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EPSOM & EWELL

TOWN HALL

EPSOM

9 July 2018

SIR OR MADAM

I hereby summon you to attend a meeting of the Council of the Borough of Epsom and Ewell which will be held at the Town Hall, The Parade, Epsom on **TUESDAY, 17 JULY, 2018** at **7.30 pm**. The business to be transacted at the Meeting is set out on the Agenda overleaf.

Prayers will be said by the Mayor's Chaplain prior to the start of the meeting.



Chief Executive

COUNCIL

Tuesday 17 July 2018

7.30 pm

Council Chamber - Epsom Town Hall

For further information, please contact Fiona Cotter, tel: 01372 732124 or email:
fcotter@epsom-ewell.gov.uk

FIRE PRECAUTIONS

No fire drill is planned to take place during the meeting. If an alarm sounds, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate. Do not use the lifts.

On leaving the building, please make your way to the Fire Assembly point on Dullshot Green.

AGENDA

1. DECLARATIONS OF INTEREST

To receive declarations of the existence and nature of any Disclosable Pecuniary Interests from Members in respect of any item to be considered at the meeting.

2. MINUTES (Pages 5 - 14)

To confirm the Minutes of the Annual Meeting of the Council held on 15 May 2018.

3. MAYORAL COMMUNICATIONS/BUSINESS

To receive such communications or deal with such business as the Mayor may decide to lay before the Council.

4. QUESTIONS FROM COUNCILLORS

To answer any written questions from Councillors

Note: The deadline for questions is 5pm on 11 July 2018 (17.00 hours on the third clear working day before the meeting).

5. REVISIONS TO CONSTITUTION (Pages 15 - 66)

Proposed changes to Part 3 and the Protocol for Managing Member/Officer Relations of the Council's Constitution.

6. FILM CLASSIFICATION POLICY (Pages 67 - 74)

The Council is requested to adopt the Film Classification Policy recommended by the Licensing and Planning Policy Committee.

7. STATEMENT OF POLICY GAMBLING ACT (Pages 75 - 96)

The Council is requested to adopt a renewed Statement of Policy (Gambling Act).

8. STATEMENT OF POLICY - LICENSING ACT (Pages 97 - 126)

The Council is requested to adopt a renewed Statement of Policy (Licensing Act).

9. MOTIONS TO COUNCIL (Pages 127 - 128)

In pursuance of the Council's Rules of Procedure, to consider any Motions submitted by the due deadline.

Note: The deadline for Notice of Motions was 5.00pm on 4 July 2018 (17.00 hours on the eighth clear working day before the meeting)

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EPSOM AND EWELL

Minutes of the ANNUAL Meeting of the COUNCIL of the BOROUGH of EPSOM AND EWELL held at the Town Hall, Epsom on 15 May 2018

PRESENT -

The Mayor (Councillor Liz Frost); The Deputy Mayor (Councillor Neil Dallen); Councillors Michael Arthur MBE, Tony Axelrod, Richard Baker, Rekha Bansil, John Beckett, Steve Bridger, Kate Chinn, Alex Clarke, Alex Coley, George Crawford, Lucie Dallen, Hannah Dalton, Robert Foote, Chris Frost, Rob Geleit, Eber Kington, Omer Kokou-Tchri, Jan Mason, Tina Mountain, Barry Nash, Peter O'Donovan, Martin Olney, David Reeve, Humphrey Reynolds, Guy Robbins, Vince Romagnuolo, Clive Smitheram, Jean Steer, Alan Sursham, Mike Teasdale, Peter Webb, David Wood, Clive Woodbridge and Tella Wormington

Absent: Councillors Graham Dudley and Jane Race

The Meeting was preceded by prayers led by the Mayor's Chaplain

1 TO ELECT THE MAYOR

It was **PROPOSED** by Councillor Clive Woodbridge, **SECONDED** by Councillor Alex Clarke and

RESOLVED

That Councillor Neil Dallen be elected Mayor for the Municipal Year 2018/19

2 VOTE OF THANKS TO THE EX-MAYOR

It was **PROPOSED** by Councillor Eber Kington and **SECONDED** by Councillor Tony Axelrod that a vote of thanks be recorded to the Ex-mayor, Councillor Liz Frost. Accordingly, it was

RESOLVED

That the Council place on record its high appreciation of the excellent and devoted service rendered by Councillor Liz Frost during her term of office as Mayor.

3 EX-MAYOR'S BADGE AND EX-CONSORT'S BADGE

The Chief Executive, on behalf of Members of the Council, presented to Councillor Liz Frost and Ex-Mayor's badge and to Councillor Chris Frost an Ex-Consort's Badge and gift in acknowledgement of their service to the Borough. The gifts were acknowledged by Councillor Liz Frost who spoke of her privilege and pleasure to have been Mayor of the Borough, thanking all who had helped her during his term of office.

(The retiring Mayor, Councillor Liz Frost, thereupon vacated the Chair and the newly elected Mayor, Councillor Neil Dallen, took the Chair)

4 DECLARATION OF ACCEPTANCE OF OFFICE

Councillor Neil Dallen made and subscribed the Declaration of Acceptance of Officer and spoke in acknowledgement of his election, announcing that he had selected the three following local organisations to help as his chosen charities:

- Girl Guiding UK (Epsom Division), specifically for projects in the Borough to improve facilities for both Guides and other youth activities, including Duke of Edinburgh expeditions;
- Epsom and Ewell Talking Newspapers based at Swail House, Epsom providing a 'lifeline' service to those blind or partially sighted;

Work Stress Solutions which supported a wide range of disadvantaged people, young and old, by improving their self-esteem, providing training and offering employment opportunities both within and outside their organisation.

5 TO ELECT THE DEPUTY MAYOR

It was **PROPOSED** by Councillor Mike Teasdale, **SECONDED** by Councillor Peter Webb and

RESOLVED

That Councillor John Beckett be elected Deputy Mayor for the Municipal Year 2018/19.

6 APPOINTMENT OF MAYOR'S CHAPLAIN

The Mayor announced that he had appointed the Revd Gill Long as his Chaplain for the period of his occupancy of the office of Mayor.

7 THE CHIEF EXECUTIVE TO REPORT APOLOGIES FOR ABSENCE (IF ANY)

Apologies for absence were received from Councillors Graham Dudley and Jane Race.

8 DECLARATIONS OF INTEREST

No declarations of interest were made by councillors regarding items on the Agenda.

9 MINUTES

The Minutes of the meeting of the Council held on 24 April 2018 were agreed as a true record and signed by the Mayor.

10 MAYORAL COMMUNICATIONS/BUSINESS

The Mayor announced a number of forthcoming events in support of his charities:

- 21 May: Curry Night at The Blue Mint
- 29 May: Race Night at The Playhouse
- 10 July: Mayoress's Ladies Lunch
- 23 July: Golf Day

11 CONSTITUTION OF COMMITTEES AND ADVISORY PANELS; ALLOCATION OF SEATS ON COMMITTEES AND ADVISORY PANEL ; APPOINTMENTS TO COMMITTEES AND ADVISORY PANELS; APPOINTMENTS OF CHAIRMEN AND VICE CHAIRMEN

The Council considered a report which sought approval of the allocation of seats on Committees and Advisory Panels; the appointments to Committees and Advisory Panels and the appointment of Chairman and Vice Chairman for the 2018/19 Municipal Year.

RESOLVED:

- (1) To approve the recommended allocation of seats set out in the report as follows:**

	Total Seats	RA	Con	Lab
Planning	13	11	1	1
Licensing and Planning Policy	10	8	1	1
Strategy and Resources	10	8	1	1
Environment	10	8	1	1
Community and Wellbeing	10	8	1	1

	Total Seats	RA	Con	Lab
Standards	9	7	1	1
Shareholder Sub Committee	5	4	1	0
		54	7	6

Other Committees & Panels				
	Total Seats	RA	Con	Lab
Audit Crime & Disorder and Scrutiny Committee	10	8	1	1
Financial Policy Panel	8	6	1	1
Health Liaison Panel	7	6	1	0
Human Resources Panel	6	5	1	0
Licensing Hearings Panel	13	11	1	1
Nonsuch Park Joint Management Committee	3	2	1	0
Surrey Police and Crime Panel	1	1	0	0

(2) To allocate seats on the Committees and Advisory Panels in accordance with the wishes of the political groups and appoint Chairmen and Vice Chairmen in light of the nominations received as set out in the Annexe to the report (circulated following publication of the Agenda) as follows:

Planning Committee (13) Humphrey Reynolds (**Chairman**); David Reeve (**Vice Chairman**); Michael Arthur, John Beckett, Lucie Dallen, Jan Mason, Tina Mountain, Peter O'Donovan, Martin Olney, Vince Romagnuolo, Clive Smitheram, David Wood and Tella Wormington

Community and Wellbeing Committee (10) Barry Nash (**Chairman**); Tony Axelrod (**Vice Chairman**); Kate Chinn, Hannah Dalton, Lucie Dallen, Liz Frost, Jane Race, Jean Steer, Alan Sursham and Clive Woodbridge

Environment Committee (10) Peter O'Donovan (**Chairman**); Tella Wormington (**Vice Chairman**); Steve Bridger, Alex Coley, Lucie Dallen, Chris Frost, Rob Geleit, Jane Race, Mike Teasdale and Peter Webb

Licensing and Planning Policy Committee (10) Graham Dudley (**Chairman**); David Wood (**Vice Chairman**); Michael Arthur, Steve Bridger, Chris Frost, Rob Geleit, Tina Mountain, Martin Olney, David Reeve and Humphrey Reynolds

Strategy and Resources Committee (10) Eber Kington (**Chairman**); Clive Smitheram (**Vice Chairman**); Tony Axelrod, Richard Baker, Kate Chinn, Hannah Dalton, Liz Frost, Omer Kokou-Tchri, Barry Nash and Clive Woodbridge

Shareholder Sub-Committee (5) Membership to be advised

Audit, Crime & Disorder and Scrutiny Committee (10) David Reeve (**Chairman**); Steve Bridger (**Vice Chairman**); Michael Arthur, Alex Clarke, Alex Coley, George Crawford, Rob Geleit, Humphrey Reynolds, Jean Steer and Mike Teasdale

Standards Committee (9) Mike Teasdale (**Chairman**); Michael Arthur, John Beckett, Alex Clarke, Robert Foote, Liz Frost, Eber Kington, David Reeve and Guy Robbins

Financial Policy Panel (8) Eber Kington (**Chairman**); Richard Baker, John Beckett, Hannah Dalton, Omer Kokou-Tchri, Barry Nash, Vince Romagnuolo and Clive Smitheram

Health Liaison Panel (7) Richard Baker (**Chairman**); Liz Frost, Jane Race, Guy Robbins, Humphrey Reynolds, Jean Steer and Peter Webb

Human Resources Panel (6) Peter Webb (**Chairman**); Rekha Bansil, Alex Clarke, Robert Foote, Guy Robbins and Humphrey Reynolds

Licensing Hearings Panel (13) Tony Axelrod, John Beckett, Steve Bridger, Alex Clarke, Lucie Dallen, Rob Geleit, Peter O'Donovan, David Reeve, Humphrey Reynolds, Clive Smitheram, Jean Steer, Clive Woodbridge and Tella Wormington

Note: Pool of Chairmen to Chair Panel meetings to be confirmed by the Licensing & Planning Policy Committee at its first meeting in the Municipal Year. Until that time, existing Chairmen could be called upon if necessary.

Nonsuch Park Joint Management Committee (3) Alex Clarke, Chris Frost and Mike Teasdale

Surrey Police and Crime Panel (1) David Reeve

12 REPRESENTATION ON EXTERNAL BODIES AND NOMINATIONS TO EXTERNAL BODIES AS A REPRESENTATIVE OF THE SURREY LEADERS' GROUP

The Council received and considered a report that sought appointments as representatives on external bodies and nominations to external bodies as a representative of Surrey Leaders' Group.

The report highlighted that no substitutes were permitted for Borough/District Council co-opted members of Local Committees unless a Local Committee agreed otherwise at its first meeting following the Annual Meeting (and in relation to all Local Committee meetings to be held until May 2018) that substitutes could be appointed.

The report further highlighted that the Borough Council was requested annually to make nominations to a variety of external bodies as Surrey Leaders' Group (SLG) representatives. Nominations, which were made by all constituent authorities, were subsequently determined by SLG at its annual meeting. It did not necessarily follow, therefore, that a nominee of this Council would be appointed to the body concerned.

Appointments were usually for three years. There were five positions to be filled this year. These were: the High Sheriff's Award (one position for three years); SCC Pension Fund Board (two appointments for three years); South East Reserve Forces' & Cadets' Association (one positions for three years); Active Surrey Sports Partner Forum (one position for three years) and Surrey Civilian Military Partnership Board (two appointments for three years).

The deadline for receipt of nominations by the SLG was Friday 25 May 2018 and it was therefore proposed that, should more than one candidate, if any, be put forward, authority be delegated to the Chief Executive, in consultation with the Chairman of the Strategy and Resources Committee, to nominate a councillor to the vacancies advised by the Surrey Leaders' Group.

Should any nominations be forthcoming, the successful nominee would also need to complete the appropriate nomination form and return it to the Democratic Services Manager by Thursday 24 May 2018 at the very latest.

Accordingly, it was

RESOLVED

- (1) That the persons referred to below be appointed as representatives of the Council upon the respective bodies against which their names appear, such persons to hold office until the Annual Meeting of the Council in May 2018 unless otherwise stated:**

(-) indicates Responsible Policy Committee to which the External Body is linked, e.g. E-Environment, CW-Community & Wellbeing, SR -Strategy and Resources

No.	Body on which Represented	(-)	No of Reps	Representative (s) Appointed
1.	Age Concern (Epsom and Ewell) – General Committee	CW	2	Councillor Guy Robbins Councillor Jean Steer
2.	Committee of Management of Local Citizens Advice Bureau	CW	2	Councillor Tony Axelrod Councillor Liz Frost

No.	Body on which Represented	(-)	No of Reps	Representative (s) Appointed
4.	Epsom & Ewell Local Committee NOTE: Returning co-opted Members will have 28 days to confirm that their register of pecuniary interests previously submitted to County Council remains current. Newly appointed members will have 28 days to complete a registration form (to be provided later in May)	S & R	5 + 5 subs	Councillor Michael Arthur Councillor Richard Baker Councillor Kate Chinn Councillor Hannah Dalton Councillor Mike Teasdale Councillor Rekha Bansil Councillor Steve Bridger Councillor Chris Frost Councillor Vince Romagnuolo Councillor Clive Woodbridge
6.	Epsom and Ewell Town Twinning Association – Management Committee	S & R	2	Councillor Liz Frost Councillor Clive Woodbridge
7.	Epsom Common Association	CW	1	Councillor Steve Bridger
8.	Epsom and Walton Downs Conservators	CW	6	(4 year appointment to 2019) Councillor Rekha Bansil Councillor Lucie Dallen Councillor Liz Frost Councillor Robert Foote Councillor Jan Mason Councillor Clive Woodbridge

No.	Body on which Represented	(-)	No of Reps	Representative (s) Appointed
9.	Epsom and Walton Downs Consultative Committee	CW	2	Chairman of Epsom and Walton Downs Conservators Councillor Jean Steer
10.	Epsom and Walton Downs Training Grounds Management Board	CW	3	Chairman of Epsom and Walton Downs Conservators and Councillor Lucie Dallen Councillor Jean Steer
12.	Ewell Parochial Trusts	CW	3	Councillor Michael Arthur Councillor Humphrey Reynolds Councillor Clive Woodbridge
13.	Friends of Epsom and Ewell Parks	CW	1	Chairman of Community & Wellbeing Committee
14.	Local Government Association	S & R	1	Councillor Clive Woodbridge
15.	Relate Mid- Surrey	CW	1	Councillor Rekha Bansil
18.	South East England Councils (SEEC)	S & R	1	Councillor Clive Woodbridge
23.	Voluntary Action Mid-Surrey	CW	1	Councillor Peter Webb

- (2) To note that the appointment of Borough members who are nominated as substitutes on Surrey County Council's Local Committee will be subject to a decision by the Local Committee in June as to whether it wished to have substitute members;

- (3) To delegate to the Chief Executive, in consultation with the Chairman of the Strategy and Resources Committee, the nomination of a councillor to the vacancies advised by the Surrey Leaders' Group should more than one candidate be put forward in relation to a particular vacancy;
- (4) To Note the various Officer/Member Working Groups appointed by Committees or inter-authority partnerships upon which the Council had representation as set out below:

No.	Body on which Represented	(-)	No of Reps	Representative (s)
1.	Capital Member Group	S & R	5	Chairman of Strategy and Resources Committee Councillor John Beckett Councillor Omer KoKou- Tchri Councillor Barry Nash Councillor Clive Smitheram
2.	Investment Property Group	S & R	2	Chairman of Strategy and Resources Committee Vice Chairman of Strategy and Resources Committee
3.	Joint Infrastructure Group (Note: membership fixed for two years until June 2019)	S & R	3	Chairman of Strategy and Resources Committee Councillor Barry Nash Councillor Rekha Bansil

No.	Body on which Represented	(-)	No of Reps	Representative (s)
4.	CIL Panel	S & R	3 + sub	Chairman of Strategy and Resources Committee Chairman of Community & Wellbeing Committee Councillor Hannah Dalton Councillor Tony Axelrod (Sub)
5.	Car Park Working Group	E	5	Councillor Michael Arthur Councillor John Beckett Councillor Neil Dallen Councillor Rob Geleit Councillor Jane Race
6.	Surrey Energy & Sustainability Partnership	E	1	Chairman of Environment Committee
7.	Surrey Waste Partnership	E	1	Chairman of Environment Committee
8.	Surrey Countryside Partnerships Board	C & W	2	Chairman of Community and Wellbeing Committee Councillor Jan Mason

The meeting began at 7.00 pm and ended at 8.34 pm

COUNCILLOR NEIL DALLEN
MAYOR

Revisions to Constitution

Head of Service/Contact:	Amardip Healy, Chief Legal Officer
Annexes/Appendices (attached):	Annex 1: Amended version of Part 3 of Constitution (tracked changes) Annex 2: Draft Protocol for Managing Member/Officer Relations
Other available papers (not attached):	Report to Council dated 29 April 2014

Report summary

Proposed changes to Part 3 and the Protocol for Managing Member/Officer Relations of the Council's Constitution.

Recommendation (s)

That Council:

- (1) Approve the changes to the Part 3 of the Constitution as set out at Annex1**
- (2) Approve the new Protocol for Managing Member/Officer Relations at Annex 2**
- (3) Subject to recommendations (1) and (2) above, authorise the Monitoring Officer to make all the necessary amendments to the Constitution.**

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 Good Corporate Governance underpins delivering the Council's Key Priorities.

2 Background

- 2.1 A comprehensive review of the current Constitution is currently underway to ensure that it complies with all relevant statutory requirements, and its processes and procedures are meet the needs for organisational efficiency and achieve good governance.
- 2.2 The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure business is conducted in an efficient, transparent, and accountable manner. Some of the content of the Constitution is required by law; the remainder is for the Council itself to determine.

- 2.3 The Monitoring Officer has a duty to keep the Constitution under review and has delegated authority to amend the Constitution where there has been a change in law, job title, and structure, rearrangement of job responsibilities or for general administrative convenience. All extensive changes to the Constitution, however, must be approved by Full Council.
- 2.4 This work has started with Part 3 which has been reviewed as a stand alone part.
- 2.5 The Member Officer protocol is found in Part 5 Codes and Protocols, Section C. Work on Part 5 will continue with a reviews of each of the protocols.

3 Proposals

- 3.1 Part 3 of the Constitution deals with the responsibility for functions and were last reviewed in April 2014. It sets out the Council's committee structure, the work and the make-up of its committees, sub committees and advisory panels. It also deals with the scheme of delegation to officers.
- 3.2 The review has resulted in changes in how some of the material is presented. For example the detail of the committee make up and terms of reference are now set out in schedules.
- 3.3 Some of the key changes to Part 3 have consisted of an update of the terms of references across the committee structure. One matter to highlight is the assigning the responsibility for the management of some of the Trusts the Council manages to Strategy & Resources Committee to ensure the Council complies with its duties as Trustee on behalf of the Council.
- 3.4 The Protocol for Managing Member/Officer Relations is designed to set down a general framework for the interaction between the elected and of the officers, in order to seek to ensure that the Members and officers work together effectively and efficiently to conduct the business of the Authority.
- 3.5 The conduct of elected Members is governed by the provisions of the Council's Code of Conduct and the standards regime. The conduct of officers is governed by the provisions of the Officers' Code of Conduct. This Protocol does not replace or affect those Codes; it contains guidance only, relating to the matter of interaction between the elected Members and officers.
- 3.6 It contains interpretation and guidance on some of the issues which commonly arise. It cannot cover every matter which will arise in council life but it reflects an approach and sets standards which will serve as a guide to dealing with other issues. It is intended to guide new members and officers and explain to them what they can expect of each other.

- 3.7 Both councillors and officers are servants of the public and they are indispensable to one another but their responsibilities are distinct. The new Protocol has been drafted to build on current good practices and procedures which were not explicitly set out in the existing Protocol. The proposed changes in approach also better reflects the new senior management team structure and the points and contacts for escalation.

4 Financial and Manpower Implications

- 4.1 There are no financial implications for the purposes of this report.
- 4.2 **Chief Finance Officer's comments** *None for the purposes of this report.*

5 Legal Implications (including implications for matters relating to equality)

- 5.1 Section 37 of the Local Government Act 2000 and the guidance issued under it requires the Council to keep its Constitution up to date and regularly review it.
- 5.2 There are no specific equality implications from the proposed amendments.
- 5.3 **Monitoring Officer's comments:** *It is important to note that the Local Government Act 2000 requires the Council to have and maintain a Constitution. The process of updating the Constitution will ensure it fulfils its stated purpose, as set out in Article 1.*

6 Sustainability Policy and Community Safety Implications; Partnerships

- 6.1 There are no implications of the purposes of this report.

7 Risk Assessment, Conclusion and Recommendations

- 7.1 The Council needs a sound Constitution that is kept up-to date and fit for purpose. By adhering to the rules and guidance set out in the Constitution, Officers and Members alike protect themselves from risk of challenge. Accordingly, the recommendations in the body of the report are commended to the Committee.

Ward(s) Affected: (All Wards);

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Amended version

PART 3

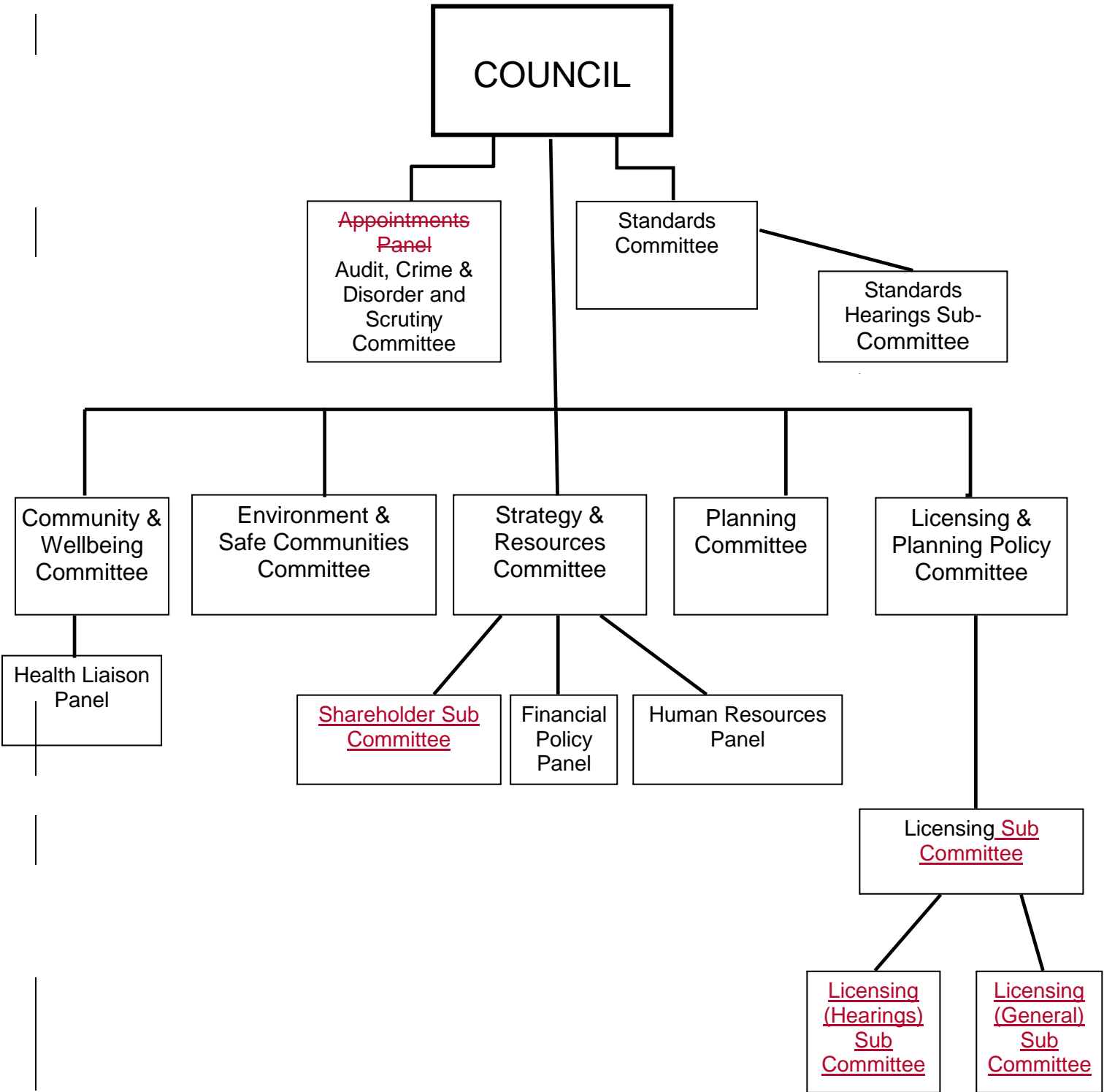
Responsibility for Functions

V 29.06.2018

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1 Diagram of Committee Structure



1. Committee Responsibilities

- 1.1 For the avoidance of doubt, if a particular matter or project falls under the Terms of Reference of more than one Committee, the Council may designate one Committee as the lead committee for a matter. The lead committee will have all the powers and functions as it needs to make decisions on that matter, even if some fall within the remit of another committee. A lead committee has the power to refer: the matter to another committee for decision; for comment or recommendation to Council.
- 1.2 No Committee, sub committee, panel, working group or Officer shall take action requiring expenditure unless suitable budgetary provision has been approved.
- 1.3 Decisions of Committees and sub committees taken in exercise of any delegations functions are the decisions of the Council for all purposes unless rescinded. Most decisions cannot be implemented until five working days after publication of the Decision Notice to allow for a Scrutiny call in.
- 1.4 Each Committee can determine the content of any representations to be made to central government, local authority associations, members of parliament, any national organisation concerning any matter within that Committee's remit

2. Committees, Advisory Panels and Partnerships Membership and Meetings of Committees

Ordinary Committees

- 1.5 The Council has the following Committees to discharge the functions described in Schedule 1 to this Part:

Audit, Crime & Disorder and Scrutiny Committee

Community & Wellbeing Committee

Environment & Safe Communities Committee

Licensing & Planning Policy Committee

Planning Committee

Strategy & Resources Committee

Standards Committee

1.6 Committees will normally make the final decision on any matter before it, if they have delegated authority to do so, or will make a report and recommendation to Council if it they do not have such authority. It is also open to a majority of members present and able to vote at a meeting to agree to refer a matter to Council.

1.7 The Committees, their terms of reference and number of members on each committee, is set out at Schedule 1 to this Part.

Sub-Committees & Working Groups

1.8 In addition to the main committees and sub committees, the Council may set up time-limited sub-committees for specific purposes.

1.9 Committees may also appoint sub committees and working groups, and if appropriate agree their terms of reference, a chairman and, if considered necessary, a vice chairman and substitute members of the sub-committee or working group.

Advisory Panels and Joint Arrangements

1.10 The Council currently has three standing advisory panels which will report as required to the appropriate committee or Council as set out in their Terms of Reference.

1.11 The terms of reference and membership of the Advisory Panels and Joint arrangements are set out in Schedule 2 to this Part.

1.12 Two of the panels have specific partnership roles and will include those partners in their regular meetings. The third is to provide advice on the corporate financial framework and policy-making and will include in its membership the Chairmen of the Environment, Leisure, Social and Strategy & Resources committees, with appropriate political balance. The fourth has been set up to advise the Council on nominations/appointments to external bodies. Recommendations may be made by the advisory panelspanels to committees or directly to the Council if agreed.

1.13 The Council has also entered into a number of joint arrangements. Further details on these arrangements are set out in Schedule 4 of this Part of the Constitution. The advisory panels and numbers of members on them are as follows:

Appointments Panel	8
Financial Policy Panel	8
Health Liaison Panel	7
Human Resources Panel (NOTE: meeting with staff representatives will still be designated as Joint Staff Committee)	6
Nonsuch Park Joint Management Committee	3
Total	32

~~1.1 In addition to the main committees, the Council may set up time-limited sub-committees for specific purposes.~~

Appointment of Members to Committees

~~1.14 The Council will appoint the Members, Chairman and Vice Chairman to serve on the Committees subject to the right of any the political group within the meaning of the Local Government & Housing Act 1989 and any regulations thereto, to make nominations to for those appointments.~~

~~1.2 Conflicts Because of the nature of the business, the Planning Committee has thirteen members. Other committees have fewer members to facilitate the transaction of business. Committees will normally make the final decision on any matter before it, if they have delegated authority to do so, or will make a report and recommendation to Council if it they do not have such authority. It is also open to a majority of members present and able to vote at a meeting to agree to refer a matter to Council.~~

~~The Committees and number of members on each committee is as follows:~~

Community and Wellbeing	10
Environment	10
Licensing and Planning Policy	10
Strategy and Resources	10
Audit, Crime & Disorder and Scrutiny	10
Planning	13
Standards	9
Total	72

~~1.28 Members of the Audit, Crime & Disorder and Scrutiny Committee may not scrutinise any decision in which they were involved as a member of a policy Committee.~~

~~In addition to the main committees, the Council may set up time-limited sub-committees for specific purposes.~~

~~Advisory Bodies and Joint Arrangements~~

~~4.311.15 The Council currently has four standing advisory panels which will report as required to the appropriate committee or Council as set out in their Terms of Reference. Two of the panels have specific partnership roles and will include those partners in their regular meetings. The third is to provide advice on the corporate financial framework and policy making and will include in its membership the Chairmen of the Environment, Leisure, Social and Strategy & Resources committees, with appropriate political balance. The fourth has been set up to advise the Council on nominations/appointments to external bodies. Recommendations may be made by the panels to committees or directly to the Council. The advisory panels and numbers of members on them are as follows:~~

~~The Council has also entered into a number of joint arrangements. Further details on these arrangements are set out in Section 9 of this Part of the Constitution.~~

Arrangements for Meetings

~~4.331.16~~ There are currently four cycles of meetings in each municipal year – June/July; September - December; January/February; March/April. Each committee and advisory panel will normally meet at least once in each cycle of meetings and may arrange such special meetings as are necessary. The Planning Committee will meet at least eleven times per year.

2 ~~Terms of Reference of Policy Committees~~

~~2.1 There are four policy making committees:~~

~~2.1.1 Community & Wellbeing;~~

~~2.1.2 Environment & Safe Communities;~~

~~2.1.3 Licensing & Planning Policy;~~

~~2.1.4 Strategy & Resources~~

~~2.12.2~~ In accordance with the aims and objectives set by the Council in its Corporate Plan ~~and the targets set out in the Community Strategy (produced by the Council and its partners)~~, the principles of Best Value, and within the approved Budget and Policy Framework, Policy Committees will: ~~to:~~

- (a) Deal with all policy and operational matters, including statutory responsibilities;
- (b) Develop ~~its~~ strategies and policies and put them to the Council for approval;
- (c) Draw up revenue budgets and develop proposals for capital projects, and submit these to the Strategy and Resources Committee for recommendation to Council where these form part of the corporate

~~policy framework Draw up Service Delivery Plans and revenue budgets, and develop proposals for capital projects, and submit these to the Strategy and Resources Committee for recommendation to Council where these form part of the corporate policy framework;~~

- (d) Implement approved capital projects;
- (e) Develop and maintain communication and consultation with the public, local businesses, voluntary and other relevant organisations, and form partnerships and influence partners;
- (f) Distribute grant aid or award rate relief in accordance with conditions laid down by Council;
and
- (g) Determine the level of delegation to officers.

2.3 The terms of references for the Committees are set out in Schedule 1 to this Part.

3 Sub Committees

Planning & Licensing and Planning Policy Committee ~~In respect of the following subject areas:-~~

Environment

- ~~(a) — Transportation policy~~
- ~~(b) — Waste management refuse collection and recycling~~
- ~~(c) — Environmental improvement schemes~~
- ~~(d) — The quality of the public realm, including cleansing~~
- ~~(e) — Highway matters that are the responsibility of the Borough Council and drainage~~
- ~~(f) — Public conveniences~~
- ~~(g) — Community safety, including anti-social behaviour~~
- ~~(h) — Parking~~
- ~~(i) — Contaminated land~~
- ~~(k) — Environmental health~~
- ~~(l) — Food safety and health and safety~~
- ~~(m) — Cemeteries and closed churchyards~~

Terms of Reference of the Licensing Hearings Panel

3.1 The Council is responsible for determining a number of different types of licencing applications and other related functions. Two separate sub committees have been established under the Licensing and Planning Policy Committee: here are two different Licensing Sub Committees: issuing premises and personal licences.

3.1.1 The Licensing (Hearings) Sub-Committee will determine matters specific to the Licensing Act 2003;

2.1.43.1.2 The Licensing (General) Sub Committee will determine all other licensing matters.

Licensing Hearings Sub-Committee

(Note: Political balance requirements do not apply)

3.2 Licensing Sub Committees Hearings Panels will be formed of any three members from a of a pool of members appointed by Council, the Licensing and Planning Policy Committee, one of whom shall be the Chairman. Those members appointed to the Licensing (Hearings) Sub Committee must be drawn from those who also sit on Licensing & Planning Policy Committee. The three members appointed for any hearing shall be selected by Democratic Services officers in consultation with the Chairman of the Licensing and Planning Policy Committee and the sub committee will appoint a Chairman for that Sub Committee meeting-. A Chair of any Licensing Sub Committee must be trained in licensing matters to be chair any such meeting.

Strategy & Resources Committee

3.3 The Shareholder Sub-Committee to act in accordance with the terms of reference so far as they relate to any company established as a wholly owned company of the Council

-The Strategy & Resources Committee shall appoint the Chairman of the

3.4 Shareholder Sub-Committee at its first meeting in the municipal year, who shall hold office until the next such meeting. If the Chairman resigns by giving written notice of resignation to the Chief Executive, the sub-committee shall, as the first item of business at its next meeting, elect a successor, to hold office until a replacement can be appointed by the Strategy & Resources Committee. The Chairman, if present, shall preside. If the Chairman is absent Sub-Committee shall elect one of the members present as Chairman of the meeting.

3.5 -The Sub-Committee will comply with the Political Balance Rules in Section 15 of the Local Government and Housing Act 1989.

3.6 The terms of references for the Sub Committees are set out in Schedule 2 to this Part.

~~Panels will be required to determine applications:-~~

- ~~(a) For a personal licence where an objection has been made;~~
- ~~(b) For a personal licence with unspent convictions;~~
- ~~(c) For premises licence where a representation has been made;~~
- ~~(d) For a club premises certificate where a representation has been made;~~
- ~~(e) For a provisional statement where a representation has been made;~~
- ~~(f) To vary a premises licence/club premises certificate where a representation has been made;~~
- ~~(g) To vary designated premises supervisor if there is a police objection;~~
- ~~(h) For transfer of premises licence if there is a police objection;~~
- ~~(i) For interim authorities if there is a police objection;~~
- ~~(j) To review a premises licence/club premises certificate~~

~~and to determine;~~

- ~~(k) Opposed and/or contentious applications for the granting, renewal, transfer or revocation of gaming permits;~~
- ~~(l) Opposed and/or contentious applications for the granting, renewal, transfer or revocation of sex establishment licences;~~
- ~~(m) Contentious applications for the grant or renewal of Private Hire and Hackney Carriage Driver, Vehicle and Operator Licences and the refusal, suspension or revocation of these licences where serious offences or breaches of licence conditions have been committed.~~

~~Terms of Reference of the Planning Committee~~

~~In accordance with the aims and objectives set by Council and the Corporate Plan and the targets set out in the Community Strategy (produced by the Council and its partners), the principles of Best Value, and within the approved Budget and Policy Framework, to:-~~

- ~~(a) deal with regulatory matters required by, and flowing from, Town and Country Planning legislation;~~
- ~~(b) develop and maintain communication and consultation with the public, local businesses and relevant organisations;~~

~~(c) — determine the level of delegation to officers.~~

~~Terms of Reference of the Audit, Crime & Disorder and Scrutiny Committee~~

~~**Audit, Crime & Disorder and Scrutiny Committee**~~

~~(a) — Terms of Reference of the Standards Committee~~

26.4 Terms of Reference of Advisory Panels

4.1 In accordance with the aims and objectives set by the Council in its Corporate Plan ~~and the targets set out in the Community Strategy (produced by the Council and its partners)~~, the principles of Best Value, and within the approved Budget and Policy Framework, the following Panels have been established to advise the Council or its Committees or Sub-Committees on any matter relating to the following subject area: -

Strategy & Resources Committee:

4.1.1 Financial Policy

4.1.2 Human Resources

Community & Wellbeing Committee:

4.1.3 Health Liaison

26.14.2 The terms of references for the Advisory Panels are set out in Schedule 3 to this Part.

5. Joint Arrangements

Nonsuch Park Joint Management Committee

26.24.3 Nonsuch Park is managed and maintained by a Joint Management Committee, comprising an equal number of councillors from Epsom and Ewell and Sutton Borough Councils. Chairmanship rotates between the two councils annually. The two councils fund, on an equal basis, the running of the Park, after taking income into account.

Coast to Capital Joint Committee

26.34.4 The purpose of the Joint Committee is to approve the Strategic Economic Plan and proposed Growth Deal for the Coast to Capital Local Enterprise Partnership (LEP) area.

26.44.5 The Coast to Capital area encompasses all of the County of West Sussex, Brighton & Hove, Lewes, Croydon and the four eastern Surrey districts (being this Council, Mole Valley, Reigate and Banstead and Tandridge). There are two county councils, two unitary authorities, 12 district and borough councils and the South Downs National Park Authority within the area and partnership. It is one of the larger LEPs outside London, with just under 2 million residents and over 150,000 businesses and organisations.

4.6 The Joint Committee includes representatives from all 16 authorities and the South Downs National Park Authority and Epsom and Ewell Borough Council has one member seat on the Committee. The LEP and other business interests and organisations are not eligible to serve on this Joint Committee, which has been established under the Local Government Act 1972.

East Surrey Community Safety Partnership

26.54.7 The Council is required under the Crime & Disorder Act 1998 to have a community safety partnership and ~~it was agreed. The Council has agreed to discharged its duty by joining the East Surrey Community Safety Partnership made up of Mole Valley, Reigate & Banstead, and Tandridge Councils. The strategic vision of the Partnership is "Working together to keep East Surrey safe".~~

Surrey First

~~A joint committee established for the oversight of delivery of Surrey Public Authority Services comprising the 12 local authorities in Surrey and Surrey Police.~~

Surrey Police and Crime Panel

4.8 A joint committee comprising the 12 local authorities in Surrey and two independent members to carry out the functions set out in the Police Reform and Social Responsibility Act 2011.

26.74.9 The terms of references for the Joint Arrangements are set out in Schedule 4 to this Part.

~~27 Core Job Description: The Role of the Borough Councillor in Epsom and Ewell~~

~~28.0 Councillors are volunteers and bring a wide variety of skills and experience to the job of being a councillor. The multi-member ward structure of the Council provides the opportunity for individual councillors to specialise and use their particular skills and experience, working as part of a team for the benefit of the local community they represent, as well as the wider interest of the Borough as a whole.~~

~~29.0 However, there is a core role which the community and the Council as a whole expect of all Councillors. This job description sets out that role under the six headings below.~~

~~Representing the local Ward Community~~

- ~~(a) Seeking, and listening to, the views of individuals, voluntary groups and businesses within the ward and representing local ward community views.~~
- ~~(b) Balancing conflicting views and expectations to present a considered view to the Council or other agencies which have an impact on that community.~~
- ~~(c) Informing the local community about the work of the Council and helping it to take an informed view of the options that may be before the Council.~~

~~Representing Individuals and Groups~~

~~Whenever appropriate:-~~

- ~~(a) Helping individuals, groups and businesses, to secure the appropriate services of the Council.~~
- ~~(b) Helping individuals and groups to articulate their needs and have their case or their complaint heard, and when appropriate, presenting their case for them.~~

~~Representing the Whole Community~~

- ~~(a) To take an overview of the needs and views of the whole community—residents, voluntary groups and businesses together.~~
- ~~(b) To balance long and short term needs and to promote the long term economic, social and environmental well being of the Epsom and Ewell community as a whole.~~

Representing the Council

- ~~(a) — Acting as an ambassador of the Council in the wider community to present its ambition, its policies and its views.~~
- ~~(b) — Where appointed to a particular position as the Council's representative on other public or voluntary bodies, to represent and secure the Council's policies through influence and formal partnership working in those bodies.~~
- ~~(c) — Building and maintaining relationships with the Council's partners.~~

A Local Politician

- ~~(a) — To promote and represent the values and manifesto on the basis of which he/she has been elected in the decision making arrangements of the Council.~~
- ~~(b) — To support any political group or party to which he/she may belong in order to secure and maximise its support in local and other appropriate democratic elections.~~

Managing the Council and its Services (The Committee Role)

- ~~(a) — As a member of the full Council, to set the Corporate Plan and to monitor the performance of its Committees.~~
- ~~(b) — As a member of a Council committee, sub-committee or panel, to manage the provision of the Council's services to the Community, in accordance with the Council's aims and objectives set out in its Corporate Plan.~~
- ~~(c) — To review the Council's performance in the provision of its policies and services and identify opportunities to provide better value to the community.~~

52-5 Scheme of Delegation to Officers

Introduction

52.15.1 This scheme of delegation authorises the Chief Executive and the Chief Operating Officer~~Director of Finance and Resources~~ to exercise the functions of the Council as set out in this document. It repeals and replaces all previous schemes of delegation.

52.25.2 This scheme is without prejudice to the exercise of the Council's functions by the Council and the Council's committees, sub-committees and panels.

52.35.3 The statutory officers' responsibilities ~~For the purposes of this scheme the areas of responsibility of the Chief Executive and Director of Finance and Resources~~ are set out in Schedule 54 below, ~~and~~ "Head of Service" means the Heads of Service reporting either to the Chief Executive or Chief Operating Officer. All powers with the scheme of delegation are exercised within approved budgets. ~~Director of Finance and Resources.~~

General Delegation to Officers

52.45.4 The Chief Executive and the Chief Operating Officer~~Director of Finance and Resources (the Director)~~ are empowered to make decisions on behalf of the Council in accordance with the following general principles:-

- (a) if a function, power or responsibility has not been specifically reserved to the Council or a committee ~~;~~ or the Council acquires a new function where a decision is required before delegations have been agreed, the Chief Executive or the Chief Operating Officer ~~Director~~ within whose remit the matter falls is authorised to act;
- (b) the Council and its Committees will make decisions on matters of significant policy. The Chief Executive, and the Chief Operating Officer ~~Director~~ have express authority to take all necessary actions to implement Council and committee decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate;
- (c) the Chief Executive and the Chief Operating Officer~~Director~~ are empowered to take all operational decisions, within agreed policies, in relation to the services for which they are responsible;
- (d) the Chief Executive and the Chief Operating Officer~~Director~~ are empowered to take all necessary decisions in cases of emergency or urgency;
- (e) in relation to all delegated authority conferred on the Chief Executive and Chief Operating Officer ~~Director~~ by this scheme, the Chief Executive may allocate or re-allocate responsibility for exercising

particular powers to any officer of the Council in the interests of effective corporate management as he or she thinks fit;

- (f) where there is doubt over the responsibility for the exercise of a delegated power, the Chief Executive, or their nominee, is authorised to act;
- (g) anything delegated to the ~~Chief Legal Officer~~ ~~Director or the Head of Legal and Democratic Services~~ is also delegated to the Chief Executive;
- (h) these delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources and the efficient delivery of services.

~~52.55.5~~ For the purposes of this scheme, emergency and urgency have the ordinary dictionary meaning of the words and may imply considerations of health and safety, legal and financial risk shall mean any situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or well-being of an individual or that the interests of the Council may be compromised. In the absence of the Chief Executive, the Chief Operating officer will exercise emergency or urgency powers in the same way.

~~52.65.6~~ In deciding whether or not to exercise ~~such~~ delegated powers, the Chief Executive and the ~~Chief Operating Officer~~ ~~Director~~ should consider whether to consult the appropriate Group Leader, Group Chairman or Committee Chairman and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate member body where they consider it expedient to do so.

~~52.75.7~~ The Chief Executive and the ~~Chief Operating Officer~~ ~~Director~~ may authorise officers in their service areas to exercise, on their behalf, powers delegated under this scheme, and there will be a presumption that all operational and budgetary responsibility for services shall be exercised by the Head of Service for the appropriate services, unless the Chief Executive directs otherwise.

~~52.85.8~~ All delegations conferred under this scheme must be formally recorded in writing by the Chief Executive, and the ~~Chief Operating Officer~~ ~~Director~~ as the case may be (including for the avoidance of doubt any delegation under paragraph 10.4 (e) and 10.7 above). Any decision taken under such authority shall remain their responsibility, and must be taken in their name. The Head of Place Development and the Planning Development Manager shall exercise in their own names any powers delegated to them in connection with the determination of planning applications or any other planning function and such decisions shall remain their responsibility.

5.9 The Chief Executive will make such arrangements as she considers appropriate to maintain a central record of all delegations under this scheme. The record will be available for public inspection. Subject to any specific restriction in writing:

5.9.1 a reference to any other officer will include a person who is deputing (whether in full or part time or on an absence basis) for that post. Such deputising arrangements should be made in accordance with any scheme of delegation and should be authorised in writing;

52.8.15.9.2 a function or power which may be discharged to any officer under a scheme of delegation may also be discharged by a person holding a post which is a successor post to that of the original post following any reorganisation, restructure, or similar process.

52.95.10 In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with all relevant legislation, the Council's Constitution, including its Contract and Financial Procedures and Regulations, and overall Council policy, to use the most efficient and effective means available, including the deployment of staffing and other resources within their control and the procurement of other resources necessary, whether within or outside the Council.

52.105.11 Officers shall act so as to achieve for their service the policies and objectives including the requirements of any service delivery plans for ~~of~~ their service area always having regard to the overall corporate interests of the Council.

52.115.12 Where an officer referred to in paragraph ~~540.7~~ above is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, another officer should be nominated by the Chief Executive. This nomination should be formally recorded in writing.

52.125.13 Notwithstanding anything contained in this scheme of delegation, officers shall not have the power to make decisions upon any matter that has been reserved to a member body except in cases of emergency.

52.135.14 Without prejudice to the generality of the foregoing the Chief Executive and the Chief Operating Officer~~Director~~ shall have the power:-

- (a) to take all lawful action consistent with overall Council policy to deliver agreed strategy, plans and policy within their area of responsibility and within approved budgets. This shall include, but not exhaustively:-
 - (i) invitation and acceptance of tenders in accordance with Contract Standing Orders;
 - (ii) submission of bids for funding;
 - (iii) write-off of irrecoverable debts;
 - iv) virement (within the budget framework);
 - (v) disposal and acquisition of assets;

- (vi) service and placing of any necessary statutory or other notices (other than those expressly reserved to the Council or a Committee);
 - (vii) in consultation and with the consent of the Chief Legal Officer~~Head of Legal and Democratic Services~~ authorising the institution, defence or appearance in criminal or civil proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the Council.
- (b) to put in place management arrangements, which define the area of responsibility of all officers under their area of responsibility;
 - (c) in the case of any overspend to notify the Chief Finance Officer~~Director of Finance~~ in the role of Section 151 Officer in accordance with the Financial Procedure Rules and Regulations;
 - (d) to determine staffing arrangements within approved budgets, subject to agreement on grading with the Head of Human Resources & Organisational Development and conformance with Council policies;
 - (e) to take all action to recruit, appoint, develop, manage and reward employees within approved Council policies and procedures (including operation of policies for voluntary severance, early retirement, redundancy and redeployment) and relevant conditions of service.

[For the avoidance of doubt the appointment of the Chief Executive and Chief Operating Officer~~Director~~ shall be made by a duly appointed member body in accordance with the Officer Employment Rules. The relevant Committee Chairman will be consulted upon the appointment of a Head of Service but shall take no other part in the process.]

Taking Decisions

52.145.15 In taking any decision, the officer concerned must be satisfied that the following issues have been properly considered and completed where appropriate. All of these issues should be considered at the earliest possible stage:-

- (a) the views of the relevant Committee Chairman following the application of the consultation criteria set out in paragraph (c) below;
- (b) the implication of any Council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision in other areas. In such cases, consultation with officers, relevant Committee Chairman/Chairmen and local members, where the issue relates to a specific area, should take place;
- (c) consultation in accordance with the Council's Consultation Strategy and the views emanating from that process;

- (d) the range of available options;
- (e) the staffing, financial and legal implications;
- (f) the assessment of any associated risks in accordance with the Council's Risk Management Strategy;
- (g) the involvement of appropriate statutory officers;
- (h) the relevance of any regional or national guidance from other bodies;
- (i) the Council's Constitution, its Contract and Financial Procedures and Regulations, all relevant guidance, legislation and Codes of Practice;
- (j) the need to secure Best Value.

52.155.16 In order to assist with the above, arrangements should be made by relevant officers to deal with times of absence e.g. holidays. This could, for example, be through a named alternative.

Scrutiny

- (a) A report should be presented annually to the Audit, Crime & Disorder and Scrutiny Committee setting out significant decisions taken by Officers under delegated powers in the previous year;
- (b) any member may request that (with the exception of decisions made by the Planning Committee) decisions taken by officers under delegated powers are scrutinised by the Audit, Crime & Disorder and Scrutiny Committee;
- (c) any such scrutiny will not make any action taken as a result of the decision invalid. However, the scrutiny body will be able to recommend improvements to the process or a different course of action in future.

Legal and Procedural

52.165.17 The ~~Chief Legal Officer Head of Legal and Democratic Services~~ is authorised:-

- (a) to take any action to implement any decision taken by or on behalf of the -Council, including the signature and service of statutory and -other notices and any document;
- (b) to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the ~~Chief Legal Officer Head of Legal and Democratic Services~~ considers that such action is necessary to protect the Council's interests;
- (c) to instruct counsel, solicitors and other experts for legal proceedings, public inquiries, and other matters involving the Council;

- (d) to enter objections to any proposal affecting the Borough, the Council or the inhabitants of the Borough.

52.175.18 For the avoidance of doubt anything which is not covered by this scheme, including the appointment of a proper officer for the purpose of any statutory function, will be determined by the Chief Executive.

General Indemnity

5.19 The Council has given a general indemnity to any officer acting in the purported discharge of any authority delegated to him for any action, costs, claim or liability incurred by him or her in the form in Schedule 6-2.

Proper Officer Functions

5.20 A list of Proper Officer functions will be maintained by the Chief Legal Officer.

Maintenance, Review and change to schemes of delegations

5.21 The Chief Executive and the Chief Operating Officer will establish and maintain a scheme of delegation for her/his directorate or budget area which specifies the function; names the post which may carry out the delegated decision and the limits, if any, on the delegation. The limits on the delegation will include the obligation to consult, record and/or refer back to the Chief Executive or Chief Operating Officer in certain circumstances.

5.22 The Chief Executive and the Chief Legal Officer are authorised to approve any changes to any scheme of delegation.

Planning Scheme of Delegation

Introduction

The Terms of Reference of the Planning Committee include responsibility to determine the level of delegation to officers. It is important that there is clarity as to which matters officers can determine and which the Planning Committee must determine.

Scheme of Delegation

1.1 The Head of Place Development, Planning Development Manager and Planning Policy Manager may determine all matters arising from all legislation relating to the use and development of land, except for those matters set out in paragraph 2, which shall be determined by the Planning Committee.

1.2 The matters which shall be determined by the Planning Committee are:

- a) Applications for planning permission for major development¹(except where the application is made under section 73 of the Town & Country Planning Act 1990 – a minor material amendment/development without compliance with original conditions);
- b) Applications for planning permission for development which require to be advertised as a departure from development plan, as a whole, but which are recommended for approval;
- c) Applications for planning permission or listed building consent that are submitted by or on behalf of any Member the Chief Executive, Chief Operating Officer and Heads of Service, including the Head of Place Development, Planning Development Manager and Planning Policy Manager
- d) Decisions to confirm a Tree Preservation Order where there has been an objection to the making of the order.
- e) Applications or other matters called-in for determination by the Planning Committee by a Member in accordance with Paragraph 3, where the call-in request has not been withdrawn.

1.3 A Planning Committee Member or a Member representing the Ward in which development is proposed, may call in a matter for determination by the Planning Committee in accordance with the following procedure:

- a) A Councillor wishing to call an application in must do so by notice in writing (email is acceptable) to the Case Officer, copied to the Head of Place Development and Planning Development Manager within 28 days of the date public notice is given of the application;
- b) A request shall not be valid if submitted before an application has been submitted, in anticipation of an application, for example, following pre-application consultation on a proposal.
- c) A Councillor shall not be able to call-in any of the following matters for determination by the Planning Committee:

¹ “Major Development” is defined under The Town and Country Planning (Development Management Procedure) (England) Order 2015 as:

- (a) the winning and working of minerals or the use of land for mineral-working deposits;
- (b) waste development;
- (c) the provision of dwellinghouses where—
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more;

- i. Applications for Certificates of Lawfulness for Proposed Use or Development.
 - ii. Applications for Certificates of Lawfulness for Existing Use or Development
 - iii. Any matter where development is or may be permitted by development order, but where the prior approval of the Council is required.
 - iv. Consultations on applications from neighbouring authorities.
 - v. Approvals required under conditions attached to permissions or consents (for the avoidance of doubt, this shall not prevent the Planning Committee, when determining an application to require that an approval under condition be referred for determination by the committee).
 - vi. Applications or notifications of work to trees protected by Tree Preservation Order or Conservation Area status.
 - vii. Screening and scoping opinions under provisions relating to Environmental Impact Assessment.
 - viii. Matters relating to prior notification of development authorised by an Act of Parliament (including 56 day telecommunications development).
 - ix. Consultation by Electricity Undertakers.
 - x. Matters related to Hazardous Substance Consent.
 - xi. Applications in relation to non-material change to a planning permission.
- d) the request to “call-in” an application must be on relevant planning grounds and merit intervention to have the application placed before the Planning Committee. Where the “call in” is not made on material planning grounds the “call-in” will be invalid. The decision of whether the grounds are justifiable will be at the discretion of the Head of Place Development in consultation with the Chairman of Planning and the members concerned.

Section 106 Agreements

1.4 The Head of Place Development is authorised to:

- i. Agree the terms of, and variations to, Section 106 agreements under the Town and Country Planning Act 1990 in connection with the grant of planning permission granted under Appeal.
- ii. Refuse a Section 106 agreement if the same has not been completed within 6 months of the Planning Committee having granted planning permission without the need to return the matter to the Planning Committee

1.5 For the avoidance of doubt, any of the officers referred to in Paragraph 1 may refer, at their discretion, any matter for consideration and/or determination by the Planning Committee where they think it is necessary or appropriate to do so, and shall inform the Chairman of the Planning Committee of their intention to do so.

SCHEDULE 1 COMMITTEES

Committee	<u>Terms of Reference</u>	<u>Number of Councillors Membership</u>
<p>Audit, Crime & Disorder Scrutiny Committee</p>	<p><u>1</u> –Exercise the Council’s scrutiny and review functions in accordance with Article 6 of Part of this Constitution and the Scrutiny Procedure Rules set out in Part 4; including overall responsibility for audit and governance frameworks (including functions of an audit committee);</p> <p><u>2</u> Oversee compliance with the Council’s duties concerning Best Value;</p> <p><u>3</u> Monitor implementation of recommendations from the external and internal auditors;</p> <p><u>4</u> Monitor progress on the Council’s Corporate Plan;</p> <p><u>5</u> Review and approve the Annual Governance Statement.</p> <p><u>6</u> Exercise the Council’s scrutiny and review functions in relation to local crime and disorder matters within the remit of the Crime and Disorder Reduction Partnership in accordance with Article 6 of Part 2 of this Constitution</p>	<p><u>10</u></p>
<p>Community & Wellbeing Committee</p>	<p><u>1</u> The <u>development and</u> promotion of sport, leisure, cultural and recreational activities</p> <p><u>2</u> Management of parks, open spaces and countryside a(including Nonsuch Park JMC and Epsom and Walton Downs) and Allotments</p>	<p><u>10</u></p>

	<p><u>3</u> The management of the Playhouse, Bourne Hall, Ewell Court House, and the Ebbisham Centre</p> <p>(e) the Rainbow Centre, Bourne Hall Museum</p> <p><u>4</u> Services for young people.</p> <p><u>5</u> Affordable housing</p> <p><u>6</u> Housing strategy and investment programme</p> <p><u>7</u> Housing standards, homelessness, homelessness prevention and advice, housing needs assessment</p> <p><u>8</u> Housing benefit - welfare aspects</p> <p><u>9</u> Private sector housing and administration of housing grants</p> <p><u>10</u> Personal social services for older the elderly and disabled <u>persons including community meals services, community alarm, day centres, community transport,</u></p> <p><u>11</u> Grounds maintenance</p> <p><u>12</u> Grant aid</p> <p><u>13</u> <u>Consultations on health service provision</u></p> <p><u>14</u> <u>Armed forces covenant</u></p> <p><u>15</u> Local NHS Services</p> <p><u>16</u> Work within the Voluntary Sector</p> <p><u>17</u> <u>Traveller & Gypsy site management</u></p> <p><u>18</u> <u>Amenity management and maintenance public spaces including parks</u></p> <p><u>19</u> <u>Tourism</u></p> <p><u>20</u> <u>Support & development of sports, the arts, and other leisure activities</u></p> <p><u>21</u> <u>No decisions which result in amendments to the agreed budget or additional spend may be made by the Committee unless and until it has been approved by Strategy & Resources Committee</u></p>	
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<p>Environment & Community Safer Communities Committee</p>	<p>1 Transportation policy</p> <p>2 Waste management refuse collection and recycling</p> <p>3 Environmental improvement schemes</p> <p>4 The quality of the public realm, including cleansing</p> <p>5 Highway matters that are the responsibility of the Borough Council and drainage</p> <p>6 Public conveniences</p> <p>6 Community safety & crime and disorder prevention, including anti-social behaviour</p> <p>7 Parking</p> <p>8 Contaminated land</p> <p>11 Environmental protection, pollution control health</p> <p>12 Food safety and Health and safety</p> <p>13 Burials, cemeteries and closed churchyards</p> <p>14 Street trading</p> <p>15 Street naming and numbering</p> <p>16 The provision and management of parking and the fixing of charges and parking enforcement</p> <p>17 No decisions which result in amendments to the agreed budget or additional spend may be made by the Committee unless and until the it has been approved by Strategy & Resources Committee.</p>	<p><u>10</u></p>
<p>Licensing & Planning Policy Committee</p>	<p>(a) Matters relating to the local economy</p> <p><u>1</u> To consider and approve Local Plan documents for public consultation (including Development Plan Documents up to Preferred Options stage and Supplementary Planning Documents up to Consultation stage);</p>	<p><u>10</u></p>

	<p><u>2</u> To consider and recommend for approval to Council, submission versions of Development Plan Documents;</p> <p>3 To consider and approve final versions of Supplementary Planning Documents, and any subsequent changes to the Development Plan not constituting a new or substantially revised Development Plan Document;</p> <p>4 To consider and approve other informal policy guidance for adoption;</p> <p><u>5</u> To consider and approve the Council's Local Development Scheme and Annual Monitoring Report;</p> <p>6 To consider and approve (i) draft Conservation Area Appraisals and Management Plans for public consultation and (ii) the final version of Conservation Area Appraisals and Management Plans;</p> <p>To consider and approve matters related to the Community Infrastructure Levy (CIL) leading up to the examination in public and the adoption of the CIL charging schedule;</p> <p><u>8</u> To consider and comment upon other authorities' or stakeholders' planning policy documents;</p> <p><u>9</u> To respond to government consultations on draft planning legislation and proposed planning policies;</p> <p>10 Land use policy statements and briefs for specific areas</p> <p><u>11</u> To consider any other planning policy matters not included in any of the above as deemed necessary by the Head of Planning and Building Control</p> <p><u>12</u> <u>Hackney Carriage and Private Hires policies and procedures</u></p>	
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	<p><u>13</u> To consider and determine (or delegate to a Licensing <u>Sub-Committee</u>)</p> <ul style="list-style-type: none"> • opposed and/or contentious applications made under the Licensing Act 2003 and/or applications for review under the said Act; • Opposed and/or contentious applications made under the Gambling Act 2005 and/or applications for review under the said Act; • Opposed and/or contentious applications for the granting, renewal, transfer or revocation of sex establishment licences; private hire and public hire licences; <p><u>14</u> To approve a licensing policy statement and gambling policy statement for recommendation to the Council and to keep this under review in accordance with the Licensing Act 2003 and the Gambling Act 2005 respectively;</p> <p><u>15.</u> To <u>ensure members of the Committee sitting on the Licensing (Hearings) Sub Committee agree a pool of members to</u> receive the necessary training to constitute Licensing Hearings Panels to undertake the administration of applications made under the Licensing Act 2003, the Gambling Act 2005, the Local Government (Miscellaneous Provisions) Act 1976 and the Town and Police Closures Act 1847.</p> <p><u>16.</u> (p) — To appoint four Members from those trained in licensing matters to undertake the role of Chairman of the Licensing Hearings Panels.</p> <p>(q) — Safeguarding the historic environment.</p>	
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	<p><u>17</u> <u>No decisions which result in amendments to the agreed budget or additional spend may be made by the Committee unless and until the it has been approved by Strategy & Resources Committee</u></p>	
<p>Planning Committee</p>	<p>1 <u>Deal with regulatory matters required by, and flowing from, Town and Country Planning legislation including matters relating to high hedges;</u></p> <p><u>2</u> <u>Develop and maintain communication and consultation with the public, local businesses and relevant organisations;</u></p> <p><u>3.</u> <u>Determine the level of delegation to officers</u></p>	<p><u>13</u></p>
<p>Strategy & Resources Committee</p>	<p><u>1</u> <u>The Budget and Policy Framework, for submission to the Council</u></p> <p><u>2</u> <u>Implementation and monitoring of treasury management policies</u></p> <p><u>3</u> <u>Constitution</u></p> <p><u>4</u> <u>Human Resource Management (HR policies and practices, salaries, conditions of service)</u></p> <p><u>5</u> <u>Asset management including the purchase, management and disposal of real property owned or held by the Council (note other committees may have management responsibilities restricted to service provision)</u></p>	<p><u>10</u></p>

	<p><u>6</u> <u>Exercise of the Council's powers as Trustee of any land or money held by the Council in trust</u></p> <p><u>7</u> <u>Electoral matters including polling stations, ward boundaries</u></p> <p><u>8</u> <u>Community right to Challenge and Community Right to bid for Assets of Community Value</u></p> <p><u>9</u> <u>To exercise the Council's powers and rights as a shareholder in respect of any company in which the Council has a shareholding</u></p> <p><u>10</u> <u>Investment strategy</u></p> <p><u>11</u> The Corporate Governance Framework (jointly with the Chairmen of Standards and Audit, Crime & Disorder and Scrutiny Committees)</p> <p><u>12</u> Data quality and corporate risk management</p> <p><u>13</u> The local economy <u>and regeneration</u></p> <p><u>14</u> Emergency planning and business continuity</p> <p>(h) The Council's Human resources, property assets and finances</p> <p><u>15</u> <u>Council tax &</u> Housing benefits administration</p> <p><u>16</u> Civic and ceremonial matters</p> <p><u>17</u> Dealing (at first instance) with any matters of general policy which do not fall within the terms of reference of any other committee and are not reserved to the Full Council.</p>	
<p>Standards Committee</p>	<p>1 To assist and advise the Council in meeting its duty to promote and maintain high standards of conduct by members.</p> <p>2 To monitor and review the effectiveness of the Code of Conduct for members.</p> <p>3 To monitor, review and propose amendments to the <u>Council's Rules of Procedure</u> Council's Standing Orders.</p>	<p><u>9</u></p>
<p>EEBC Constitution PART 3 – Responsibility for Functions Approved by Council: 29 April 2014</p>		<p>30 of 40</p>

	<p>To establish as necessary Hearing Sub-committees to hear and decide what action should be taken in respect of allegations against members.⁴ To ensure that the general public are informed of the effectiveness of the Council's promotion of high standards of conduct by members and effectiveness of arrangements to deal with breaches of the Code of Conduct for members.</p> <p>4 To grant dispensations relieving a member from either or both of the restrictions in section 31(4) of the Localism Act 2011.</p>	
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SCHEDULE 2 Sub Committees

Note: The Licensing (Hearings) and Licensing (General) and Standards (Hearings) Sub Committees are not subject to the rules on political proportionality

<u>Sub Committee</u>	<u>Terms of Reference</u>	<u>Number of Councillors Membership</u>
<p>The Licensing (Hearings) Sub Committee</p>	<p><u>Will determine applications:-</u></p> <ul style="list-style-type: none"> (a) For a personal licence where an objection has been made; (b) For a personal licence with unspent convictions; (c) For premises licence where a representation has been made; (d) For a club premises certificate where a representation has been made; (e) For a provisional statement where a representation has been made; (f) To vary a premises licence/club premises certificate where a representation has been made; (g) To vary designated premises supervisor if there is a police objection; (h) For transfer of premises licence if there is a police objection; (i) For interim authorities if there is a police objection; (j) To review a premises licence/club premises certificate 	<p>3</p> <p>NOTE: this is the legal minimum and to be quorate all three councillors must attend</p>
<p>The Licensing (General) Sub Committee</p>	<p><u>Will determine applications:-</u></p> <ul style="list-style-type: none"> (a) Opposed and/or contentious applications for the granting, renewal, transfer or revocation of gaming permits; (b) Opposed and/or contentious applications for the granting, 	<p>3</p>

	<p>renewal, transfer or revocation of sex establishment licences;</p> <p>(c) Contentious applications for the grant or renewal of Private Hire and Hackney Carriage Driver, Vehicle and Operator Licences and the refusal, suspension or revocation of these licences where serious offences or breaches of licence conditions have been committed.</p>	
<p><u>Shareholder Sub Committee</u></p>	<p><u>Must meet once per annum</u></p> <p>a) <u>Power to remove and appoint company directors;</u></p> <p>b) <u>Approve the annual company business plan, ensuring that it aligns with the corporate objectives of the Council;</u></p> <p>(c) <u>Periodically evaluate financial performance of a company, and performance against the current business plan;</u></p> <p>d) <u>Consider any recommendations to cease trading by a company;</u></p> <p>e) <u>Monitor compliance with relevant legislation;</u></p> <p>f) <u>Approve any Shareholder Agreement with the company, or any variation to such agreement;</u></p> <p>(g) <u>Consider such other matters, as require prior consultation with shareholders or as are reserved to the Shareholders in general meeting, and make such decision on those matters as they think fit.</u></p>	<p><u>5</u></p>
<p><u>Standards Hearing Sub-committee</u></p>	<p><u>To hear and decide what action should be taken in respect of allegations against members.</u></p>	<p><u>3</u></p>

Schedule 3 – Advisory Panels

Note: Advisory Panels are subject to the rules on political proportionality

<u>Advisory Panel</u>		<u>Terms of Reference</u>	<u>Number of Councillors</u>
Financial Policy Panel	1	To advise the Strategy and Resources Committee on:- (a) all matters relating to the Budget and Policy Framework <u>(including the setting of staff pay)(including the setting of staff pay);</u> (b) new legislation or government policy relating to local government finance; (c) procurement strategy and those matters that have budget or procurement implications for more than one committee; (d) performance against key performance indicators.	8 <u>Membership to include:</u> <u>Chairmen of the Environment Safe Communities, Community & Wellbeing & Strategy & Resources Committees</u>
	2	To ensure effective scrutiny of the treasury management strategy and policies.	
	3	To respond on behalf of the Strategy and Resources Committee to urgent consultation requests from central or regional government.	
Health Liaison Panel	1	To consider, and where appropriate advise the <u>Community & Welling Committee</u> Social Committee on:- (a) preparing, promoting and monitoring the Council's Health Strategy in association with National Health Service bodies, Social Services and the voluntary sector;	7

	<p>(b) providing leadership and liaising with NHS bodies, the County Council and other agencies to promote the effective use of all resources and the delivery of best value Health and Social Services to the community.</p> <p>2 Working in partnership with a Member from each of the following – Elmbridge District Council, Mole Valley District Council, Reigate & Banstead District Council and officers from these local authorities on:-</p> <ul style="list-style-type: none"> • Promoting the interests of the local residents in any decisions concerning health services • developing a shared vision for the nature, location and quality of local NHS services • facilitating partnership working and the sharing of information and to co-ordinate input into the NHS decision-making processes • providing a focus for the Councillor-lead meetings and interaction with local NHS representatives • Furthering the local democratic legitimacy of NHS bodies and their local public accountability. 	
<p>Human Resources Panel</p>	<p>1 To advise the Strategy and Resources Committee on:-</p> <p>(a) employment human resource policies and good practice (excluding the setting of staff pay)s;</p>	<p>6</p>

	<p>(b) staff wellbeing monitoring sickness absence, staff turnover, health and safety.</p> <p>2 The Panel is able to invite the Staff Consultative Group to attend the Panel as and when required or to present such reports as it may require.</p> <p>0.0 In addition, the Human Resources Panel, meeting with staff representatives on the Joint Staff Committee has the following functions:—</p> <p>(a) to provide formal consultation and discussions between the Council and its staff representatives on matters relating to pay, employee relations, terms and conditions of employment, and training and development;</p> <p>(b) to consider any relevant matters referred to it by Management or Staff representatives to seek to resolve differences of interpretation or misunderstanding.</p>	
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Schedule 4 – Joint Arrangements

<u>Joint Committee</u>	<u>Terms of Reference</u>	<u>Membership</u>
Nonsuch Joint Management Committee	<p>Nonsuch Park is managed and maintained by a Joint Management Committee, comprising an equal number of councillors from Epsom and Ewell and Sutton Borough Councils. Chairmanship rotates between the two councils annually. The two councils fund, on an equal basis, the running of the Park, after taking income into account.</p> <p>The Committee is covered by the political balance arrangements</p>	3
Coast to Capital Joint Committee	<p>The purpose of the Joint Committee is to approve the Strategic Economic Plan and proposed Growth Deal for the Coast to Capital Local Enterprise Partnership (LEP) area.</p> <p>The Coast to Capital area encompasses all of the County of West Sussex, Brighton & Hove, Lewes, Croydon and the four eastern Surrey districts (being this Council, Mole Valley, Reigate and Banstead and Tandridge). There are two county councils, two unitary authorities, 12 district and borough councils and the South Downs National Park Authority within the area and partnership. It is one of the larger LEPs outside London, with just under 2 million residents and over 150,000 businesses and organisations.</p> <p>The Joint Committee includes representatives from all 16 authorities and the South Downs National Park Authority. The LEP and other business interests and organisations are not eligible to serve on this Joint Committee, which has been established under the Local Government Act 1972.</p>	<u>1</u>

<p><u>East Surrey Community Safety Partnership</u></p>	<p><u>1</u> To promote integration of community safety priorities into mainstream policies and services</p> <p><u>2</u> To ensure the strategic vision is translated into real change for East Surrey</p> <p><u>3</u> To reduce alcohol and drug related harm and reduce re-offending</p> <p><u>4</u> To encourage closer collaborative working on shared concerns</p> <p><u>5</u> To increase community reassurance through co-ordinated awareness- raising campaigns</p> <p><u>6</u> To provide a voice for East Surrey at the Surrey Community</p> <p><u>7</u> To identify funding opportunities and lead on relevant funding submissions</p> <p><u>8</u> To contribute to and support the delivery of relevant County wider strategies</p>	<p><u>1</u></p>
<p>Surrey Police & Crime Panel</p>	<p>A joint committee comprising the 12 local authorities in Surrey and two independent members to carry out the functions set out in the Police Reform and Social Responsibility Act 2011.</p>	<p><u>1</u></p>

~~AxnnexSchedule 1~~ Schedule 5- Statutory Chief Officers – Areas of Responsibility

Post	Areas of Responsibility
<p>Chief Executive</p>	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers) for all services.</p> <p>Responsible for Place Development, Venues & Facilities, Legal & Democratic Services, Human Resources & Organisational Development, Community & Wellbeing, in support of the Council's corporate goals, ensuring that the Council meets its statutory obligations.</p> <p>The Chief Executive (Head of Paid Service) is the Proper Officer for all statutory purposes unless otherwise determined by them.</p>
<p>Chief Finance Officer Director of Finance and Resources</p>	<p>Participate in the corporate management of the Council.</p> <p>Responsible for ICT, Customer Services & Business Support, Operational Services, Financial Services, Revenues & Benefits, and Housing & Environmental Services, in support of the Council's corporate goals, ensuring that the Council meets its statutory obligations in these areas.</p> <p>Responsible for the proper administration of the Council's financial affairs under section 151 Local Government Act 1972, Section 114 of the Local Government and Finance Act 1988 and Accounts and Audit Regulations and Guidance.</p>
<p>Chief Legal Officer Head of Legal and Democratic Services</p>	<p>To act as the Council's Monitoring Officer in accordance with S 5 of the Local Government and Housing Act 1989 as amended.</p>

Schedule 6-2 - Indemnity to Staff

1.1 The Borough Council will, subject to the exceptions set out below, indemnify its employees and former employees against claims made against them (including costs awarded and reasonable costs incurred) and will not itself make claims against them for any loss or damage (other than claims falling within the cover provided to its employees under any policy of insurance taken out by the Borough Council or any motor vehicle insurance policy taken out by the employee) occasioned by any neglect, act, error or omission committed by them in or about the pursuit of their duties as they may be from time to time in the course of their employment with the Borough Council whilst acting within the scope of their authority which shall include when they are acting for other persons or other bodies with the Council's consent.

Exceptions

1.2 The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:-

- (a) Fraud, dishonesty or a criminal offence on the part of the employee;
- (b) Any neglect, error or omission by the employee otherwise than in the course of his duties;
- (c) Liability in respect of losses certified by the District Auditor as caused by wilful misconduct.

1.3 The indemnity will not apply if an employee, without the written authority of the Borough Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution, or where there is evidence that the employee had acted with reckless disregard for the consequences.

1.4 The indemnity is without prejudice to the right of the Council to take or institute disciplinary action against an employee in respect of any neglect, act, error or omission.

Draft: CLO v 9 28.6.2018

SECTION C - Protocol for Managing Member/Officer Relations

Issued July 2002; Revised December 2007; Februaryⁱ 2018

1 Introduction

- 1.1 This Protocol is primarily based on the model prepared by Birmingham City Council and which was referred to in the Nolan Committee report¹ as an example of good practice.
- 1.2 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure that a high standard of conduct is maintained and to ensure the business of the Council is transacted in a transparent, effective and efficient manner.
- 1.3 The Protocol is to a large extent a written statement of current practice and convention and given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It offers guidance on some of the issues which most commonly arise and serves as a guide to dealing with other circumstances as they arise.
- 1.4 This protocol seeks to reflect the principles underlying the Code of Conduct for Members and the Code of Conduct for Officers. The shared objective of these codes is to maintain and enhance the integrity (real and perceived) of Local Government and they therefore demand very high standards of personal conduct by all parties.
- 1.5 This Protocol sits together with a number of other existing and evolving Council procedures and there may be some overlap between this document and those other procedures and rules both within and outside the Constitution.
- 1.6 This Protocol seeks to promote greater clarity and certainty as to working relationships between Members and Officers. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are not subject to accusations of bias, and any undue influence from Members.
- 1.7 Given the variety and complexity of Member/Officer relations, any protocol cannot seek to be entirely prescriptive or comprehensive. Although some of the references relate to regulatory matters, the document largely seeks to offer guidance on some of the issues that most commonly arise. All successful organisations need to be flexible to suit circumstances but, at the same time, it

¹ "Standards in Public Life", the report of the Nolan Committee can be accessed at:
<http://www.archive.official-documents.co.uk/document/parlment/nolan2/nolan.htm>

should be recognised that the guidance should, as far as is possible, be uniformly followed throughout the Council.

- 1.8 In appreciation that this will be an evolving document and recognising the rapid changes in working practices both statutory and social (e.g. new technology), the Protocol will need to be reviewed regularly.
- 1.9 This Protocol, where applicable, will also apply to lay or co-opted Members of Committees.
- 1.10 If a councillor is unsure about any matter s/he should contact the relevant Group Chairman/Leader or the Monitoring Officer for appropriate advice and assistance. If an Officer is unsure about any matter s/he should contact the Monitoring Officer.

2 The Respective Roles of Elected Members and Officers

2.1 The Elected Members are responsible for:

- Initiation & direction of Policy
- Democratic accountability to the electorate for policies and for service delivery;
- Scrutiny of Council services;
- Community leadership; and
- Promotion of partnership working

2.2 The Officers are responsible for:

- Providing the professional advice that Members must have before them when formulating policy and when taking decisions;
- Implementing Members 'decisions that have followed due process;
- Running the Council's services and day-to-day administration;
- Taking managerial and operational decisions in accordance with the Council's schemes of delegation; and
- Providing information regarding Council services and approved Council policies.

3 Access to Officers

- 3.1 If Members wish to raise a request for a service delivery (which is a matter covered by the CRM system), then they should raise this in line with the Council's standard processes, (eg through the Council's Contact Centre) rather than with individual officers.
- 3.2 If an issue or concern needs to be raised around the delivery of a service request or its failure, Members should at first instance contact the relevant

Head of Service or a nominated officer². Members should seek to avoid, as far as possible, entering an Officer's work area and requiring immediate attention.

- 3.3 If any Member wishes to raise any matter which is either strategic in nature, or relates to a policy, they must do so at first instance with the Chief Executive.
- 3.4 It is important to ensure timely response to correspondence and both Members and Officers should aim to respond to enquiries and requests they have raised, within one week from receipt of the enquiry/request.
- 3.5 If a Member wishes to follow up any unanswered correspondence, they should email the relevant service area's Chief Officer to raise the matter.
- 3.6 Where a decision has been delegated to an Officer, whether or not in consultation with nominated Members, it will be notified to all Members through the Council's processes. To assist Members' understanding, Officers should, when requested, explain to a Member the guidelines they use when making a delegated authority decision.

4 Access to information and to Council Documents

- 4.1 Members are entitled to such information as they may reasonably need to assist them in discharging their role as Members of the Council.³ The legal right of Members to inspect Council documents is covered by:
 - (i) Statutory right (Access to Information Act 1985, Freedom of Information Act 2000, Environmental Information Regulations 2004);
 - (ii) Common law (on a need to know basis).
- 4.2 Officers must treat all Members on an equal basis where there is an equal need to know. Officers must treat all such requests with care and respect and must not disclose any requests from one Political Group to another.
- 4.3 The courts have ruled that the test of a Member's need to know derives from the Member's committee responsibilities, but this will not be exclusively the case. A Member dealing with a Ward issue, casework or an issue raised by a ward resident, may have a legitimate need to know, which will enable him/her to have access to the relevant Council documents. The final decision on a Members 'need to know' will rest with the Chief Executive in consultation with the Monitoring Officer.
- 4.4 Members should be kept fully informed and consulted by Officers on all relevant matters affecting their Ward. If a matter is urgent or sensitive, Officers must

² A list of contacts for Heads of Service and other nominated [contact](#) officers will be supplied to Members.

³ *This is covered in more detail in Article 2 and Standing Orders of the Council's Constitution*

ensure Members are made aware as soon as reasonably possible and before the matter is made public.

- 4.5 It is important for Members and Officers to recognise that information disclosed to a Member on a need to know basis, should not be disclosed to another Member, unless there is an equal need to know, or the first Member is notified that the information is being so disclosed.
- 4.6 Any correspondence to a constituent, from a Member or Officer, which raises an issue of policy or finance, should be sent to the relevant Head of Service.

5 Working Relationships

- 5.1 Both Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and Officers are responsible to the Council as a whole. The conduct of Members and Officers should be such as to instil mutual confidence and trust. These should be reflected in the behaviour and attitudes of each other both publically and privately.
- 5.2 To ensure that the business of the Council is carried out effectively, Members and Officers should endeavour to create a cordial and collaborative working relationship with each other.
- 5.3 Members recognise that as the Head of Paid Service, the Chief Executive has key statutory responsibilities. These include setting the manner in which the Council's different functions are discharged, the organisation of the Council's staffing structure, as well as the appointment and proper management of the Council's staff. It is therefore important to ensure the Chief Executive is able to carry out these functions both independently and free from any pressure.
- 5.4 Members can expect the following from Officers:
- (i) a commitment to the Council as a whole and not to any political group;
 - (ii) a performance of their duties effectively and efficiently;
 - (iii) to work to their Service Delivery Plans;
 - (iv) a working partnership;
 - (v) an understanding and appreciation of respective roles and pressures;
 - (vi) timely responses to enquires and complaints;
 - (vii) impartial professional advice;
 - (viii) awareness of and sensitivity to the political environment;
 - (ix) courtesy and appropriate confidentiality;
 - (x) that they will not use their relationship with Members to advance their personal interests to influence decisions improperly;
 - (xi) that relationships between Members and Officers will never be so close, or appear to be so close as to bring into question the Officer's ability to deal impartially with other Members, individuals or organisations;

- (xii) compliance with the Officers' Code of Conduct;
- (xiii) that Officers will not go beyond the bounds of their specific or delegated authority;
- (xiv) that Officers named in a report to the Council (or any part of its formal decision-making structure) will always be fully responsible for the contents of it.

5.5 Officers can expect the following from Members:

- (i) a working partnership
- (ii) an understanding and appreciation of respective roles and pressures;
- (iii) courtesy and appropriate confidentiality;
- (iv) not to put officers undue pressure and to respect personal and professional boundaries;
- (v) the efficient and agreed use of Council resources;
- (vi) a respect for professional advice;
- (vii) not to use their relationship with Officers to advance their personal interests to influence decisions improperly;
- (viii) that relationships between Members and Officers will never be so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members, individuals or organisations;
- (ix) compliance with the Members' Code of Conduct;
- (x) to treat officers with respect at all times including during meetings whether public or otherwise which includes not raising matters relating to the conduct or capabilities of an Officer;
- (xi) to inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work or role.

5.6 Nothing in this protocol shall prevent a Member or Officer expressing a relevant concern under the Council's Whistleblowing Policy.

5.7 Any Officer who is personally connected to a Member must notify the Monitoring Officer in writing. This would include a family, business or social connection.

5.8 Both Members and Officers should be guarded, as close personal familiarity or the perception of such, can damage the relationship or undermine trust, as might a family or business connection. Close personal familiarity between individual Members and Officers may also cause embarrassment to other Members and Officers. Particular care should be taken around of the use of social media and the perception it could give in terms of close personal familiarity.

5.9 Members should not expect Officers to attend Members homes to conduct or discuss Council business. Nor should Officers expect to attend a Members'

home. Generally for most Officers, Members telephone contact with them should be during normal working hours.

- 5.10 Challenge in a constructive and non-confrontational way is important in ensuring that policies and service performance are meeting the Council's strategic objectives. Nothing in this protocol is therefore intended to stop Members holding Officers to account for decisions made under delegated powers. Nor is the protocol intended to inhibit constructive criticism delivered with courtesy and Officers should not feel their employment is at risk as a result of such intervention.
- 5.11 Correspondence between Members and Officers should not be copied to or by Officers to other Members. Nor should such correspondence be disclosed to any third parties be they members of the public, stakeholders or partners. ~~However, Members are reminded that where such correspondence concerns a Council policy or, the interpretation of Council policy, a copy be sent to the relevant Committee Chairman.~~
- 5.12 Under no circumstances should either a Member or an Officer blind copy any of their exchanges to any external third party, Member or Officer. If it is important to raise an issue, then in the case of Members, then such matter must be raised with the Chief Executive at first instance and in the case of officers with their head of service or chief officer.
- 5.13 As a rule Members and Officers must not forward their correspondence to any other Member, Officers or external 3rd parties. There may be service reasons where this may be necessary, therefore, before doing so, either the original author must have specifically requested it or has expressly consented to their correspondence being sent on to a named person. If there is any concern as to what steps should be taken advice should be sought from their line manager or the Monitoring Officer.
- 5.14 Members and Officers must take great care when including new parties to on-going existing correspondence. Particular care must be taken to avoid forwarding on email chains from Officers or Members as this could amount to breach of personal data or the unintended release of confidential or sensitive information.
- 5.15 Members should never forward Officer correspondence on to any constituent or other third party. If there is a need to forward contact details for an Officer, Members must only forward details of the relevant Head of Service, and only after they have discussed the matter with the Head of Service.

6 If Things Go Wrong

- 6.1 Where a Member considers that he or she has not been treated with proper respect or courtesy by an Officer, or is otherwise concerned with the performance of an Officer, the Member should first discuss the complaint with the relevant group Chairman or Leader. If the Member wishes to pursue the

matter as a formal or informal complaint, then they will need to complete and submit a complaint from (which will be available from the Chief Executive) to the Chief Executive. The complaint will remain confidential and cannot be discussed with by or with the relevant Group Chairman or Leader. As the head of paid service, the Chief Executive has responsibility for staff and will take such action as is appropriate.

- 6.2 If an Officer considers that he or she has not been treated with proper respect or courtesy by a Member, he or she should raise the matter with the Monitoring Officer in the knowledge that the matter will be handled with sensitivity and in confidence. In such circumstances, the Monitoring Officer will take such action as is appropriate.
- 6.3 This protocol does not affect the rights of Officers and Members to raise the matters via the Council's usual procedures in cases where such processes apply.

7 Officer Advice to Party Groups

- 7.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.
- 7.2 The assistance provided by Officers can take many forms ranging from a briefing meeting with a Committee Chair or other Members prior to a meeting, to a presentation, to a full political group meeting. It is an important principle that such assistance is available to all political groups and individual Members. All Officers must, in their dealings with political groups and individual Members, maintain political neutrality and treat them in a fair and even-handed manner.
- 7.3 Officers must not do any work that is designed to promote one political group within the Council rather than the whole Council.
- 7.4 If Members require the attendance of an Officer at a political group meeting, they will contact the Chief Executive or the Chief Operating Officer first. Any Officer invited to attend meetings organised by any political group should contact the Chief Executive or the Chief Operating Officer as appropriate, as soon as possible. It is a matter for the Chief Executive to decide whether it is appropriate for an Officer to attend and if so who that Officer should be.
- 7.5 The Officer's role at any such meeting is limited to providing factual information only and may be called upon to provide a professional opinion. They must not provide a personal opinion. It is important when attending such a meeting, for an Officer to be advised of who else is at the meeting to avoid any confidential or information sensitive to the Council, being inadvertently released to third parties.
- 7.6 Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an Officer during discussions with a party group, that information should not be passed on to

other groups. However, Members should be aware that this would not prevent Officers from disclosing such information to other Officers of the Authority in so far as that is necessary to perform their duties.

8 Members and the Media

- 8.1 Contact with the media on issues related to Council business is handled through the Communications Team who provides support, advice and training to Members and Officers.
- 8.2 Any Member who wishes to approach the media to speak on behalf of the Council on any item involving or affecting the Council, should first consult the relevant Committee Chairman, Chief Executive or Chief Operating Officer as appropriate.
- 8.3 If a member wishes to approach or is approached by the media for a comment or action involving Council business, the Member should make it clear to the media, that any comments that are made are those of the Member personally and do not reflect the views or policies of the Council as a whole.
- 8.4 Requests for comments or opinion on Council policy or political matters should be referred to the appropriate Committee Chairman.
- 8.5 Councils are prohibited from publishing any material that appears to be designed to affect support for any political group.

9. Conclusion

- 9.1 This Protocol is intended to build on the sound arrangements that have existed within the Council for years.
 - 9.2 Mutual understanding, respect and openness on these sensitive issues are the greatest safeguard of the integrity of the Council, its Members and Officers.
 - 9.3 This Protocol can be revised or amended at any time in accordance with Constitutional requirements.
-

Film Classification Policy

Head of Service/Contact:	Rod Brown, Head of Housing & Community
Annexes/Appendices (attached):	Draft Film Classification Policy
Other available papers (not attached):	Report to the Licensing and Planning Policy Committee of 10 July 2018.

Report summary

That Council adopt the Film Classification Policy.

Recommendation (s)

The Council adopt the recommendations of the Licensing and Planning Policy Committee on 10 July 2018.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 Adopting the policy will help Council to meet the policy objectives of supporting businesses and our local economy.

2 Background

- 2.1 The public exhibition of all films on licensed premises must be either classified by the British Board of Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 2.2 On 10 July 2018, the Licensing and Planning Policy Committee will consider a Film Classification Policy for recommendation to Council. The Policy will apply to the classification of films and when a request for reclassification of a film is sought.
- 2.3 The draft Policy is attached as **Annex 1**. If necessary, a revised draft of the policy will be published prior to the Council meeting.

3 Proposals

- 3.1 That Council adopt the Policy and recommendations of the Licensing and Planning Policy Committee.

4 Financial and Manpower Implications

- 4.1 The adoption, implementation and application of the policy will be undertaken using existing resources.
- 4.2 **Chief Finance Officer's comments:** *Any income generated from fees is based on cost recovery so these changes are not expected to impact on the Council's finances.*

5 Legal Implications (including implications for matters relating to equality)

- 5.1 The purpose of the proposed policy to set a procedure for the determination of the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions, or requests to reclassify films. This will enable the Council to support, if needed any mandatory conditions imposed pursuant to section 20 of Licensing Act 2003 and also any other situation where the Council may be requested to authorise the showing of an unclassified file. Such examples could include a film festival covering a specific period of time, a one off screening of a film, a trailer for a film.
- 5.2 There is no right of appeal when a decision is made by the Council but any decision could be the subject of a judicial review. This risk is minimised by adopting a policy, following the BBFC guidance and ensuring that classification decisions are made in line with the Licensing Act 2003 Section 182 Guidance.
- 5.3 **Monitoring Officer's comments:** *None for the purposes of this report.*

6 Sustainability Policy and Community Safety Implications

- 6.1 None for the purposes of this report.

7 Partnerships

- 7.1 None for purposes of this report.

8 Risk Assessment

- 8.1 There is currently no formal procedure or policy in place to the classification of films. The introduction of a Film Classification Policy will ensure a robust and transparent procedure is followed.

9 Conclusion and Recommendations

- 9.1 That Council agree to adopt the Film Classification Policy.

Ward(s) Affected: (All Wards);



Epsom & Ewell Borough Council

Film Classification Policy

POLICY FOR DETERMINING FILM CLASSIFICATIONS

1. Introduction

- 1.1. The public exhibition of all films on licensed premises must either be classified by the British Broad Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.2. Section 20 of the Licensing Act 2003 (the Act) provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the licence must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by the British Board of Film Classification (the BBFC) or by the Licensing Authority itself.
- 1.3. The purpose of this Policy is to set out the formal procedure for the Council as the Licensing Authority to determine the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions or requests to reclassify films.
- 1.4. Where a premises seeks or intends to exhibit film(s), that venue must be covered by a Premises Licence, Club Premises Certificate or Temporary Event Notice under the Licensing Act 2003.

2. Definitions

- 2.1. Children - any person under the age of 18 years.
- 2.2. Exhibition of a film - the exhibition of moving pictures.

3. Circumstances the Licensing authority may classify a film

- 3.1. The Licensing Authority may be requested to authorise the showing of an unclassified film(s) within the Borough of Epsom & Ewell. Usually this will be for:
 - A film festival covering a specific period of time
 - A one off screening of a film
 - A trailer for a film
- 3.2. The Licensing Authority may also be requested to authorise a film that has already been classified by the British Board of Film Classification (BBFC) when:
 - (a) a distributor of a film wishes to appeal against the decision of the BBFC and request that the Licensing Authority re-classifies/authorises the film for local screening (with recommendations on age restrictions);

or

(b) An independent party may request that the Licensing Authority reclassifies or authorises the film for local screening (with recommendations on age restrictions)

4. Submission of film

- 4.1. Applications for authorisation of films shall be referred to and determined by the Licensing Department on behalf of the Licensing Authority.
- 4.2. Applications should be submitted to the Licensing Authority with a minimum of 20 working days before the proposed screening.
- 4.3. An application for authorisation should include the following information:
 1. the film title, duration and genre
 2. the name of the film maker;
 3. a brief synopsis of the film
 4. any recommendation as may have been made by the film maker upon age limit for the intended audience for exhibition of the film;
 5. any existing classification issued by an existing classification body, whether within or outside the UK;
 6. information identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film.
 7. the premises name and address of proposed screening
 8. the language spoken in the film and whether there are subtitles in English.
 9. details of how any age restrictions will be enforced.
- 4.4. All requests shall be accompanied by the film(s) in DVD format to avoid delays, the cost to be borne by the applicant.
- 4.5. If the film contains dialogue in a language other than English an interpreter will be required for the classification. The Licensing Authority will arrange for a suitable interpreter and the applicant will be responsible for the cost of this.
- 4.6. Applicants must ensure that all material that is the subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

5. Process

- 5.1. Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period.

- 5.2. The Licensing, HIA, Grants Manager will view the entire film and assess it against the BBFC guidelines and any national guidance. If the Manager is unable to make a decision then the classification for that film will be referred to a Head of Service.
- 5.3. The Licensing Authority shall issue a Notice of Determination of the authorisation within 5 working days from the date of viewing.
- 5.4. The Licensing Authority will formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).
- 5.5. Where the Licensing Authority has determined to refuse authorisation of a film clear and concise reasons shall be given

6. Classification

- 6.1. The BBFC classifies films in accordance with published Guidelines, which are based on extensive research into public opinion and professional advice.
- 6.2. The National Guidance under Section 182 of the Licensing Act 2003 recommends that Licensing Authorities should not duplicate the BBFC's work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a Licensing Authority to adopt this role. Licensing Authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film
- 6.3. The Licensing Authority considers the classification system used by the BBFC to be nationally understood and accepted. It will therefore use this system and any amendments thereto, as a reference point for determining its recommendation(s) on the restriction of access of children to the film(s). It should be noted however that the Licensing Authority is not obliged to follow these guidelines.
- 6.4. Where a licensed premises seeks to exhibit a film that has not been classified by the BBFC then it will be the responsibility of the Licensing Authority to authorise that film.
- 6.5. The Licensing Authority recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. However material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 or has been created through the commission of a criminal offence.
- 6.6. In accordance with paragraph 10.31 of the National Guidance, the Licensing Authority shall concern itself primarily with the protection of children from harm. It will not use its powers to censor films save where there is clear cause to believe that this is required to promote the licensing objectives.

7. Protecting children from harm

- 7.1. In terms of film exhibitions and festivals, the most relevant licensing objective is the Protection of Children from Harm.
- 7.2. Paragraph 2.41 of the National Guidance states: The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the protection of children from too early an exposure to strong language and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided.
- 7.3. In line with the National Guidance, where a film is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.
- 7.4. Where a film is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unless accompanied by an adult.
- 7.5. Where the Licensing Authority authorises unclassified material to be shown the Licensing Authority will require an undertaking from the applicant that he has satisfied himself after proper enquiry that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.
- 7.6. The Licensing Authority shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law.
- 7.7. In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall have regard to any national guidance, e.g.:
 - (a) Persons Under the Age Of [insert appropriate age] Cannot Be Admitted To Any Part of The Programme
 - (b) Persons Under the Age Of [insert appropriate age] Can Only Be Admitted To The Programme If Accompanied By An Adult.

8. Authorisation

- 8.1. Any authorisations for the exhibition of film issued by the Licensing Authority shall only apply when the film is exhibited within the Borough of Epsom & Ewell and does not affect the authorisation or recommendations in any other borough.
- 8.2. Once authorised by the Licensing Authority a film will be authorised for a particular showing or festival only, subject to the recommendations imposed by

the Licensing Authority (unless further application for re-classification is made). Details of the authorisation including any recommendations shall be available from the Council's Licensing Team.

- 8.3. The issue of any authorisation by Epsom & Ewell Borough Council is strictly limited to the authorisation within the Borough and it is assumed that all relevant third party consents and licences in respect of any and all copyright, confidential information and all other intellectual property rights have been obtained.
- 8.4. Where the Licensing Authority authorises unclassified material to be shown the Licensing Authority will require an undertaking from the applicant that he has satisfied himself after proper enquiry that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.
- 8.5. The Licensing Authority shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law.

9. Exemptions

- 9.1. The provision of the exhibition of a film is exempt from regulation by the Licensing Act 2003 if:

It consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery (the Licensing Act does not define a museum or art gallery so the ordinary meaning of the term is taken), or;

Its sole or main purpose is to:

- demonstrate any product,
- advertise any goods or services (excluding the advertising of films), or
- provide information, education or instruction.

Statement of Policy - Gambling Act

Head of Service/Contact:	Rod Brown, Head of Housing and Community
Annexes/Appendices (attached):	Statement of Licensing Policy
Other available papers (not attached):	Minutes of the Licensing and Planning Policy Committee on 5 June 2018

Report summary

The Council is requested to adopt a renewed Statement of Policy (Gambling Act).

Recommendation (s)

That Council adopt the recommendations of the Licensing and Planning Policy Committee on 7 June 2018.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

1.1 None for the purpose of this Report.

2 Background

2.1 Under the Gambling Act 2005, Epsom and Ewell Borough Council became the Licensing Authority for various regulatory functions in relation to gambling powers to license the licensable activities

2.2 Section 349 of the Gambling Act 2005 required the Authority to publish a Statement of Licensing Policy with regards to the undertaking of its licensing functions. Under the Act the Policy was to have effect for no longer than 3 years, after which time it had to be reviewed. As the current Policy was adopted by the Council to take effect on 27 December 2015, it must now be reviewed. In addition, before the revised Policy may take effect, the Authority must advertise the intention to publish the revision at least 4 weeks prior to the publication date.

2.3 In reviewing the Policy, the Authority is required to consult with persons listed in section 349 of the Gambling Act 2005. The consultation period commenced on 19 April 2018 and ended on 24 May 2018.

- 2.4 A list of bodies and individuals consulted is attached as an Annexe to the Statement of Policy. In addition details of the consultation were posted on the Council's website
- 2.5 The Licensing and Planning Policy Committee agreed to recommend to Council the adoption of the new Policy on 5 June 2018, subject to very minor amendments as set out in the Minutes of that meeting and which have been incorporated into the draft Statement attached at **Annex 1**.

3 Proposals

- 3.1 That the Policy is adopted, to take effect from 27 December 2018.

4 Financial and Manpower Implications

- 4.1 The adoption, implementation and enforcement of the Policy will be undertaken using existing resources.
- 4.2 *Chief Finance Officer's comments: None for the purpose of this report*

5 Legal Implications (including implications for matters relating to equality)

- 5.1 The Authority is required to publish a Statement of Gambling Policy under the Gambling Act 2005, with such Policy being kept under review as required, for a period not exceeding 3 years.
- 5.2 *Monitoring Officer's comments: None for the purposes of this report.*

6 Sustainability Policy and Community Safety Implications

- 6.1 None for the purposes of this Report.

7 Partnerships

- 7.1 The enforcement of the licensing regime is undertaken in partnership with Surrey Police and the Gambling Commission.

8 Risk Assessment

- 8.1 The enforcement of the licensing regime is undertaken in partnership with Surrey Police and the Gambling Commission.

9 Conclusion and Recommendations

- 9.1 In accordance with statute, the current policy statement has been reviewed and approved by Planning & Licensing Policy Committee. The Statement of Policy as attached as an Annexe is recommended to Council for adoption, to be effective from 27 December 2018.

Ward(s) Affected: (All Wards);



EPSOM & EWELL BOROUGH COUNCIL

GAMBLING ACT 2005 STATEMENT OF POLICY

Effective from 27 December 2018

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1. Introduction

1.1 The Licensing Objectives

The Gambling Act 2005 ('the Act') gives licensing authorities various regulatory functions in relation to gambling.

The main functions of licensing authorities are:

- Licensing premises for gambling activities
- Considering notices given for the temporary use of premises for gambling
- Granting permits for gaming and gaming machines in clubs and miners' welfare institutes
- Regulating gaming and gaming machines in alcohol licensed premises
- Granting permits to family entertainment centres for the use of certain lower stake gaming machines
- Granting permits for prize gaming
- Considering occasional use notices for betting at tracks
- Registering small societies' lotteries

The Gambling Commission will have responsibility for dealing with personal licences and operating licences.

Epsom and Ewell Borough Council ('the Council') is a licensing authority for the purposes of the Act.

In exercising most of their functions under the Act, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children (persons under the age of 18) and other vulnerable persons from being harmed or exploited by gambling

1.2 Consultation

This statement of policy has been prepared in consultation with the following persons/ bodies:-

- The Chief Officer of Police
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005

A full list of consultees is attached as Annexe 1.

The reviewed statement of policy came into effect on 27 December 2018. It will remain in force for no more than 3 years, but may be reviewed at any time.

1.3 Declaration

This statement of policy has been prepared with due regard to the licensing objectives, the guidance to licensing authorities issued by the Gambling Commission, and with due weight attached to any responses received from those consulted.

This statement of policy will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

1.4 Responsible Authorities

The contact details of all the Responsible Authorities under the Act are available via the Council's website at www.epsom-ewell.gov.uk.

In exercising the Council's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc

Having regard to the above principles, the Council designates the Surrey Children's Service for this purpose.

1.5 Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. The Act defines interested parties as persons who, in the opinion of the licensing authority;

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) have business interests that might be affected by the authorised activities; or
- c) represent persons who satisfy paragraph (a) or (b) *

Whether or not a person is an interested party is a decision that will be taken by the Council on a case-by-case basis. However, the following factors will be taken into account:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- the nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults;
- the ‘catchment’ area of the premises (i.e. how far people travel to visit); and whether the person making the representation has business interests in that catchment area, that might be affected.

This list is not exhaustive and other factors may be taken into consideration in an individual case.

*The Council considers the following bodies/ associations to fall within the category of those who represent persons living close to premises, or having business interests that might be affected by the authorised activities:-

- trade associations:
- trade unions;
- residents and tenants groups
- residents associations
- political parties
- Borough Councillors
- County Councillors
- MP’s
- Amenity Societies

This list is not exhaustive and the Council may consider other bodies/ associations & persons to fall within the category in the circumstances of an individual case.

The Council may require written evidence that the person/ association/ body represents an interested party.

1.6 Exchange of Information

The Council regards the lawful and correct treatment of information as very important to the successful and efficient performance of the Council's functions, and to maintaining confidence between the people/ bodies we deal with and ourselves. We ensure that our organisation treats information lawfully and correctly.

The Council may share information in accordance with the following provisions of the Act: -

- Sections 29 & 30 (with respect to information shared between the Council and the Gambling Commission)
- Section 350 (with respect to information shared between the Council and the other persons listed in Schedule 6 to the Act)

In the exercise of the above functions, consideration will also be given to the common law duty of confidence, the law relating to defamation, the guidance issued by the Gambling Commission and to the Council's policies in relation to data protection and freedom of information.

Any information shared between the Council and Surrey Police will also be carried out in accordance with the Surrey Information Sharing Protocol produced by the Surrey Community Safety Unit.

Any person wishing to obtain further information about their rights under the Data Protection Act 1998 or the Freedom of Information Act 2000 may view the Council's policies at www.epsom-ewell.gov.uk or alternatively contact the Information Rights Officer on 01372 732000.

1.7 Enforcement

The Council will adopt a risk-based approach to the inspection of gambling premises. This will allow for the targeting of high-risk premises, or those where a breach would have serious consequences. Premises that are low risk and/ or well run will be subject to a less frequent inspection regime.

The Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the Authority a single named point of contact, who shall be a senior individual, and whom the Authority will contact in the first instance should any compliance issues or queries arise.

Where necessary, appropriate enforcement (including prosecution under section 346 of the Act) will be carried out in a fair and consistent manner in accordance with

- The Enforcement Concordat
- Epsom and Ewell Borough Council's Environmental Health Service Enforcement Policy
- The Regulators Code (Statutory Code of Practice for Regulators) April 2014. The Regulators Code states that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent; and that regulatory activities should be targeted only at cases in which action is needed.

The Council will endeavour to avoid duplication with other regulatory regimes so far as possible, and ensure that data is shared where possible and practicable.

Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Council but will be notified to the Gambling Commission.

1.8 Fire Risk Assessment - Regulatory Reform (Fire Safety) Order 2005

The Regulatory Reform (Fire Safety) Order 2005, came into force on 1 October 2006 and affects virtually all premises in England and Wales other than single family dwellings. The legislation emphasises the prevention of fires and reducing risk and makes it the responsibility of the premises licence holder/company to ensure the safety of everyone who uses the premises or may be in the immediate vicinity and may be affected. The regulations require the responsible person to carry out a fire risk assessment and to act on the findings of the assessment and record them. In addition, it is necessary to review the premises Fire Risk Assessment either on a regular basis (recommended to be at least once a year), or if there is reason to suspect that it may no longer be valid, or there has been a significant change to the matters to which it relates.

Where as a result of any such review, the provisions of the fire risk assessment are shown to be inadequate, the findings must be acted upon and the responsible person concerned shall make a time specific corrective action plan to mitigate the risks. Information on the Regulatory Reform (Fire Safety) Order 2005 and the appropriate supporting guidance documents for your type of premises can be obtained from: www.firesafetyguides.communities.gov.uk

1.9 Local Area Profile

The Borough has a relatively small number of gambling premises which are spread out around the Borough. Since the introduction of the Gambling Act 2005, this Council has seen a decline as opposed to a proliferation of gambling premises.

There is no evidence of a saturation of gambling premises with the Borough, nor are there any identified problem hotspots for vulnerable persons insofar as

gambling is concerned. Applications will therefore be considered on merit alone, whilst ensuring applicants meet their obligations under the Gambling Act 2005 and support the Licensing Objectives. The Council will ensure this position is monitored throughout the validity of this Policy and review as appropriate.

1.10 Assessing Local Risk

The Social Responsibility code provision 10.1.1 came into effect in April 2016 which requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account any relevant matters contained within this Policy.

Whilst there are currently no local circumstances contained within this Policy to be considered, Licensees must review (and update as necessary) their local risk assessments; to take account of significant changes in local circumstances, when there are significant changes at a licensee's premises that may affect their mitigation of local risks; when applying for a variation of a premises licence; and in any case, undertake a local risk assessment when applying for a new premises licence.

2. Premises Licences

2.1 Decision making - general

In accordance with Section 153 of the Act, the Council shall aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of licensing policy

The Council will not have regard to the expected demand for the facilities which it is proposed to provide, nor the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

Moral objections to gambling will not be considered by the Council, as they are not a valid reason for rejecting an application for a premises licence.

Each case will be considered on its individual merits. However, in order to assist applicants and objectors alike, this section sets out the general factors that will be taken into account by the Council when considering applications for premises licences.

2.2 Location

It is noted that many betting offices may currently be located close to schools or in residential areas, however it is recognised that persons under the age of 18 are not permitted to enter the premises, and, as such, location may not always be a key factor in considering applications.

In addition, with regards to racecourses, it is recognised that the location of racecourses is longstanding (since its foundation), and can not be transferred to another location.

2.3 Multiple licences/ layout of buildings

Premises are defined in the Act as including 'any place', but no more than one premises licence can apply in relation to any one place. A single building can be subject to more than one premises licence, provided they are for different parts of the building and those parts can reasonably be regarded as being different premises.

Where multiple licences are sought for a building (or a discrete part of a building used for other non gambling purposes), specific issues shall be considered by the Council before such application(s) can be granted. These include

- the ability of children to gain access to or observe gambling facilities (even accidentally)
 - entrances and exits from parts of a building covered by more than one premises licence should be separate and identifiable so that the separation of different premises is not compromised and that people (and in particular, children) do not drift into a gambling area.
- the compatibility of the 2 or more establishments; and
- the ability of the establishments to comply with the requirements of the Act.

In accordance with the Gambling Commission guidance, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

2.4 Conditions

Conditions may be imposed upon a premises licence in a number of ways. These are

- (a) **Mandatory** – set by the Secretary of State (some set out on in the Act) and some prescribed in regulations, for all, or classes of licence;
- (b) **Default** – to be prescribed in regulations made by the Secretary of State, to be attached to all or classes of licences unless excluded by the licensing authority;
- (c) **Specific** – conditions that can be attached to an individual licence by the Council as licensing authority.

The Authority recognises that the mandatory and default conditions are usually sufficient, and would only consider the imposition of specific conditions where there is evidence of a risk to the licensing objectives. Where conditions are imposed by the Council, they will be proportionate to the circumstances that they are seeking to address. In particular, this Council will ensure that premises licence conditions are:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects

Certain matters may not be the subject of conditions. These are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winning or prizes

2.5 Door Supervisors

It is not a mandatory requirement of the Act to impose a condition relating to door supervision. However, if the Council consider it necessary to impose a condition on a premises licence requiring the presence of door supervisors, such persons shall hold a licence from the Security Industry Authority (SIA).

This requirement does not apply to door supervisors at licensed casino or bingo premises, who are exempt from the licensing requirements of the Private Security Industry Act 2001. The Council may however impose specific requirements on door supervisors at such premises if considered appropriate in an individual case.

In addition, in the case of racecourses, the premises are already required to provide door supervisors in some roles. The Authority will not normally seek to impose further conditions or requirements.

It is noted that there is currently no evidence that the operation of betting offices has required door supervisors for the protection of the public. The Authority will make a requirement for Door Supervision only if there is clear evidence that the premises cannot be adequately supervised from the counter and that Door Supervision is both necessary and proportionate.

2.6 Adult gaming centres

Persons operating an adult gaming centre are required to obtain an operating licence from the Commission and a premises licence from the Council. No one

under the age of 18 shall be permitted to enter an adult gaming centre. In considering licence applications for adult gaming centres, weight will be given to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Council

will therefore expect applicants to demonstrate that there will be sufficient measures in place to promote this objective.

Applicants are encouraged to consider the following steps:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Location of and entry to premises (so as to minimise the opportunities for children to gain access)
- Notices / signage
- Training for staff on challenging persons suspected of being under-age
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

The above list is not mandatory, nor exhaustive, and is merely indicative of example measures. Please see paragraph 2.4 for details of conditions that may be attached to premises licences authorising adult gaming centres.

2.7 Licensed family Entertainment centres

Operators of licensed family entertainment centres will require an operating licence from the Gambling Commission, and a premises licence from the Council. This will allow the operator to make category C & D machines available to their customers.

Children will be able to enter licensed family entertainment centres and play on the category D machines. They will not be permitted to play on category C machines.

As family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues. Where category C machines are available in licensed family entertainment centres the Council will normally require that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently

displayed notices indicating that access to the area is prohibited to persons under 18.

Applicants are therefore encouraged to consider the steps set out at paragraph 2.6 of this statement in order to prevent children from gaining access to category C machines. In addition, applicants shall consider the following

- Physical separation of areas
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

Please see paragraph 2.4 for details of conditions that may be attached to premises licences authorising licensed family entertainment centres.

2.8 Tracks

Tracks are sites (including racecourses and dog tracks) where sporting events take place. Operators of tracks shall obtain a premises licence from the Council, but they do not need to obtain an operating licence from the Gambling Commission (although they may have one).

Tracks may be subject to one or more premises licence provided each licence relates to a specified area of the track.

In some circumstances, the Council may require off-course operators with on-course facilities to hold a separate betting premises licence, however, the Council will take a flexible view and the matter will be dealt with at the discretion of the racecourse and the betting operator in the first instance.

It will be a mandatory condition of all track licences that children and young persons are excluded from any areas where facilities for betting are provided, and any area where a gaming machine, other than a category D machine, is situated. Special dispensation from this rule is provided for dog tracks and horse racecourses, on days when racing takes place, in relation to the areas used for betting. On these days families will be entitled to attend the track or racecourse, and children enter the areas where facilities for betting are provided. This race day dispensation does not apply to the areas where gaming machines of category B & C are provided, and the Council will seek to ensure that suitable measures are in place to prevent children from entering such areas.

Applicants shall consider the steps set out at paragraph 2.6 in order to prevent the access of children to machines of category B & C. In addition, applicants shall consider where practical the following

- Physical separation of areas (it is recognised that the layout of racecourse facilities may make such separation impractical but each case will be considered on its own merits by the Authority)

- Measures / training for staff on how to deal with suspected truant school children on the premises

Gaming machines – holders of betting premises licences in respect of tracks who also hold a pool betting operating licence may make available up to 4 gaming machines (categories B2 to

D) on the track. The Council will therefore expect the applicant to demonstrate that suitable measures are in place to ensure that children are prevented from entering areas where machines (other than category D machines) are made available.

Betting machines at tracks –racecourses do not hold Operating Licences issued by the Gambling Commission, and therefore any betting machines are covered by a separate Operator(s) Licence. The racecourse will contractually require these operators to fulfil any conditions with regard to the provision and supervision of these machines.

Condition on rules being displayed - the Council will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. .

Applications and plans - the Council will require the following information from applicants for premises licences in respect of tracks: -

- plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”)
- in the case of dog tracks and horse race courses, details of the fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities if available

Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence. Additional information may be required as per the Guidance.

2.9 Casinos

The Council has not passed a ‘no casino’ resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

2.10 Betting Premises

This paragraph deals with off-course betting, that is betting that takes place other than at a track (commonly known as a licensed betting office). Operators of betting premises shall obtain an operating licence from the Gambling Commission and a premises licence from the Council.

The Council may, in accordance with section 181 of the Act, restrict the number of betting machines, their nature, and the circumstances in which those machines are made available for use. When considering whether to impose such a condition, the Council will take into account the following: -

- the size of the premises;
- the number of counter positions available for person-to-person transactions;
- and
- the ability of staff to monitor the use of the machines by children (it is an offence for those under 18 to bet) or by vulnerable people

The Authority will only consider limiting the number of machines where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, the Council may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.

Please see paragraph 2.4 for details of conditions that may be attached to betting premises licences.

2.11 Bingo

Operators of premises offering bingo (cash or prize) shall obtain a bingo operating licence from the Gambling Commission, and a premises licence from the Council. It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Council will normally require that:

- all such machines are to be located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

Please see paragraph 2.4 for details of conditions that may be attached to bingo premises licences.

2.12 Temporary Use Notices

Temporary use notices allow the use of premises for gambling where there is no premises licence but where a person or company holding a relevant operators

licence wishes to use the premises temporarily for providing facilities for gambling.

There are a number of statutory limits in regards to temporary use notices.

If objections are received to a temporary use notice (from the Police, Gambling Commission, HM Revenues & Custom or any other licensing authority in whose area the premises are situated), the Council will hold a hearing to consider the representation (unless all the participants agree that a hearing is unnecessary).

If the Council, after a hearing has taken place or been dispensed with, considers that the temporary use notice should not have effect, it shall issue a counter-notice which may:

- prevent the temporary use notice from taking effect;
- limit the activities that are permitted;
- limit the time period of the gambling; or
- allow the activities to take place subject to a specified condition

The Council will apply the principles set out in paragraph 2.1 of this Policy to any consideration as to whether to issue a counter-notice.

3. Permits

3.1 Unlicensed Family Entertainment Centre gaming machine permits

Unlicensed family entertainment centres will be able to offer category D machines if granted a permit by the Council. If an operator of a family entertainment centre wishes to make category C machines available in addition to category D machines, they shall obtain operating licence from the Gambling Commission and a premises licence from the Council.

The Council can grant or refuse an application for a permit, but cannot attach conditions.

As unlicensed family entertainment centres may particularly appeal to children, weight shall be given to child protection issues.

The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. Such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff should deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. The Council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres; that the applicant has no relevant convictions (those that are set out in Schedule 7 to the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

3.2 (Alcohol) Licensed premises gaming machine permits

Premises licensed to sell alcohol for consumption on the premises, can automatically have 2 gaming machines, of categories C and/or D. The holder of the premises licence authorising the sale of alcohol will simply need to notify the Council, and pay the prescribed fee.

The Council can remove the automatic authorisation in respect of any particular premises if;

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Act;
- the premises are mainly used for gaming; or
- an offence under the Act has been committed on the premises.

If a premises wishes to have more than 2 machines, then the holder of the premises licence shall obtain a permit. The Council will consider that application having regard to the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and any other matters that are considered relevant.

The Council will determine what constitutes a relevant consideration on a case-by-case basis, but weight will be given to the third licensing objective i.e. protecting children and vulnerable persons from being harmed or being exploited by gambling. To this end, the Council will expect applicants to demonstrate that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under

18. The displaying of notices and signage shall also be considered.

With respect to the protection of vulnerable persons, the Council will expect applicants to provide information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application shall be applied for, and dealt with as an Adult Gaming Centre premises licence.

The Council may decide to grant the application with a smaller number of machines and/or a different category of machines for which has been applied. In such cases, conditions (other than these) cannot be attached.

The holder of a permit shall comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3.3 Prize gaming permits

Applicants for prize gaming permits shall set out the types of gaming they are intending to offer. The applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations; and
- that the gaming offered is within the law.

In making its decision on an application for this type of permit the Council does not need to have regard to the licensing objectives but shall have regard to any Gambling Commission guidance. Weight will be given to child protection issues and relevant considerations may include the suitability of the applicant (i.e. if the applicant has any convictions which would make them unsuitable to operate prize gaming) and the suitability of the premises. Applicants for prize gaming permits shall disclose any previous relevant convictions to the Council.

The Council can grant or refuse an application for a permit, but cannot attach any conditions. However, there are 4 conditions in the Act that permit holders shall comply with. These are:

- the limits on participation fees, as set out in regulations, shall be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game shall be played and completed on the day the chances are allocated; and the result of the game shall be made public in the premises on the day that it is played;
- the prize for which the game is played shall not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming shall not entitle the player to take part in any other gambling.

3.4 Club gaming and club machine permits

If members clubs (but not commercial clubs) wish to provide gaming machines (a maximum of 3 machines of categories B4, C or D) or equal chance gaming and games of chance then a club gaming permit shall be obtained.

If a club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply for a club machine permit, which will enable the premises to provide gaming machines (3 machines of categories B4, C or D).

Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled

by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

An application may only be refused on one or more of the following grounds;

- the applicant does not fulfil the requirements for a members' or commercial club and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children;
- an offence under the Act or a breach of a condition of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or;
- an objection has been lodged by the Gambling Commission or the Police

The Council shall have regard to the guidance issued by the Gambling Commission and (subject to that guidance), the licensing objectives.

There is a 'fast-track' procedure available for clubs which hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which an authority can refuse a permit are reduced.

The grounds on which an application under the fast track procedure may be refused are;

- that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

The Council can grant or refuse an application for a club gaming or club machine permit, but cannot attach any conditions. However, there are a number of conditions in the Act that the holder must comply with.

ANNEXE 1 – LIST OF CONSULTEES

Chief Officer of Police, Epsom Police

Station Surrey Fire and Rescue

Service

Association of British

Bookmakers Epsom Civic

Society

Epsom and Ewell

PubWatch Town

Ward Residents

Association

Ewell Village Residents

Association S.C.O.R.A.

Cashino Gaming Limited

The Race Course Association Limited

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STATEMENT OF POLICY - LICENSING ACT

Head of Service/Contact:	Rod Brown, Head of Housing and Community
Annexes/Appendices (attached):	Annex 1: Draft Revised Statement of Licensing Policy (Licensing Act 2003).
Other available papers (not attached):	Current Statement of Licensing Policy. Guidance Issued under the Licensing Act 2003. Report and minutes of the Licensing and Planning Policy Committee of 10 July 2018.

Report summary

That Council adopt the revised Statement of Policy (Licensing Act 2003)

Recommendation (s)

That Council adopt the recommendations of the Licensing and Planning Policy Committee on 10 July 2018.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

1.1 None for the purpose of this Report.

2 Background

2.1 Under the Licensing Act 2003, the Licensing Authority is required to publish a Statement of Licensing Policy, with such Policy being kept under review as required, for a period not exceeding 5 years,

2.1 On 10 July 2018, the Licensing and Planning Policy Committee will consider a revised Statement of Licensing Policy for recommendation to Council.

2.2 The draft Policy is attached as **Annex 1**. If necessary, an amended revised draft of the policy will be published prior to the Council meeting.

3 Proposals

- 3.1 That Council adopt the revised Policy, to be effective from 11 December 2018.

4 Financial and Manpower Implications

- 4.1 ***Chief Finance Officer's comments:***

5 Legal Implications (including implications for matters relating to equality)

- 5.1 The Licensing Act 2003 requires a licensing authority to determine and publish a licensing policy at least once every five years. The Act requires a licensing authority to keep its policy under review within the five year period and make such revisions to it, at such times, as it considers appropriate.

- 5.2 **Monitoring Officer's comments:** None for the purposes of this report.

6 Sustainability Policy and Community Safety Implications

- 6.1 None for the purposes of this report.

7 Partnerships

- 7.1 None for the purposes of this report.

8 Risk Assessment

- 8.1 None for the purposes of this report.

9 Conclusion and Recommendations

- 9.1 That Council agree to adopt the revised Statement of Licensing Policy, to be effective from 11 December 2018.

Ward(s) Affected: (All Wards);

**STATEMENT OF POLICY - LICENSING ACT 2003
PROPOSED AMENDMENTS TO THE EXISTING POLICY**

- 1.1 Revised introduction.
- 4.1 Minor addition of the words “(as per those detailed within the operating schedule or after a Hearing).”
- 4.5 Minor formatting amendments in the red zone paragraphs, and at point 16 in the Criteria additional wording relating to CCTV.
- 5 New section relating to Prominent Periods (Temporary Action Plans)
- 7.2 Removal of obsolete sentence.
- 11.5 Removal of reference to obsolete “Safer Pubs and Bars” scheme.
- 13.2 Removal of obsolete sentence.

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Epsom & Ewell
Borough Council
Statement of
Licensing Policy
(Licensing Act 2003)

Effective from 11 December 2018

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Effective from 11 December 2018

1. Introduction

1.1 ~~Epsom & Ewell is a Borough of contrasts, with its roots set firmly in Saxon/Roman history and its future strongly mapped out for the 21st century. Surrounded by award winning green spaces the Borough of Epsom & Ewell has proved time and again that it is one of the best places to live and work in the UK. It is a small yet modern Borough, with a population of around 75,000, situated on the edge of the rolling Surrey Hills, but with easy access to the city life of London.~~

1.2 ~~Our Corporate Plan has made People and Performance the drivers for everything that we do. We have identified the following Core Values that underpin every aspect of our work:~~

~~Economic Vitality
Sustainability
Visual appearance
Quality of life
Safer and stronger communities
Managing resources~~

1.3 ~~The Council also acknowledges the needs and concerns of licensed businesses. The presence of good quality, diverse and varied licensed premises which are responsibly managed with due regard to the local community, will be a positive factor for many residents, businesses and those working in the Borough. The licensed retail and hospitality industry makes a significant contribution to the local economy, job market and social environment within the Borough.~~

Plan E

1.4 ~~Plan E is an Action Plan for Epsom Town Centre that provides a detailed vision for the next 15 to 20 years. It ties in closely with the Council's Corporate Plan 2012—2016 and supports the objectives of the Sustainable Community Strategy. This Statement of Licensing policy aims to support the delivery of this vision and particularly to the following objectives:~~

~~A vibrant, healthy and safe shopping environment
Thriving day-time and night-time economies
An improved range of attractions, including attractive areas to sit and to socialise
An improved sense of safety and security for all town centre users, at all times of the day and night, and a reduction in anti-social behaviour
A centre that can be planned, managed and promoted in a positive way.~~

~~Plan E proposes a range of actions and initiatives that the Council and its partners can take to address issues in the town centre. These include promoting the town as a high quality, safe, family orientated destination, establishing some form of Town Centre Management and improving the evening/night-time economy by pursuing a quality standard such as the Purple Flag initiative.~~

Effective from 11 December 2018

Epsom & Ewell is the smallest of Surrey's 11 boroughs and districts and the most densely populated.

Bordered by outer London boroughs to the north and rolling hills, designated areas of outstanding natural beauty, to the south, the borough is home to approximately 80,000 people. The area comprises three main conurbations: the main town of Epsom, the village-like Ewell and the 1930's development of Stoneleigh. In the last couple of decades the area has experienced major housing expansion but retains significant areas of protected open green space.

The borough boasts excellent road and rail links, with central London less than 30 minutes distant and access to the rest of county facilitated by the adjacent M25.

While Epsom & Ewell's workforce mostly comprises of London commuters, there is a vibrant local economy in the retail, engineering and leisure sectors. The Borough is home to a number of major international and national headquarters, to small independent enterprises and everything in between.

The area is probably best known worldwide for the running of the Derby at Epsom Downs Racecourse. Horse racing has taken place in Epsom for over 350 years (the first recorded race days were in the 1640's). As well as being a significant local employer, the horse racing industry adds around £13million annually to the local economy.

There is a large youth community residing and regularly visiting the area, with the borough hosting campuses for the University for the Creative Arts, the North East Surrey College of Technology and Laines Theatre Arts.

The area is wealthy, with residents earning higher than the national average and with unemployment less than half the national average.

The council's aim is for the borough to remain affluent, by anticipating and responding to changes in employment and business patterns and stimulating both. We recognise that the area needs to keep its high income and highly skilled residents, while also continuing to invest in skills provision and graduate retention.

We also acknowledge the needs and concerns of licensed businesses. The presence of good quality, diverse and varied licensed premises which are responsibly managed with due regard to the local community, will be a positive factor for many residents, businesses and those working in the Borough. The licensed retail and hospitality industry makes a significant contribution to the local economy, job market and social environment within the Borough.

2. Licensable activity

2.1 Epsom & Ewell Borough Council (the Authority) is the Licensing Authority for the licensing of licensable activities under the provisions of the Licensing Act 2003 (the Act). Licensable activities are defined in the Act and include:

a) the retail sale of alcohol

b) the supply of alcohol by or on behalf of a club

c) the provision of regulated entertainment, being

(i) **performance of a play** (where the audience consists of more than 500 persons and/or; takes place between the hours of 11.00pm and 8.00am.)

ii) **exhibition of a film**

iii) **an indoor sporting event** (where the audience consists of more than 1000 persons and/or; takes place between the hours of 11.00pm and 8.00am)

iv) **boxing or wrestling entertainment or combined fighting sports** (combines boxing or wrestling with one or more martial arts)

v) **performance of live music** (unamplified live music between the hours of 11.00pm and 8.00am; amplified live music which takes place in unlicensed premises or a workplace or in a licensed premises to an audience of over 200 persons and takes place between 11pm and 8am; or where a condition has been imposed following a licence review).

vi) **playing of recorded music (excluding incidental music)**

vii) **a performance of dance** (where the audience consists of more than 500 persons and/or; takes place between the hours of 11.00pm and 8.00am and/or; is relevant entertainment within the meaning of Schedule 2A of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 – “sexual entertainment venue”).

viii) **entertainment of a similar description to that falling within v),vi) and vii) where the entertainment takes place in the presence of an audience**

d) late night refreshment - the supply of hot food and/or hot drink from any premises between 11pm and 5am for consumption on or off the premises.

Note: The above licensable activities are correct at the time of consultation, and may be subject to legislative amendments throughout the validity of this policy.

Effective from 11 December 2018

3. LIVE MUSIC, DANCING AND THEATRE

- 3.1 The Authority recognises that as part of implementing local authority cultural strategies, it is appropriate to encourage and promote a broad range of entertainment, in particular live music, dancing and theatre, for the wider cultural benefit of communities.
- 3.2 Live performance is central to the development of cultural diversity and vibrant, exciting communities, particularly traditional entertainment such as circus and street arts. The Authority subscribes to the view expressed in the Guidance that the absence of cultural provision in any area can lead itself to a loss of community awareness and can expose young people to anti- social activities that damage local communities.

4. ADMINISTRATION AND DELEGATION

- 4.1 Licensing relates to the control of licensed premises, qualifying clubs and temporary events within the terms of the Act. The Authority may attach conditions to the licence [\(as per those detailed within the operating schedule or after a Hearing\)](#) that focus on matters which are within the control of the individual licensee or premises supervisor, provided that such conditions are appropriate for the promotion of one or more of the licensing objectives, and only submitted within the operating schedule.
- 4.2 On receipt of a valid application the Authority may consider it necessary to inspect premises that have not been previously licensed by the Authority to ensure compliance with the relevant technical guidance, the licensing objectives and this Policy.

Applications for the Grant and non-minor Variation of Licences

- 4.3 When considering the application, and any relevant special licence conditions, the Authority will primarily focus on the direct impact of the licensable activities on members of the public living, working or visiting the area. The Authority acknowledges that the licensing function cannot be used for the general control of anti-social behaviour once customers are beyond the direct control of the individual, club or business holding the licence, but will require the licensee to take steps within his/her own premises to control the likelihood of such anti-social behaviour occurring.
- 4.4 The policy will not deter any person from making representations in respect of any application or seeking a review of a licence. The Authority will consider all representations that are relevant to the promotion of the licensing objectives that are not frivolous or vexatious.
- 4.5 Nothing in the policy will deter an individual making an application, and all applications will be considered on their merits but will be qualified by the following policy presumptions based upon the location of the premises.

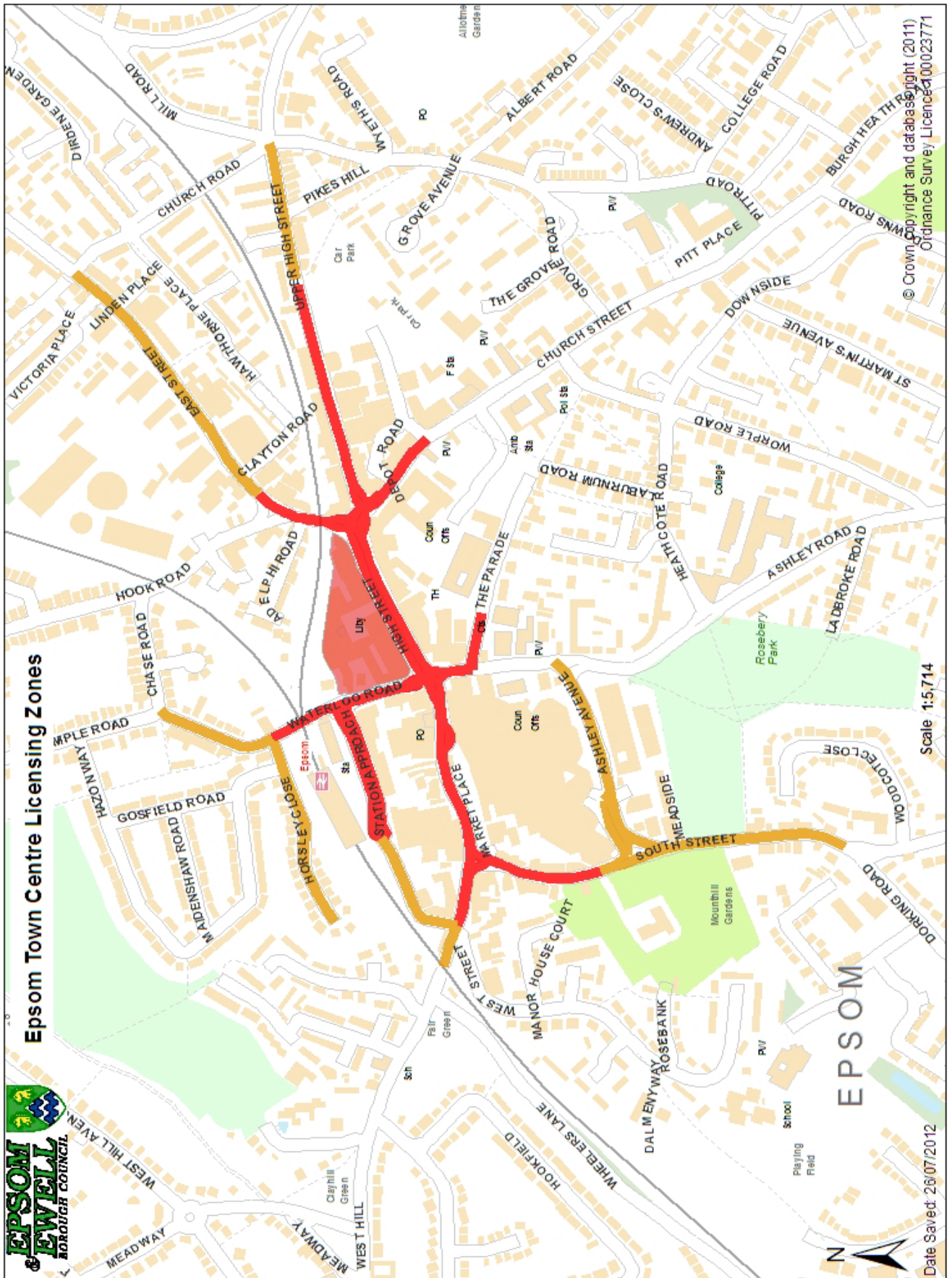
Licensing Red Zone (all premises fronting/within and on both sides of the following streets/roads in Epsom Town Centre)

Effective from 11 December 2018

- **High Street**
- **Derby Square and Oaks Square**
- **Waterloo Road** (to junction with Horsley Close)
- **The Parade** (to no.2)
- **Station Approach** (to Central Walk apartments)
- **West Street** (to junction with Station Approach)
- **Church Street** (to junction with Depot Road)
- **Upper High Street** (to entrance with Upper High Street Car Park)
- **Ashley Road** (to junction with The Parade)
- **South Street** (to junction with Saddlers Court)
- **East Street** (to the junction with Hook Road)

Amber Zone (Town Centre except the above, namely remaining parts of:)

- **West Street**
- **Upper High Street**
- **South Street**
- **Station Approach**
- **Waterloo Road and Horsley Close**
- **East Street**
- **Ashley Avenue**



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Red Zone

Within this area, there is already a **concentration of premises**, and whilst the Authority feels licensing plays a critical role to the well-being and character of the area the impact of those premises may be detrimental to public safety, confidence and the wellbeing of residents, business and/or other users.

The concentration of premises in the red zone will be a consideration in all applications for the grant and ~~full~~ ~~non-minor~~ variation of licences to maintain a balance in favour of the well being and character of the area.

New applications and ~~full~~ ~~non-minor~~ variations will accordingly be processed as follows:

Night Clubs and adult entertainment venues	Applications for licensable activities up to 1am 01.00hrs only will generally be granted if the applicant satisfies the criteria listed below AND the applicant can clearly demonstrate that the premises will not add to the cumulative impact for the area. Applications beyond the 1am 01.00 terminal hours will be refused unless it satisfies the criteria listed below AND the applicant can clearly demonstrate that the premises will not add to the cumulative impact for the area.
Pubs and café bars and other food-led establishments open beyond midnight	Application will be refused unless it satisfies the criteria listed below AND the applicant can clearly demonstrate that the premises will not add to the cumulative impact for the area
Pubs and café bars open until midnight	Will generally be granted, unless it can be shown that the application would undermine the licensing objectives.
Restaurants and Cafes;	Will generally be granted, (with the sale of alcohol for consumption off the premises permitted only until 11pm) unless it can be shown that the application would undermine the licensing objectives.
Qualifying Clubs	Will generally be granted, unless it can be shown that the application would undermine the licensing objectives.
Hotel Bars	Will generally be granted (to allow alcohol sales and late night refreshment to residents 24 hours a day), unless it can be shown that the application would undermine the licensing objectives.
Take aways open beyond 1am 01.00hrs	Application will be refused unless it satisfies the criteria listed below AND the applicant can clearly demonstrate that the premises will not add to the cumulative impact for the area.

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Take aways open up until 1am01.00hrs	Will generally be granted, unless it can be shown that the application would undermine the licensing objectives.
Off licences and stores with off sales beyond 11pm23.00hrs	Application must clearly demonstrate that the premises will not add to the cumulative impact for the area,
Off licences and stores with off sales up to 11pm23.00hrs.	Will generally be granted, unless it can be shown that the application would undermine the licensing objectives.

Amber Zone

Within this area the Authority feels licensing plays a major role but the impact of these premises is less likely to impact on public safety, confidence and the well-being of residents without significant growth in this sector.

This area would be deemed suitable for increases in licensed premises, with the exception of pubs and clubs beyond midnight, where the policy presumption would be to refuse the application, unless the applicant can clearly demonstrate that the granting of the application would not add to the cumulative impact for the area, and it satisfies the criteria listed below.

Green Zone (The remaining parts of the Town Centre and Borough)

In this area factors outside of licensing such as residential usage only or parkland limit the growth and number of licensed premises in that area and no further licensing criteria are required at this time. There will be a policy presumption to grant the licence application unless relevant representations are received and it can be shown that the application would undermine the licensing objectives.

Criteria for Nightclubs, Pubs and Bars (take away premises criteria is marked with a “*”)

1. Location of entry and departure points.*
2. Door control.*
3. Control and prevention of queuing.*
4. Put in place robust systems to monitor and control the access of young people.*
5. Ensure door supervisors are trained and empowered to deal with underage drinking.
6. The premises age policy to include “challenge 25”.
7. The age policy on checking age to be displayed.
8. Consider whether the design and layout of the premises are likely to lead to local overcrowding.*
9. Put in place measures to discourage excessive drinking and drunkenness.
10. Put in place measures to promote ‘sensible drinking’ including measures to encourage the purchase of soft drinks including the pricing of soft drinks to below that of alcoholic drinks.

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11. Regard paid to good practice guides and industry codes; e.g. on advertising, packaging, labelling and drink promotions.
12. Consider whether drinking vessels are made of toughened glass or plastic and are designed to not have a sharp edge when broken.
13. Consider whether drinks are to be supplied in glass bottles.
14. Consider whether the taking of drinking vessels or bottles outside the premises is proposed to be permitted.
15. Consider whether licensed door supervisors are to be deployed and their responsibilities for the prevention of disorder in the vicinity of the premises.
16. Consider whether suitable use of CCTV is proposed inside and outside the premises to provide recordings of a quality to be of use in prosecutions. [A fully operating and recording digital CCTV system shall be installed at the premises. At least one internal camera should achieve clear evidential images of all persons entering and exiting the premises. Access to images must be available to Police and any other responsible authority on request within 24 hours. CCTV recording shall be kept for a minimum of 28 days*](#)
17. Put in place adequate measures to prevent the use and supply of illegal drugs.*
18. Put in place adequate search procedures to prevent the bringing of illegal drugs or weapons onto the premises.*
19. Information displayed for staff and patrons and the training of staff on drug awareness including the spiking of drinks with drugs.
20. Procedures agreed with the police, for searches, the surrender and seizure of drugs and weapons.
21. Participation in the local pub watch scheme ~~and use of the pub watch radio.~~
22. Control of amplified and un-amplified music and voices.*
23. Steps to be taken to achieve good behaviour within and outside the premises.*
24. Communication with customers (signs, announcements and other means)*
25. Management of the use of outdoor areas, (including smoking areas).
26. Steps taken to ensure customers leave quietly.*
27. Arrangements for dedicated taxi or licensed private hire vehicles to collect patrons in a manner so as to minimise any disturbance.
28. Limits set on hours for servicing and deliveries.*
29. Guidance to drivers to limit noise during deliveries.*
30. Providing quiet means for storage and movement of waste and recycling materials.*
31. Provisions to control noise emissions from doors and windows*
32. Provision for control and monitoring of entertainment noise audible external to the premises*
33. Provisions for management and control of noise and disorder from persons either in the premises or immediately external to the premises such as in a smoking area*
34. Considerations on control of noise from fixed plant such as air conditioning and refrigeration hardware*
35. Policy on emptying of rubbish including glass so as to limit the impact of associated noise*

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36. Policy on dispersal and procedures to ensure customers and staff leave quietly*
 37. Consideration of avoidance of nuisance through artificial lighting and littering*
 38. Consideration of structure borne/air borne and flanking transmission of entertainment noise*
 39. Where the premises form part of the same building structure, and/or where the designated outdoor area is coterminous with the footprint of the residential areas the steps taken to minimise nuisance to residents by way of noise, smoke and odours entering windows and doors of the residential unit(s)*.
-
- 4.6 Should representations be made against an application, additional special conditions may be imposed if the Licensing Committee or its Licensing Hearings Panel is satisfied that the imposition of the conditions are appropriate due to the nature of the representations made.
 - 4.7 The Authority will exercise and delegate functions in accordance with the table contained in **Appendix A**. This form of delegation does not prevent Officers referring an application to the Licensing Hearings Panel or the Licensing Committee if considered appropriate.
 - 4.8 The Authority recognises that a partnership approach is more likely to ensure the licensing objectives are achieved and maintained. Pre-application discussions between the applicants, the Authority and the other relevant agencies are strongly encouraged so that the licensing process itself can be as trouble free as possible. The Environmental Health Department would welcome discussions to address possible noise reduction measures that could be proposed.
-
5. **PROMINENT PERIODS (TEMPORARY ACTION PLANS)**
 - 5.1 On occasion, where it is expected that there is significant risk of crime and disorder the Licensing Authority and Surrey Police would work with the premises to reach voluntary agreements, which could include; but not restricted to, the need for (additional) door staff, reduced opening hours or limits on the numbers of patrons for a specified time period. The agreement would only be in place for a time period agreed as appropriate by all parties. The intention being the temporary measures would negate the need for a standard or expedited review, and reduce the potential impact on the area.
-
6. **THE POLICY STATEMENT**
 - 6.1 The Act requires that the Authority publishes a “Statement of Licensing Policy” that sets out the policies with respect to the exercise of its licensing functions. The Act also requires the Authority to consult various bodies before determining the policy. A list of the consultees is contained in **Appendix B**.
 - 6.2 The Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Guidance issued under Section 182, and will be

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effective for a period of no more than five years. Within the five year period the Authority will keep the policy under review and will make amendments as it considers appropriate to support the licensing objectives. Any changes considered necessary between the five yearly reviews will be referred to the full Council, subject to consultation in accordance with the provisions of the Act.

- 6.3 Nothing in this Policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden or added to their scope.

7. THE LICENSING OBJECTIVES

The Council's Statement will promote the four licensing objectives, namely:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance
- The protection of Children from harm
- The prevention of crime and disorder

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

- 7.1.2 The Authority will also seek to discharge its responsibilities by linking to Government and Council strategies and policies so far as they impact on the objectives of the Act, ~~such as the Council's Crime and Disorder Reduction Partnership and the Community Safety Strategy, key issues of which include alcohol related disorder and anti-social behaviour. The Community Strategy carries a 10 to 15 year vision which is "to improve the quality of life for those who live and work here by balancing environmental, social and economic factors an element of which is a safe society".~~

- 7.1.3 The Authority may, when relevant representations have been received, attach conditions to licences and certificates to prevent crime and disorder, and these may include Conditions ~~drawn from the Model Pool of Conditions~~ relating to Crime and Disorder contained within the Guidance issued under Section 182 of the Licensing Act 2003. Any conditions imposed will be appropriate to the style and characteristics of the premises, the type of activities expected to take place there, and will reflect the local crime prevention strategies, and promote the four licensing objectives.

- 7.1.4 The Authority recognises that there are a number of mechanisms for addressing anti-social or unlawful behaviour which occurs both at and away from licensed premises. These include:

- The powers given under the Police Reform and Social Responsibility Act 2011, including the ability for a Licensing Authority as a Responsible Authority, to review licences (Section 103). It is not expected that the

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Licensing Authority will act on behalf of other Responsible Authorities, or on behalf of other persons such as local residents or community groups. However the Licensing Authority may apply for a review if it is concerned about licensed activities at a premises and wants to intervene early without waiting for representations from other parties.

- The power of the Police, other responsible authority, local businesses and residents (regardless of their locality to the premises in question), to oppose or seek a review of the licence or certificate in question.
- Planning controls
- Positive measures to provide a safer and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council
- Powers to designate parts of the Borough as places where alcohol may not be consumed publicly, and powers for an Authority to designate Early Morning Restriction Orders.
- Police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices
- The power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.
- Confiscation of alcohol from adults and others in designated areas by police officers.
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- Anti Social Behaviour Act 2003 powers for Local Authorities to issue closure orders on premises for 24 hours for premises from which noise is causing a public nuisance

However, the Authority expects every holder of a licence, certificate or permission to make every effort to minimise the impact of their activities and anti-social behaviour by their patrons within the immediate vicinity of their premises. This includes, where appropriate, the provision of adequate refuse storage/collection facilities to reduce the potential for arson.

7.2 Public Safety

- 7.2.1 The Authority will, in appropriate circumstances, attach conditions to licences and certificates to promote public safety, and these may include Conditions drawn from the Model Pool of Conditions relating to Public Safety and Cinemas and Fire Safety contained within the Guidance issued under Section 182 of the Licensing Act 2003. Any conditions imposed will be tailored to the style and

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characteristics of the premises and the type of activities expected to take place there.

- 7.2.2 The Authority will consider attaching a “safe capacity” to licences and certificates when it appears necessary to ensure public safety or to prevent crime and disorder. This will be decided and carried out in consultation with the Surrey Fire and Rescue Service.
- 7.2.3 The Authority will continue to liaise with Surrey Police and Surrey Fire and Rescue Service and when necessary and appropriate, will undertake joint inspections of licensed premises.
- 7.2.4 The Authority recognises that there are a number of ways to address public safety, these include the enforcement of current legislation by: Planning, Building Control, Surrey Fire and Rescue Service, Surrey Police and Environmental Health.
- 7.2.5 Applicants will be encouraged to seek advice from the Authority’s Licensing Service and the Surrey Police and Fire and Rescue Services as well as taking into account other relevant local strategies, such as crime prevention strategies when preparing their operating schedules for submission.
- 7.2.6 The Regulatory Reform (Fire Safety) Order 2005, came into force on 1 October 2006 and
- affects virtually all premises in England and Wales other than single family dwellings.
 - The legislation emphasises the prevention of fires and reducing risk and makes it the
 - responsibility of the premises licence holder/company to ensure the safety of everyone
 - who uses the premises or may be in the immediate vicinity and may be affected. The
 - regulations require the responsible person to carry out a fire risk assessment and to act
 - on the findings of the assessment and record them. In addition, it is necessary to review
 - the premises Fire Risk Assessment either on a regular basis (recommended to be at least
 - once a year), or if there is reason to suspect that it may no longer be valid, or there has
 - been a significant change to the matters to which it relates.

Where as a result of any such review, the provisions of the fire risk assessment are shown to be inadequate, the findings must be acted upon and the responsible person concerned shall make a time specific corrective

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action plan to mitigate the risks. Information on the Regulatory Reform (Fire Safety) Order 2005 and the appropriate supporting guidance documents for your type of premises can be obtained from the following website:
www.firesafetyguides.communities.gov.uk

7.3 The prevention of public nuisance

- 7.3.1 When relevant representations have been received, the Authority will take an objective view as to the potential for nuisance and may seek to attach appropriate and proportionate conditions to licences and certificates in order to promote the licensing objective. These may include Conditions drawn from the Model Pool of Conditions relating to Public Nuisance contained within the Guidance issued under Section 182 of the Licensing Act 2003.
- 7.3.2 In promoting this objective, the Authority will consider the impact of the licensable activities at the specific premises that are disproportionate and unreasonable, for persons living and working (including doing business) in the area.
- 7.3.3 Applicants will be recommended to seek advice from the Authority's Environmental Health Officers before preparing any plans and submitting any operating schedule, to ensure consideration is given to the criteria detailed in paragraph 4 (as appropriate).

7.4 The protection of children from harm

- 7.4.1 The Authority will consider the individual application before deciding whether it will be necessary to limit the access of children to any premises. The following are examples of premises that may raise concern:
- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
 - With a known association with drug taking or dealing
 - Where there is a strong element of gambling on the premises
 - Where entertainment or services of an adult or sexual nature are commonly provided.
- 7.4.2 The Authority will impose conditions to restrict children from viewing age-restricted films classified in accordance with the British Board of Film Classification guidelines.
- 7.4.3 The Authority will, in appropriate circumstances, attach conditions restricting the access of children to licensed premises in order to prevent harm. Such restrictions could include:
- Limit on the hours when children may be present
 - Limitations or exclusions during specific activities
 - Requirements for an accompanying adult

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- Full exclusion of people under the age of 18 from the premises when any licensable activities are taking place.

7.4.4 The Authority will, in appropriate circumstances, attach conditions to licences and

certificates to prevent harm to children, and these may include Conditions drawn from the Model Pool of Conditions relating to the Protection of Children from harm contained within the Guidance issued under Section 182 of the Licensing Act 2003.

7.4.5 The Authority recognises and commends the Portman Group Code of Practice on the Naming, Packaging and promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older. The Authority accepts the statement in the Guidance that the Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. The Authority will also seek to discourage promotions which encourage excessive consumption of alcohol within a short time period.

7.4.6 The Authority expects personal licence holders, and others working under their supervision, not to serve alcohol to children under 18, except in the limited circumstances allowed for by Law. The Authority recommends that where necessary proof of a person's age is obtained by reference to a valid Passport, a Photocard driving licence issued in E.U. or a Proof of age card issued under the PASS accreditation scheme.

The Authority is aware of a number of fake identification being presented to licensed premises, and premises may wish to purchase a UV light to assist in the detection of such.

8. RELAXATION OF OPENING HOURS FOR LOCAL, NATIONAL AND INTERNATIONAL OCCASIONS

8.1 The Authority considers that applicants for premises licences and club premises certificates should be in a position to anticipate special occasions which occur regularly each year, such as Bank Holidays, and be in a position to incorporate appropriate hours for these occasions in their operating schedules.

8.2 On occasions, there may be an exceptional event of local, national or international significance arising, which could give rise to the need to vary the conditions of large numbers of premises licences and club premises certificates. In such circumstances it will be open to the Secretary of State to make a licensing hours order to provide for premises to open for specified, generally extended, hours on these special occasions, such as for a one-off festival, World Cup, Olympic Games or a Royal Jubilee.

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9. PLANNING USE

- 9.1 In general, the Authority will expect that prior to the submission of a licensing application the appropriate planning permission will have been obtained in respect of the premises, and that any operating hours sought do not exceed those authorised by the planning permission. It is recognised that in certain circumstances a provisional statement licensing application may be sought alongside planning permission. A Licence shall not negate the need for appropriate planning permission to be in place for the use/hours.
- 9.2 In determining applications for licensing applications, there will not be a re-run of the planning application, and it will not cut across decisions taken by the Planning Committee or following appeals against decisions taken by that Committee. Similarly, the granting of applications by the Licensing Committee of any variation of a licence which involves a material alteration to a building would not negate the need for the applicant to apply for planning permission or building control where appropriate.

10. INTEGRATING STRATEGIES AND AVOIDING DUPLICATION

- 10.1 The Authority recognises the need to avoid duplication with other regulatory regimes so far as possible. However, some regulations do not cover the unique circumstances that arise in connection with licensing. The Authority may, for example, attach conditions to premises when it is considered necessary for the promotion of the licensing objectives and where there is no provision in any other legislation.
- 10.2 In undertaking its licensing functions, the Authority will be mindful of other legislation and strategies which may impact on the promotion of the licensing objectives. Whilst not exhaustive these will include:
- Police Reform and Social Responsibility Act 2011
 - Section 17 Crime and Disorder Act 1988
 - Human Rights Act 1998
 - The Health & Safety at Work Act 1974
 - The Environmental Protection Act 1990
 - Alcohol Harm Reduction Strategy for England
 - Home Office Action Plan for tackling alcohol related crime, nuisance and disorder
 - LACORS/TSI Code of Best Practice on test purchasing
 - Health Act 2006

11. TACKLING DISORDER AND PARTNERSHIPS WORKING

- 11.1 The Authority will continue to build on its links with Surrey Police, and will continue its active role in working parties to ensure the proper integration of local crime prevention, planning, transport, tourism and cultural strategies. The Police will utilise management data to record incidents within premises, and this data may guide interventions.

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- 11.2 The Authority will continue to work to established protocols with Surrey Police on the enforcement of licensing law. These will provide for the efficient deployment of Police and Council Officers engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that resources are targeted at problem and high-risk premises.
- 11.3 The Authority will maintain a commitment to supporting the local PubWatch meetings.
- 11.4 The Authority will continue to work to joint inspection regimes with Surrey Police and Surrey Fire and Rescue Service, to ensure the promotion of initiatives such as the prevention of crime and disorder and public safety.
- ~~11.5 Where premises (pubs, café bars and nightclubs) are represented at PubWatch and where no intervention measures are required by a Responsible Authority to address alcohol related disorder for the 12 month period ending in May, then the premises may be awarded the “Safer Pubs and Bars Award”. In addition, where a Responsible Authority makes specific recommendation for a premises for outstanding contribution to safety of their premises and that of the Borough, then the premises may be awarded a special Safer Pubs and Bars Award.~~

12. ENFORCEMENT

- 12.1 The Council will adopt a risk-based approach to the inspection of licensed premises. This will allow for the targeting of high-risk premises, or those where a breach would have serious consequences. Premises that are low risk and/or well run will be subject to a less frequent inspection regime.

Where necessary, appropriate enforcement (including prosecution) will be carried out in a fair and consistent manner in accordance with

- The Enforcement Concordat
- Epsom and Ewell Borough Council’s Environmental Health Service Enforcement Policy
- The Regulators Compliance Code (Statutory Code of Practice for Regulators) December 2007. The Regulators Compliance Code stresses the need for regulators to adopt a positive and proactive approach towards ensuring compliance by helping and encouraging regulated entities to understand and meet regulatory requirements more easily; and responding proportionately to regulatory breaches.

The Council will endeavour to avoid duplication with other regulatory regimes so far as possible, and ensure that data is shared where possible and practicable.

13. ILLEGAL SALES OF AGE RESTRICTED GOODS

- 13.1 Surrey County Council Trading Standards Service and the Police take a very serious view on the illegal sale of alcohol and other age-restricted goods. The

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Trading Standards Service will continue to seek to ensure that there are no illegal sales of alcohol and other age-restricted goods and they see the licensing regime as a potentially effective way of tackling this issue.

- 13.2 The sale of alcohol to minors is a criminal offence and Surrey Trading Standards Service has, over time, worked to advise the off-licensed trade in particular about how to set up systems to avoid sales taking place. Trading Standards may conduct covert test purchasing exercises with volunteers in response to complaints and local intelligence. ~~Trading Standards have been successful in bringing a number of prosecutions in recent times, having particular regard to the link between alcohol and a range of crime and disorder issues, and this continues to be a concern of the Council under the new Licensing Act 2003.~~
- 13.3 The Authority will expect applicants for licences to demonstrate that they have ensured that all their frontline staff have received adequate training on the law with regard to age restricted sales and that this has been properly documented and training records kept, and must be made available for inspection by the Licensing Authority, Trading Standards or the Police if requested. Training will need to be refreshed periodically.
- 13.4 The Authority will expect staff training to include a basic understanding of the law and must include a requirement of checking identification (ID) for proof of age; paragraph 6.4.6 details the forms of ID that the Authority recommends. Should such form of identification (or other means of ID which may be approved subsequent to the adoption of the Policy) proving the purchaser is over 18 years of age not be produced, the sale must be refused. The Authority together with Surrey Trading Standards promote Challenge 25 Schemes in licensed premises as an extra safeguard.
- 13.5 Employees themselves must be over 18 years of age to sell alcohol, unless the sale is authorised by someone who is over 18. If a sale is authorised in this way, the person making the authorisation is also responsible for ensuring that the purchaser is over 18. In addition, where employees have reason to suspect the purchase of alcohol is being bought for anyone under the age of 18, the sale must be refused.
- 13.6 Licensees or employees actually engaged in selling alcohol will need to have a reasonable understanding of English in order that they are able effectively to question purchasers so that they are satisfied that they are over 18 years of age.
- 13.7 The Authority will actively encourage licensees to keep registers of refused sales (refusals books) where sales of alcohol and any other age-restricted goods have been refused for any reason. Keeping such records will help to demonstrate that responsibilities for checking ages of purchasers are being taken seriously. Refusals books should be kept on the licensed premises and be made available for inspection by the Licensing Service, Trading Standards or the Police.

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- 13.8 Particularly in premises where alcohol is not the main product sold, for example, food retailers and corner shops - the Authority will actively encourage the use of warning messages where an EPOS (electronic point of sale) system is in use. Such a warning system is of help to employees and it will prompt them to check the age of purchasers of alcohol or other age restricted products that are presented at the check out.
- 13.9 The work of Surrey Trading Standards Service will continue to take place under the Licensing regime. The Licensing Authority will take a very serious view of any transgression reported to it, whether or not a successful prosecution results, under the provisions of the Licensing Act 2003 or any Trading Standards legislation.
- 13.10 Surrey Trading Standards provide a free advice service on how to avoid selling age restricted goods. Contact details can be found in Annexe C in the Policy.

14. PROMOTION OF EQUAL OPPORTUNITIES

- 14.1 The Authority has published an Equal Opportunities Strategy. The Authority wishes to ensure equality of access to opportunities in the Borough and thereby avoid discrimination, including having regard to the nine protected characteristics, namely; age, disability, sex, religion or belief, marriage and civil partnership, pregnancy and maternity, race, gender reassignment and sexual orientation. The Authority has also produced a Race Equality Scheme, and will remain focused upon, and will work to promote this.

15. LATE NIGHT LEVIES AND EARLY MORNING RESTRICTION ORDERS

- 15.1 The Authority has considered the provisions made available under the Police Reform and Social Responsibility Act 2011, and following consultation with Surrey Police, has determined not to implement these powers at this time, however this will be reviewed on an ongoing basis.

APPENDIX A

Matter to be dealt with	Council	Sub Committee	Officers
Application for personal licence		If an objection made	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision on whether to apply (as the Licensing Authority) for a review of a premises licence/club premises certificate			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Determination of a Police/Environmental Health objection to a temporary event notice		All cases	
Adoption of the Statement of Licensing Policy	All		

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APPENDIX B

List of consultees

Surrey Police

Surrey Fire and Rescue Service

Surrey Trading Standards

Surrey Primary Care Trust

Surrey Chambers

Epsom & Ewell Planning Authority

Epsom & Ewell Environmental Health Department

Health and Safety Executive

Epsom Civic Society

Representatives of local residents

Representatives of the licensed trade

The Association of Licensed Multiple Retailers

Home Office Immigration

General public consultation by way of notification on the Council's website throughout the consultation period

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APPENDIX C

Responsible Authorities

Licence applications must be sent to the Licensing Authority, and copies sent to the Responsible Authorities and other bodies prescribed by Regulation, as appropriate ~~dependant~~ upon the type of application. The contact details of most of the Authorities are detailed below, and are correct as at April 2010. Applicants should therefore confirm with each Authority that the contact details are correct at time of application.

Licensing Authority

Licensing, Grants and HIA Service
Epsom and Ewell Borough Council
Town Hall
The Parade
Epsom
Surrey
KT18 5BY

Telephone: 01372 732000 Fax: 01372 732452 Email: licensing@epsom-ewell.gov.uk

Surrey Police

Licensing Epsom
Surrey
Police
PO Box 101
Guildford
Surrey GU1 9PE

Telephone: 01372 721212

Surrey Fire and Rescue Service

Licensing Team
Service Headquarters
Croydon Road
Reigate
Surrey
RH2 0EJ

Telephone: 01737 733733

Primary Care Trust

Public Health Business Manager

Public Health NHS Surrey
Room G55
County Hall
Penrhyn Road
Kingston Upon Thames
KT1 2DN

Telephone : 01737 737109

Surrey Social Services

Joanne Booth
County Child Employment & Strategy
Manager

Quadrant Court
35 Guildford Road
Woking
Surrey
GU22 7QQ

Telephone: 01483 517838

Effective from 11 December 2018

Health and Safety at Work etc Act 1974 Enforcing Authority

The enforcement function is undertaken by either the Local Authority or Health and Safety Executive dependant upon the nature of the premises. An overview is given below, but for specific guidance please contact the Environmental Health Service.

Environmental Health Service

(Public Houses, Restaurants, Churches and Church Halls, Shops, Sport Centres etc.)

**Epsom and Ewell Borough Council
Environmental Health Service
Town Hall
The Parade
Epsom
Surrey, KT18 5BY**

Telephone: 01372 732000

Email: contactus@epsom-ewell.gov.uk

Health and Safety Executive

(Local Authority premises, railways, Police or Fire Authority premises, fairgrounds, agricultural shows etc.)

**Health and Safety Executive
The Council Offices
Station Road East
Oxted
Surrey, RH8 5BY**

Planning Authority

**Planning Department
Service
Epsom and Ewell Borough Council
Town Hall
The Parade
Epsom
Surrey
KT18 5BY**

Telephone: 01372 732000

Fax: 01372 732109

Email: planning@epsom-ewell.gov.uk

Trading Standards

**Surrey Trading Standards

Consort House
5-7 Queensway
Redhill
Surrey
RH1 1YB**

Telephone: 08454 04 05 06

Email: trading.standards@surreycc.gov.uk

Home Office (Immigration Enforcement)

**Alcohol Enforcement Team
Lunar House
40 Wellesley Road
Croydon, CR9 2BY
Email: alcohol@homeoffice.gsi.gov.uk**

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MOTIONS TO COUNCIL

In pursuance of the Council's Rules of Procedure, Councillor Tony Axelrod will move and Councillor Richard Baker will second, the following Motion:

"This Council has previously confirmed its support for the option proposed by Epsom and St Helier University Hospitals NHS Trust (ESHUH NHS Trust) to have a new acute unit constructed on the current Epsom Hospital site, to maintain all other remaining services on this site and to expand speciality facilities. These would include a 24-hour Accident and Emergency service. However, this Council views with concern the proposal, made public recently, to dispose of land forming part of the current Epsom Hospital site. This Council requests ESHUH NHS Trust to halt any site disposal, enabling the site to remain available for the provision of future health and social care services for the residents of Epsom and Ewell and East Surrey and to await decisions in regard to:

- (a) The location of any acute hospital unit to serve the needs of residents in Epsom and Ewell and East Surrey,
- (b) The relocation of any services that are currently located at West Park hospital, which has been the subject of a recent public consultation,
- (c) The location of an acute mental hospital for the residents of Epsom and Ewell and East Surrey, which was due to be the subject of a public consultation in early 2017, but has yet to take place.

Given the housing pressures imposed on this Borough by central Government's requirement of 579 housing units constructed per year for at least the next 20 years, the number of residents in our Borough could increase significantly, by an estimated 25,000 to 30,000. Residents of Epsom and Ewell require certainty with regard to their local hospital services and without the loss of service availability, and the disposal of land forming part of the Epsom Hospital site by ESHUH NHS Trust can only serve to reduce options for the future and threaten those locally delivered services. In view of these pressures, this Council agrees that:

- (d) The cost of repairs and renovations to the existing Epsom Hospital buildings must be funded via other means than the sale of land and buildings, and calls upon NHS England to support ESHUH NHS Trust in bringing the hospital buildings up to the required standard of a 21st century hospital without having to sell any part of the existing estate, which is an unsustainable approach.

In pursuance of the Council's Rules of Procedure, Councillor Liz Frost will move and Councillor Tella Wormington will second, the following Motion:

- "1. This council acknowledges the need to tackle the national housing shortage and agrees that local authorities must play their part in planning for the right homes in the right places.
2. However, this council also notes that the current Government target of at least 8685 additional new homes for Epsom and Ewell is arbitrary and takes no account of:
 - (a) The acute shortage of available & deliverable sources of housing land supply within the Borough;
 - (b) The requirement for substantial additional infrastructure, including schools and healthcare facilities, needed to support such a large increase in prospective additional residents; and
 - (c) The significant threat posed to the Borough's green belt, parks and other open spaces.
3. This council therefore agrees that in addressing the Government's housing target it will seek to develop innovative solutions aimed at:
 - (a) Retaining as far as possible the existing character of the borough and the quality of design and build that our residents prefer.
 - (b) Directing new development towards existing urban areas and brownfield sites and, where appropriate, permitting higher and denser development than at present.
 - (c) Discussing with neighbouring councils how we might work together to accommodate new housing.
 - (d) Affording maximum protection for our much-prized Green Belt, parks and other important open spaces."

Note: The deadline for Notice of Motions was 5.00pm on Wednesday 4 July 2018 (17.00 hours on the eighth clear working day before the meeting)