council before work is undertaken.
9. The frontage of the licensed premises shall be of such a nature that the interior of the licensed premises shall not be visible from the outside and the contents of the licensed premises shall not be visible when the doors of the licensed premises are open.
10. There shall be no illuminated or protruding signs fixed to the premises and no signs placed outside the premises.

Advertising

11. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, shall not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
12. Leafleting/distribution of flyers shall only be permitted as long as it does not cause public offence. The licensee shall remove any leaflets from the highways within a 100 metre radius of the distribution point. Flyers must not be distributed by and to persons under the age of 18 years of age. The licensee shall operate a flyer distribution policy which shall be approved by the council.

Layout of premises

13. No access shall be permitted through the premises to any other adjoining or adjacent premises, except in the case of an emergency.
14. No alterations (including temporary alterations) shall be made to the structure and installations on the premises without the prior written consent of the council. This condition does not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.

Management of the premises

15. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue ("the manager"), shall have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such nomination shall be produced on demand to an authorised officer of the council or a police constable.
16. The licensee shall ensure that any person nominated by him/her under Condition 16 above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of the written nomination at all times when they are in charge of and present on the premises.

17. Where the licensee is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the council within 14 days of such change. Such details as the council may require in respect of the change in personnel shall be furnished within 14 days of a request in writing from the council.
18. The licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.
19. The licensee shall ensure that the public are not admitted to any part or parts of the premises that have not been approved by the council for the purposes of public access.
20. The licensee shall keep a record of all employees who are asked to work on the premises. The record shall include their full name, date of birth, current and previous addresses and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1984).
21. A certified copy of the personnel record kept in accordance with Condition 21 or a record relating to a specified individual shall be produced on demand to an authorised officer of the council or the police.
22. No persons under the age of 18 shall be admitted to the premises.
23. The licensee shall operate a Challenge 25 age verification policy and customers under the age of 25 shall be required to show proof of ID. A notice to this effect in accordance with condition 7 shall be displayed on the outside of the premises.
24. The licence holder shall not employ any person under the age of 18 in any capacity.

Video recordings

25. No moving picture shall be provided on display at the licensed premises unless it is for the purposes of advertising videos on a loop system or allowing a prospective purchaser a short preview of films upon request, being no longer than 3 minutes in length.
26. Items sold, supplied for hire or exchange or used in any promotion/advertising must not contravene any current legislation i.e. Section 12 Video Recordings Act 1984, (as amended).

Vessels, stalls and vehicles

27. Vehicles must not be used for personal solicitation, touting or advertising.

Sex Cinemas

General

1. Unless stated otherwise, the licence hereby granted will operate for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the council in writing.

Exhibition of licence

3. The licence, or a clear copy, shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, and authorised officers of the council. A copy of the conditions attached to the licence shall be kept on the premises and be available for inspection by an authorised officer of the council, or a police constable.

Hours of opening (to be tailored to individual licences)

4. The premises shall only be open to the public during the following hours:
Monday
Tuesday
Wednesday
Thursday
Friday
Saturday
Sunday

Conduct on the premises

5. The licensee, or any other person concerned in the conduct or management of the premises, shall ensure that any personal solicitation or touting from the premises to obtain custom does not cause nuisance or annoyance to the public. Any literature used shall not contain images or text of a sexually explicit, obscene or offensive nature.

External appearance

6. There shall be a notice displayed on each entrance or doorway to the premises which states the following:

<p>Strictly No Admittance to Persons Under 18 Years of Age This premises operates a Challenge 25 policy Persons under the age of 25 will be required to show proof of age</p>
--

7. The external appearance of the premises must be approved by the council in writing.
8. Any change to the external appearance of the premises must be approved by the council. The operator must inform the Council of any proposed change in writing and

provide a drawing of the existing and proposed street elevation. This must be approved by the council before work is undertaken.

9. The frontage of the licensed premises shall be of such a nature that the interior of the licensed premises shall not be visible from outside and the contents of the licensed premises shall not be visible when the doors of the licensed premises are open.
10. There shall be no illuminated or protruding signs fixed to the premises and no signs placed outside the premises.

Advertising

11. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, shall not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
12. Leafleting/distribution of flyers shall only be permitted as long as it does not cause public offence. The licensee shall remove any leaflets from the highways within a 100 metre radius of the distribution point. Flyers must not be distributed by and to persons under the age of 18 years of age. The licensee shall operate a flyer distribution policy which shall be approved by the council.

Layout of premises

13. No access shall be permitted through the premises to any other adjoining or adjacent premises, except in the case of an emergency.
14. No alterations (including temporary alterations) shall be made to the structure and installations on the premises without the prior written consent of the council. This condition does not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.

Management of the premises

15. The licensee, or a responsible person nominated by him/her for the purpose of managing the venue ("the manager"), shall have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such nomination shall be produced on demand to an authorised officer of the council or a police constable.
16. The licensee holder shall ensure that any person nominated by him/her under Condition 16:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of the written nomination at all times when they are in charge of and present on the premises.
17. Where the licensee is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the

body shall be notified in writing to the council within 14 days of such change. Such details as the council may require in respect of the change in personnel shall be furnished within 14 days of a request in writing from the council.

18. The licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.
19. The licensee shall ensure that the public are not admitted to any part or parts of the premises that have not been approved by the council for the purposes of public access.
20. The licensee shall keep a record of all employees who are asked to work on the premises which shall include their full name, date of birth, current and previous addresses and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1984).
21. A certified copy of the full personnel record kept in accordance with Condition 21 or a record relating to a specified individual shall be produced on demand to an authorised officer of the council or a police constable.
22. No persons under the age of 18 shall be admitted to the premises.
23. The licensee shall operate a Challenge 25 age verification policy and customers under the age of 25 shall be required to show proof of ID. A notice to this effect in accordance with condition 7 shall be displayed on the outside of the premises.
24. The licence holder shall not employ any person under the age of 18 in any capacity.

Vessels, stalls and vehicles

25. Vehicles must not be used for personal solicitation, touting or advertising.

Appendix 2 Contacts details

Licensing

Guildford Borough Council
Millmead House
Millmead
Guildford
Surrey
GU2 4BB

T: 01483 505050

Email: licensing@guildford.gov.uk

Application form, plan, fee, policies, notices and declaration

Surrey Police

Licensing Unit
Guildford Police Station
Margaret Road
Guildford, Surrey
GU1 9PE

T: 01483 639473

Application form, plan, policies, notices and declaration

Appendix 3 Interpretation

Advertisement means any word, letter, image, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purposes of, advertisement or announcement.

Audience includes an audience of one.

Authorised officer means an officer employed by Guildford Borough Council and authorised by the council to act in accordance with provisions of the Act.

The council means Guildford Borough Council.

Display of nudity means:

- a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- b) in the case of a man, exposure of his pubic area, genitals or anus.

Dancer means dancer, entertainer, performer or other such person employed, or otherwise engaged, to provide relevant entertainment.

Licence means any sex establishment licence that the council can grant under the Act. This includes any associated consent or permission.

Licensee means the holder of a sex establishment licence.

Licensed area means the part of the premises marked on the plan where licensable activities are to take place.

Premises includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not admitted.

Relevant entertainment means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

Sex shop means any premises used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity.

Sexual entertainment venue means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser (i.e. a person who is responsible for the organisation or management of the entertainment or the premises).

Standard conditions means any terms, conditions or restrictions which the Council has prescribed as conditions subject to which all licences under the Act are in general to be granted, renewed or transferred..

The Act means the Local Government (Miscellaneous Provisions) Act 1982.

Unsolicited (in relation to advertising) means any material that is unasked for, not looked for or unsought, i.e. newspaper advertising, flyers, posters, radio advertisements, television advertising, advertising hoardings etc.

Vehicle means a vehicle intended or adapted for use on roads.

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Appendix 2

From: J Hogg
Sent: 14 July 2021 09:04
To: Regulatory Services regulatoryservices@guildford.gov.uk
Subject: Consultation on gambling and sexual entertainment venues

Dear Sir/Madam,

Thank you for your hard work keeping local regulation of these matters in order.

I have lived in Guildford for decades. In the early 2000s, I led a loose coalition of church bodies who campaigned against the liberalisation of casinos and their presence in Guildford, which was a key issue in the development of the 2005 Gambling Act, on which I gave evidence to the parliamentary committee for pre-legislative scrutiny.

I welcome the opportunity to contribute to this year's consultation and review, locally.

I speak for a wide range of church members who are all very committed to the health of the community in Guildford Borough.

We do not see the need for any further changes to the current position, and especially, we would not wish to see any sexual entertainment venues opening in Guildford, as they are of no benefit to public health, in our view.

Many thanks again for your work.

Yours sincerely,

Mrs Jennifer Hogg

Member of St Saviour's Church

Woodbridge Road

Guildford

GU1 4QD

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Licensing Committee Report

Ward(s) affected: All Wards

Report of the Director of Service Delivery

Author: Mike Smith, Senior Specialist for Licensing and Community Safety

Tel: 01483 444387

Email: mike.smith@guildford.gov.uk

Lead Councillor responsible: James Steel

Tel: 07518 995615

Email: james.steel@guildford.gov.uk

Date: 29 September 2021

Extension to Pavement Licensing

Executive Summary

The Business and Planning Act 2020 enacted in July 2020 sought to assist the hospitality industry recover from the first Covid19 'lockdown' by making 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. The legislation was introduced with an end date of 30 September 2021.

On 23 September 2020 Licensing Committee considered a report and agreed a Policy concerning the Pavement Licensing function. The Policy was agreed with an end date in line with the legislation.

On 20 July 2021 the Government extended Pavement Licences until 30 September 2022 under the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 and this report seeks to extend the approved Policy until this date.

Recommendation Committee

That the Committee notes the extension of the Business and Planning Act for the Licensed trade, and

Approves the extension of the current Pavement Licensing Policy at Appendix 1.

Reason(s) for Recommendation:

Approval of the policy will assist the Council with consistent decision making and provide guidance for applicants.

Is the report (or part of it) exempt from publication?

No

1. Purpose of Report

- 1.1 The purpose of this report is to brief the Licensing Committee on the extension of the Business and Planning Act (the Act), which came into force on 22 July 2020, and to approve an extension to the current Policy for determining Pavement Licence applications issued under the Act.

2. Strategic Priorities

- 2.1 The Pavement Licensing Policy will contribute to our fundamental themes as follows:
- **Place making** – regenerating and improving Guildford town centre and other areas across the Borough through well-regulated licensed establishments.
 - **Community** – enhancing sporting, cultural, community and recreational facilities.
 - **Innovation** – Encouraging sustainable and proportionate economic growth to help provide the prosperity and employment that people need.

3. Background

- 3.1 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 received Royal Assent on 22 July 2020 and came into force immediately. It introduced measures 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.
- 3.2 Following enactment of the legislation the Council has granted 32 Pavement licences. Two applications have been refused due to concerns about highway space.
- 3.3 The legislation was set to expire on 30 September 2021 but has been extended until 30 September 2022 under the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 in order to further support the sector.
- 3.4 Furthermore, under the Government's Build Back Better High Streets publication the Government has also committed to in principle to examining making Pavement Licences permanent.
- 3.5 In order to provide guidance for applicants and a framework for consistent decision making, a Policy concerning the Pavement Licensing function was approved by Licensing Committee 23 September 2020 with an end date in line with the original legislation.

4. Consultations

- 4.1 The Policy covers the temporary permissions for Pavement Licences under the Business and Planning Act 2020, which were originally scheduled to expire on 30 September 2021 but have now been extended for an additional year.
- 4.2 The Policy was drafted in consultation with the consultees listed in section 3.3 of the Policy and consulted upon with the appropriate lead councillors and the Leader of the Council at the time of adoption. Following its use in determining applications received since its adoption officers do not believe that the Policy requires further review at this time.
- 4.3 Feedback received during the current operation of the Policy have not given Officers any cause to make any changes, which provides a framework for consistent decision making.

5. Key Risks

- 5.1 Not having a Policy concerning Pavement Licensing may lead to inconsistent decision making and potential legal challenge to the Council.

6. Financial Implications

- 6.1 The Business and Planning Act was introduced to support the hospitality industry to recover from the coronavirus pandemic. Many of these businesses are licence fee payers under the Licensing Act 2003.
- 6.2 The application fee for Pavement Licensing is capped by legislation at £100 and it is unlikely that the full costs of setting up the function, processing of applications and enforcement of licences will be recovered through the fee.

7. Legal Implications

- 7.1 There is no statutory requirement to have a Pavement Licensing Policy, although having a transparent Policy guides applicants and enables consistent decision making.

8. Human Resource Implications

- 8.1 The introduction of Pavement licensing administered by Guildford Borough Council has required Licensing officers to divert and prioritise resources into setting up and administering this regime.

9. Equality and Diversity Implications

- 9.1 Under the public sector equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of

opportunity and fostering good relations between people who share a protected characteristic and those who do not.

- 9.2 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.
- 9.3 The law requires that this “duty to have due regard” be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of equality duty.
- 9.4 The Act requires authorities to have regard to the needs of disabled people when considering whether to grant a pavement licence. Adopting a Policy will assist in this decision making.

10. Climate Change/Sustainability Implications

- 10.1 Potential effects of litter arising from an increase in outside food and beverage consumption can be managed via conditions attached to Pavement Licences. The Act requires Licence holders to make reasonable provision for outside seating where smoking is not permitted.

11. Summary of Options

- 11.1 After considering the report, the Committee may either:
- Approve an extension of the current Policy at Appendix 1, or
 - Approve an extension of the current Policy at Appendix 1 with amendments.

12. Conclusion

- 12.1 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. Unfortunately some businesses have not reopened.
- 12.2 For the hospitality industry the measures in the Business and Planning Act have provided some much-needed flexibility as they seek to reopen fully following Covid and social distancing requirements.
- 12.3 The new Pavement Licence has proven successful to the extent that the government has extended the legislation and consequently a request is made of the Committee to approve an extension of the current policy.

13. Background Papers

- 13.1 [The Business and Planning Act](#)

- 13.2 [Ministry of Housing, Communities and Local Government - Guidance: Pavement Licences](#)
- 13.3 [The Business and Planning Act 2020 \(Pavement Licences\) \(Coronavirus\) \(Amendment\) Regulations 2021](#)
- 13.4 [Ministry of Housing, Communities and Local Government – Build Back Better High Streets](#)

14. Appendices

Appendix 1 – Guildford Borough Pavement Licensing Policy 2020-22

Please ensure the following service areas have signed off your report. Please complete this box and do not delete.

Service	Sign off date
<i>Finance / S.151 Officer</i>	<i>19 August 2021</i>
<i>Legal / Governance</i>	<i>2 August 2021</i>
<i>HR</i>	<i>30 July 2021</i>
<i>Equalities</i>	<i>30 July 2021</i>
<i>Lead Councillor</i>	<i>8 August 2021</i>
<i>CMT</i>	<i>7 September 2021</i>
<i>Committee Services</i>	<i>19 September 2021</i>

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GUILDFORD
BOROUGH



Pavement Licensing Policy 2020-22



Effective: (23 September 2020)
Version 2 – Updated for extension of legislation
29 September 2021

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1. Introduction

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.

As the economy starts to re-open, on 25 June 2020 the Government announced a further and urgent relaxation to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown by removing some requirements and expediting others.

The Business and Planning Act 2020 makes it easier for premises serving food and drink such as bars, restaurants and pubs, as lockdown restrictions are lifted but social distancing guidelines remain in place, to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

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. It will be a temporary measure to boost the economy.

The Act also introduces a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, from Guildford 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 adhering to social distancing guidelines.

Currently, tables and chairs permissions are granted as Pavement licences by Surrey County Council, the Highways Authority, under Part 7A of the Highways Act 1980. The fee varies between local authorities and there is a 28 day consultation period.

The new temporary measure places a cap on the application fee for businesses, and introduces a new 14-day determination period, ensuring that businesses can obtain licences in a timely and cost effective manner aiding their financial recovery.

The original Pavement Licensing provisions were set to expire on 30 September 2020 however have been extended by the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021, until 30 September 2022.

2. Scope

2.1 Definition of pavement café

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

2.2 Eligible Businesses

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

2.3 Eligible Locations

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

2.4 Type of furniture permitted

The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which in principle means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

2.5 Planning Permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

2.6 Interaction with Part 7A of the Highways Act 1980

Part 7A of the Highways Act 1980 already provides a mechanism for local authorities to grant businesses permission to place objects or structures on the highway for any of the following:

- (i) for a purpose which will result in the production of income;
- (ii) for the purpose of providing a centre for advice or information; or
- (iii) for the purpose of advertising.

In Guildford Borough Council's area, permissions to put tables and chairs on the highway under Part 7A of the Highways Act 1980 are dealt with by Surrey County Council Highways.

The new pavement licence regime runs alongside the provisions in Part 7A of the Highways Act 1980, which remain in place.

Any existing permissions issued under Part 7A of the Highways Act 1980 remain valid.

3. Application and Determination of Pavement Licences

3.1 Submission of the Application

An application for a Pavement Licence must be made to the Council, and the following will be required to be submitted with the application:

- a completed Application Form
- the required fee of £100, paid by credit or debit card
- proof of the applicant's identity and right to work
- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified
- a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that the applicant wishes to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- the proposed duration of the licence (for e.g. 3 months, 6 months, or a year);
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied for;
- (if applicable) reference of existing pavement licence currently under consideration by the local authority;
- (if applicable) evidence of consent from neighbouring frontager(s) to use footway space outside their property
- evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £10 million, and
- any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.

3.2 Fees

The fee for applying for a licence under the new process is set locally but is capped at £100. Using the established methodology the Council has determined that the fee for applications will be £100.

Application fees must accompany the application in order for the application to be considered valid and for the consultation period to commence.

The fee is an 'application' fee for the processing of the application. The fee will not be refunded if the application is withdrawn, refused or if a licence is surrendered or revoked before expiration.

3.3 Consultation

Applications are consulted upon for 7 days, starting with the day after the day on which a valid application was made to the Council.

The Council will publish details of the application on its website at www.guildford.gov.uk/pavementcafe

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are no detrimental effects from the application the Council will consult with:

- Guildford Borough Council Economic Development
- Guildford Borough Council Regulatory Services (including Environmental Control and Food and Safety Teams)
- Guildford Borough Council Estate Management
- Guildford Borough Council Parking
- Guildford Borough Council Planning
- Guildford Borough Council Street Scene Team
- Guildford Borough Council Town Centre Management
- Surrey Fire & Rescue Service
- Surrey Police
- The appropriate Local Ward Councillor(s)
- The appropriate Parish or Town Council
- The Guildford Business Improvement District

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

3.4 Site Notice

An applicant for a pavement licence must on the day the application is made, fix a 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. The notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of compliance with the site notice requirement must be supplied to the Council. The Council would also expect the applicant serves a copy of the site notice on immediate neighbours to make them aware of the application.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;
- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- the end date of the consultation (7 days starting the day after the application is submitted to the authority).

A template Site Notice is shown as Appendix 1.

3.5 Site Assessment

The following matters will be taken into account by the Council in considering the suitability of the proposed application:

- public health and safety – for example, ensuring that users conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour, excessive noise and litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, taking account of:
 - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles,
 - whether there are other permanent street furniture or structures in place on the footway that already reduce access,
 - the impact of access and egress to the premises
 - the impact on any neighbouring premises
 - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#), and
 - other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and take any issues around noise, and nuisance into consideration as part of the proposal.

3.6 Determination

Once the application is submitted the Council has 14 days from the day after a valid application is made (excluding public holidays) to consult on and determine the application. This consists of 7 days for public consultation, and then 7 days to consider and determine the application after the consultation period has ended.

If the local authority determines the application before the end of the determination period, the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application,
- impose conditions on any licence granted, or
- refuse the application.

If the local authority does not determine the application within the 14 day period, the application will be deemed to have been granted subject to any published local or national conditions.

3.7 Approval of Applications

Guildford Borough Council supports the aims of the Business and Planning Act and wishes to help promote economic recovery and growth in its area and will therefore seek to grant applications for licences where possible.

However this aim has to be balanced with the need to ensure the issuing of pavement licences does not put public health or safety at risk, does not lead to antisocial behaviour or public nuisance and ensures that the public, particularly those with disabilities such as sight impairment are unhampered when walking along streets.

The Council will consider the criteria contained within these guidelines in determining applications and will treat each case on its merits.

On approving the application, the Council will issue a Pavement Café Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Café Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council generally will only permit Pavement licences between 09:00 and 22:00.

Applications outside these hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

3.8 Licences Deemed to be Granted

The Council aims to determine all applications within the determination period provided by the Act. That means that applications will be granted or refused within the period of 7 days beginning with the first day after the public consultation period.

If the Council does not make a determination by the end of the determination period, section 3 (8) of the Act provides that the licence for which the application was made is deemed to be granted by the Council to the applicant.

3.9 Licence Duration

If the Council determines an application before the end of the determination period (which is 7 days, beginning with the first day after the end of the public consultation period, excluding public holidays) the duration of the licence will be specified, subject to a minimum duration of 3 months.

The expectation from the Government is that local authorities will grant licences for 12 months or more unless there are good reasons for granting a licence for a shorter period, such as plans for future changes in use of road space. As such, the Council will normally grant applications until 30 September 2021.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for a year.

3.10 Refusal of Applications

If the site is deemed unsuitable for a Pavement licence, or if relevant representations are made which cannot be mitigated by imposing conditions, then the application may be refused.

The Council may refuse an application on other grounds including (but not limited to) where the granting of the licence would put at risk public health or safety, lead to antisocial behaviour or public nuisance or unreasonably hamper pedestrian's ability to move freely.

The Council will notify applicants of the reasons for refusal following determination.

There is no statutory appeal process against a decision to refuse an application.

4. Conditions

The Council's standard conditions are set out at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition to the extent that it is inconsistent with it.

The national conditions relating 'no obstruction' and provision of 'no smoking' areas applies to all Licences. The National conditions are shown in Appendix 3.

5. Enforcement

The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police. The Council will normally seek to rectify any issues arising as a consequence of the activities authorised by a pavement licence by engaging in informal discussions with the licence holder in the first instance.

Obtaining a Pavement Licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, and Social distancing controls, and applicants must ensure all such permissions, etc. are in place prior to operating.

If the Council considers that a licence-holder has breached any condition of the licence, the authority may:

- revoke the licence, or
- serve a notice on the licence-holder requiring the taking of such steps to remedy the breach as are specified in the notice within such time as is so specified.

If a licence-holder on whom an enforcement notice is served fails to comply with the notice, the Council may:

- revoke the notice, or
- take the steps itself and recover the costs of doing so from the licence holder.

The Council may revoke a licence in the following circumstances:

1. For breach of condition, (whether or not a remediation notice has been issued) or
2. Where:
 - There are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;
 - the highway is being obstructed (other than by anything permitted by the licence);
 - there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night or litter is not being cleaned up;
 - it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
 - the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

All enforcement activity will be undertaken in line with the principles set out in the Regulator's Code and the Council's Enforcement Policy.

6. Review Procedures

This Policy covers the Temporary Permissions for Pavement Licences under the Business and Planning Act 2020, which are scheduled to expire on 30 September 2022.

The Policy has been drafted in consultation with the consultees listed in section 3.3, the appropriate lead councillors and will be presented for adoption by Licensing Committee on 27 September 2020.

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement licences generally, relevant social distancing measures or as a result of local considerations within the Guildford Borough.

Appendix 1

Site Notice Template for display by an applicant for a Pavement Licence.

[Section x] of the Business and Planning Act 2020.

I/We *(name of applicant)*,

do hereby give notice that on *(date of application)* [I/we] have applied to Guildford Borough Council for a 'Pavement Licence' at:

(postal address of premises)

known as

(name premises known by)

The application is for:

(brief description of application (e.g outdoor seating to the front of the premises for serving of food and drink))

Any person wishing to make representations to this application may do so by writing, preferably by email, to:

Regulatory Services
Guildford Borough Council
Millmead House
Millmead
Guildford
GU2 4BB
regulatoryservices@guildford.gov.uk

by: *(last date for representations being the date 7 days after the date the application is submitted to the local authority (excluding public holidays))*

The application and information submitted with it can be viewed on the Council's website at: www.guildford.gov.uk/pavementcafe

Signed

Dated *(date the notice was placed which must be the same date as the date of application)*

Standard Pavement Licence Conditions

1. Permission to operate a pavement café does not imply an exclusive right to the area of public highway. The licence holder must be aware that Guildford Borough Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc or any other reasonable cause and it is a condition of this licence to provide such access. This may mean that the pavement licence will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
2. The licence holder must hold Public Liability Insurance for the operation of the Pavement Café. This must indemnify Guildford Borough Council and Surrey County Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £10 million in respect of any one incident. Evidence of the insurance must be provided to Guildford Borough Council on request.
3. Tables and chairs must not be placed in position outside of the permitted times stated on the licence. When the licence is not in use, all tables and chairs and other furniture must be stored securely inside a premises away from the highway.
4. Guildford Borough Council and/or Surrey County Council are empowered following the service of the appropriate statutory notice, to remove and store or dispose of furniture from the highway, at the cost of the licensee, if it is left there outside the permitted hours, or should any conditions of the licence be ignored. The Council will not be responsible for its safekeeping.
5. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions.
6. The method of marking the boundary of the licensed area must be agreed between the licence holder and the Licensing Department. Whatever method is agreed a 2 metre clear walkway must be maintained for the use of pedestrians.
7. Emergency routes to the premises and adjacent buildings must not be obstructed by the Pavement Café, which should not, unless otherwise agreed, extend beyond the width of the premises frontage.
8. Tables and chairs should be of an approved type and should be kept in a good state of repair. Furniture should be placed so as not to obstruct driver's sightlines, or road traffic signs. Placement of tables and chairs must allow pedestrians to use the footway parallel to the frontage of the premises. Care should be taken in the use of hanging baskets, awnings, protruding umbrellas etc. Alternative items may not be used without first seeking the written authority of the Council. Patio heaters must not be used.
9. All potential obstructions must be removed from the public highway when the premises are closed to prevent a safety hazard to pedestrians, particularly during the hours of darkness.

10. The licence holder shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio, or television receiving sets in the area of the highway covered by the licence.
11. The licence holder must not allow customers using the area to engage in anti-social or disorderly behaviour.
12. The operation of the area must not interfere with highway drainage arrangements.
13. During the hours of darkness, suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority.
14. All detritus (food and drink remnants, spillages, bottles, cans, wrappers etc) must be regularly removed from the footway surface to reduce hazards to pedestrians. The licence holder must make arrangements to regularly check for and remove litter and rubbish on pedestrian walkways, left by persons using the premises, for a distance of up to 10 metres from the boundary of the premises. The licence holder must ensure that any tables are cleared in an efficient manner during the hours of operation. The licence holder must ensure the licensed area and surrounding highway is washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.
15. The licence holder is not permitted to affix any fixtures, or make excavations of any kind, to the surface of the highway without prior written approval.
16. The Licensee of a premises not licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the licensed area.
17. The Licensee of a premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the premises outside the hours in force for the premises itself.
18. The licence must be displayed on the premises with a plan of the agreed layout of the pavement café.
19. The licence holder must remove any tables, chairs and other furniture immediately at the end of the licence period or on revocation of the licence.
20. The licence holder must complete a risk assessment demonstrating how they will manage social distancing and the conflict between pedestrians using the footway, those using the tables and those queuing to access the premises, and provide a copy of this to the Council upon request.
21. The licence holder must ensure that the area covered by the licence is monitored regularly by staff to ensure that the conditions above are being adhered to.

NOTES

These conditions should be read in conjunction with any mandatory national conditions concerning pavement licences, if the premises is licenced under the Licensing Act 2003, any relevant conditions attached to the premises licence, the latest government

requirements concerning coronavirus and social distancing and any other relevant requirement of the Business and Planning Act 2020.

The licence holder is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.

Guildford Borough Council reserves the right to revoke this licence at any time if any of the above conditions are not complied with.

National Conditions

The Secretary of State publishes this condition in exercise of his powers under [Section 5(6)] of the Business and Planning Act 2020:

1. Condition relating to clear routes of access:

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#).

Guidance on the effect of this condition

- To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to be maintained, taking into account the needs of disabled people and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#), the licence is granted subject to those requirements.
- To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.

2. Condition relating to smoke-free seating

The national smoke-free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers are able to sit outside, in order to protect public health by reducing risks of COVID transmission.

It is important that businesses can cater to their customers' preferences. The Business and Planning Act 2020 imposes a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway. The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area.

Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (signs) regulations 2012 which can be viewed [here](#).
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
- Licence holders should provide a minimum 2M distance between non-smoking and smoking areas, wherever possible.

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

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Licensing Committee Report

Report of Strategic Services Director

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Date: Wednesday 29 September 2021

Licensing Committee work programme: 2021-22

Recommendation to Licensing Committee

The Committee is invited to review and approve its current work programme for the remainder of the 2021-22 municipal year.

Reason for Recommendation:

To ensure that the Licensing Committee has an opportunity to review its work programme.

1. Purpose of Report

- 1.1 The work programme is presented to enable necessary changes to be made and to provide updated information on items for future meetings. Appendix 1 to this report sets out the Committee's work programme to date, including any items currently unscheduled.

2. Financial Implications

- 2.1 There are no specific financial implications arising from this report.

3. Human Resource Implications

- 3.1 There are no specific human resources implications arising from this report.

4. Legal Implications

- 4.1 There are no specific legal implications arising from this report.

5. Background papers

None

6. Appendices

Appendix 1: Licensing Committee - Draft Work Programme: 2021-22

Licensing Committee
Draft Work Programme 2021-22

November 2021		
Item	Details of decision to be taken	Officer
Gambling Policy Approval	The Committee to consider and approve a Gambling Policy.	Mike Smith, Licensing Team Leader 01483 444387
Fit and Proper Person testing for Managers of Licenced Caravan Sites	The Committee to approve any new fees and charges.	Sean Grady Private Sector Housing and Pollution Lead 01483 444392
Purple Flag Update	The Committee to receive an update in relation to Purple Flag.	Mike Smith, Licensing Team Leader 01483 444387
Best Bar None Update	The Committee to receive an update in relation to Best Bar None.	Mike Smith, Licensing Team Leader 01483 444387

January 2022		
Item	Details of decision to be taken	Officer

March 2022		
Item	Details of decision to be taken	Officer

UNSCHEDULED ITEMS		
Item	Details of decision to be taken	Officer

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