

Community Directorate

# London Borough of Harrow

## Statement of Licensing Policy



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# 1. Introduction

- 1.1 Harrow is an outer London Borough in North West London, approximately 10 miles from central London. Covering 50 square kilometres (20 square miles) and it is the 12th largest borough in Greater London in terms of size and 20th in terms of population. There are nine district centres, plus Harrow Town Centre which is one of London's twelve metropolitan centres.

Much of the population growth is within our main towns of Harrow, Wealdstone and Edgware, with a less densely populated area to the north of the borough which is home to smaller towns and villages.

The borough benefits from fast links into central London, served by overground trains and three tube lines.

Harrow is a great place: we are the safest Borough in London; one of the most diverse places in the country; a suburb with bountiful green space with just over a quarter of the area (over 1,300 hectares) consisting of open space, yet incredibly well-connected to a global airport hub and the centre of the world's greatest city.

- 1.2 This policy sets out how Harrow Council approaches its role as the Licensing Authority under the Licensing Act 2003 ('the Act.'). It is responsible for premises licences, club premises certificates, temporary events notices, community and ancillary sale notices and personal licences in the Borough in respect of licensable activities:

- the sale and/or supply of alcohol
- the provision of regulated entertainment
- late night refreshment.

- 1.3 As the licensing authority the council is under a duty to promote the objectives of the Act, each of which is considered of equal importance:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

- 1.4 The council recognises that as a licensing authority it may only act within the powers granted under the Act. Where circumstances are appropriate to promote the licensing objectives the licensing authority will amongst other matters take into account:

- matters within the control of the premises licence holder/club premises certificate holders
- the specific premises and the places used

- the direct impact of the activity taking place at the licensed premises on people in the vicinity of the premises.

1.5 The licensing policy has 3 main purposes:

- To inform licence applicants of the parameters under which the Licensing Authority will make licence decisions, and therefore how a licensed premises is likely to be able to operate within an area<sup>1</sup>.
- To inform residents and business of the parameters under which the Licensing Authority will make licence decisions and therefore how their needs will be addressed.
- To reinforce the elected Members on the licensing Committee, the powers of the Licensing Authority and the limits of those powers, and to provide them with parameters under which to make decisions.

1.6 The Licensing Authority is empowered under the Act to grant, review, vary, suspend or refuse premises licences, club premises certificates, personal licences and deal with temporary event notices in the Borough. The licensable activities dealt with by the licensing authority and set out in the act are as follows:

- The sale by retail of alcohol
- Supply of alcohol to club members
- Provision of “regulated entertainment” – to the public, to club members or with a view to profit. This includes the;
  - Performance of a play
  - Exhibition of a film
  - Indoor sporting events
  - Boxing or wrestling entertainment
  - Performance of live music
  - Playing recorded music
  - Performance of dance
- The provision of late night refreshment being the supply of hot food and/or drink from any premises between 11pm and 5am.

1.7 The Act divides licences into premises licences for the building and personal licences for each licensee.

1.8 Harrow has a vision which set out aspirations for the the borough, including:

- Everyone looks after each other
- Neighbourliness and cohesiveness
- Sense of belonging
- Caring for people and the area
- Resilience

1.9 Harrow aspires to achieve big and bold goals by 2030 through the Borough Plan .

- Improve the environment and address climate change by becoming a carbon neutral borough by 2030;

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<sup>1</sup> Each case will be examined on its individual merits

- Tackle poverty and inequality by removing the variation in life expectancy in the borough;
- Build homes and infrastructure by building over 1,500 homes, including council homes and affordable homes;
- Address health and social care inequality by reducing health inequalities across communities in the borough;
- Develop a thriving economy by supporting our high streets to flourish and be vibrant;
- Sustain quality education and training by making Harrow one of the best boroughs for children and young people to live and grow up in;
- Celebrate communities and cohesion by continuously celebrating the diverse heritage within the borough and challenging all forms of discrimination
- Maintain low crime and improve community safety by keeping Harrow one of the safest boroughs in London.

1.10 In applying this policy the licensing authority will seek to implement the council's priorities The Harrow Council priority is to restore pride in Harrow by ensuring it is:

- A council that puts residents first
- A borough that is clean and safe
- A place where those in need are supported

1.11 The London Borough of Harrow has produced this Licensing Policy Statement in accordance with the provisions of the Licensing Act 2003 and the guidance issued under Section 182 by the Home Office.

1.12 This policy succeeds Licensing Authority Policy statement dated 23 February 2017 and whilst subject to on-going review will be in force for a period of 5 years from 23 February 2023.

1.13 Any comments about this policy can be addressed to [licensing@harrow.gov.uk](mailto:licensing@harrow.gov.uk).

## 2. Fundamental Principles

2.1 Licensing is not a mechanism for the general control of anti-social behaviour by individuals beyond the direct control of the licensee of the premises concerned. However the licensing authority considers that licensing legislation plays a key role in seeking to ensure premises are managed well in order to promote the licensing objectives. There are several options available to the licensing authority to assist with this control in areas where licensed premises are contributing or considered responsible for anti-social behaviour and where informal resolution has failed:

- the power of responsible authorities including the licensing authority itself, Members (Councillors) of the licensing authority, residents or businesses to seek

a review of the licence or certificate in question

- enforcement action (including prosecution) of any person responsible for providing unlicensed activities or allowing the breach of a condition on a premises licence or club premises certificate
- enforcement action (including prosecution, fixed penalty notices or closure notices) of any personal licence holder or member of staff at such premises who is selling alcohol to a person who is drunk or under age
- the use of closure and other statutory orders under the Licensing Act 2003 and related anti-social behaviour legislation
- Early Morning Alcohol Restriction Orders
- introduction of a Late Night Levy

2.2 Nothing in this policy shall override the right of an applicant to submit a valid application for consideration, or prevent any party from making valid representations about applications.

2.3 The Licensing authority is not expected to act as responsible authorities on behalf of other parties (for example, local residents, local Councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so.

2.4 It is also reasonable for the licensing authority to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority.

For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.

2.5 In determining a licence application the overriding principle will be that each application will be determined on its individual merits.

2.6 Licence conditions imposed will be relevant to the individual application and appropriate to meet the licensing objectives. Licence conditions will not be imposed where other regulatory regimes, such as fire safety legislation, provide sufficient protection for patrons and other members of the public

2.7 Where an application is made for a new or transfer and variation of a licence, in respect of premises that have closed and that closure was to a relevant extent as a consequence of crime and disorder and/or nuisance issues at the premises, the Licensing Authority would expect the applicant to make clear in their operating

schedule how they will ensure the crime and disorder and public nuisance objectives will be met, bearing in mind any previous crime and disorder/nuisance concerns there may have been.

- 2.8 The Licensing Authority recommends that all applicants carry out sufficient risk assessments for the activities on their premises, and that the findings are put into practice. The Licensing Authority encourages applicants to carry out an assessment of the likely impact of the activities to be carried on at the premises, with a view to identifying any control measures that may be appropriate.
- 2.9 When exercising its licensing functions the Licensing Authority will not be influenced by the question of need. The question of whether or not there is a need for any particular premises is a commercial matter which is not relevant to the Licensing Authority's considerations. The issue of need may be a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

### **3. Engagement**

- 3.1 Public engagement is an important element of the Licensing Act. Written representations about licence applications are welcome. Representations that are considered by the licensing authority's officers to be out of time; irrelevant (because they do not address the licensing objectives); vexatious (because they for example repeat matters that have been previously raised unsuccessfully by the same respondent); or frivolous (lacking in seriousness) may be rejected. (Please also see sections 5 and 6 of this policy).
- 3.2 The licensing authority aims to work with applicants and residents to help licensable activities contribute to the diverse and vibrant commercial and cultural life of the Borough without having an adverse impact on our residents or their amenity. The licensing authority strongly encourages pre-application discussions and will make representations as a licensing authority where it believes it would be appropriate to further the licensing objectives.

### **4. Partnership working**

- 4.1 This policy relies on strong partnership working, and the licensing authority will work particularly with licence holders, residents, police, Trading Standards, Environmental Health and Public Health in implementing it. The licensing authority strongly encourages and participates in schemes such as Pubwatch and Best Bar None.
- 4.2 The licensing authority will be mindful of the cost and regulatory burden that imposing conditions and other restrictions places on applicants and licensees. The licensing authority will work (with others where possible) to ensure conditions and restrictions are appropriate to only further the licensing objectives, are proportionate, clearly understandable and enforceable. To this end we have produced a separate non-binding pool of model conditions for reference that will be updated by the licensing authority's officers in the light of operational experience.
- 4.3 Where our discretion is engaged, because representations have been made about an application, the licensing authority will consider each application on its own individual

merits including the impact of an application on the local area before making a determination.

## 5. The licensing objectives

- 5.1 An operating schedule is an important part of a premises licence or club premises certificate addressing how the applicant will promote the licensing objectives. The licensing authority encourages applicants to discuss their operating schedules with our officers before an application is submitted. Although applications may be submitted without completing an operating schedule it is more likely that representations will be made by responsible authorities or others.
- 5.2 The licensing authority may take into account the (non-exhaustive list of) factors below when considering applications, particularly when representations have been raised that are not otherwise withdrawn. The licensing authority's officers will consult with applicants about conditions during the consultation period and consider making representations about these matters where it is appropriate to do so.
- 5.3 These factors may also be taken into account by a Licensing Panel of councillors should representations be raised in relation to these matters.

<b>Objective</b>	<b>Factors to consider</b>
<i>Prevention of crime and disorder</i>	<ul style="list-style-type: none"> <li>• degree of confidence in the management of the premises</li> <li>• location of premises</li> <li>• gang-related activity in the area</li> <li>• participation in local crime prevention schemes (such as Pubwatch or the Harrow Business Improvement District scheme)</li> <li>• commitment to reporting all crimes and anti-social behaviour associated with premises</li> <li>• crime prevention audit conducted by police/professional security organisation</li> <li>• staff training</li> <li>• responsible alcohol sales including provision of customer information and staff training</li> <li>• membership of the Brent and Harrow Trading Standards Responsible Trading Scheme</li> <li>• employment of licensed security staff and/or door supervisors</li> <li>• drug prevention and detection measures</li> <li>• search and detection of weapons</li> <li>• entry control measures (for example membership schemes, ticketing, electronic identity checking, queue controls etc)</li> <li>• suitable and sufficient security plan</li> <li>• effective wind-down and dispersal policies</li> <li>• use of CCTV</li> <li>• anti-theft provisions (eg time-locked safes, magnetic door locks, regular removal of cash from tills)</li> <li>• use of information to ban potential causes of alcohol-related crime and disorder, such as liaison with police about street drinkers, use of banning schemes</li> </ul>



	<ul style="list-style-type: none"> <li>• restrictions on sales of certain alcohol where appropriate (eg not selling high-strength alcohol where street drinkers may be prevalent)</li> <li>• position, display and promotion of alcohol</li> <li>• style, design and layout of the premises including provision for the safety of children</li> <li>• use of non-glass containers for alcohol where appropriate</li> <li>• measures to prevent or reduce anti-social behaviour arising from licensable activities</li> <li>• compliance with the Portman Group's Code of Practice on the naming, packaging and promotion of alcoholic drinks</li> <li>• trading hours</li> <li>• compliance with other business legislation with criminal penalties such as immigration offences; waste management; and smoking controls under the Health Act 2006</li> </ul>
<p><i>Prevention of public nuisance</i></p>	<ul style="list-style-type: none"> <li>• trading hours</li> <li>• noise reduction measures associated with licensable activities, particularly near to residential properties such as noise limiters, acoustic lobbies, double glazing, ventilation systems etc</li> <li>• noise mitigation measures associated with licensable activities, particularly near to residential properties</li> <li>• provision of litter bins and litter patrols</li> <li>• use of low-impact litter materials</li> <li>• measures to control smoking</li> <li>• extent of any external areas such as beer gardens, smoking areas and pavement cafes</li> <li>• effective wind-down and dispersal policies</li> <li>• noise from people arriving at or leaving from the premises and which is related to licensable activities</li> <li>• control of other nuisances relating to licensable activities such as light or odours</li> <li>• management of waste particularly preventing fly-tipping</li> <li>• arrangements in place for hiring licensed premises for private parties especially younger "anniversary birthday" parties</li> <li>• clear identification of staff authorized to sell alcohol</li> </ul>

<p><i>Public safety</i></p>	<ul style="list-style-type: none"> <li>• event management plans (and liaison with relevant agencies) for large-scale and/or high risk events</li> <li>• capacity limits other than those assessed purely for fire safety reasons</li> <li>• arrangements to prevent use of premises by extremist or other radical groups and to promote equality</li> <li>• the control of any hazards other than those controlled under the Health &amp; Safety at Work etc Act 1974</li> <li>• First Aid arrangements for customers above those required for workers under the Health &amp; Safety at Work etc Act 1974</li> <li>• identifiable high levels of alcohol consumption in the vicinity of the premises that might be increased by the grant of an authorisation</li> </ul>
<p><i>Protection of children from harm</i></p>	<ul style="list-style-type: none"> <li>• age verification policies over and above the mandatory minimum</li> <li>• measures to protect children from being exploited or coming to harm</li> <li>• procedures to deter and report under-age and proxy alcohol sales</li> <li>• membership of the Brent and Harrow Trading Standards Responsible Trading Scheme</li> <li>• measures to ensure children are not exposed to age-inappropriate products or activities (eg cigarettes, gaming machines, relevant entertainment or age-inappropriate films)</li> <li>• exclusion or designated areas and/or times for children with or without accompanying adults</li> <li>• measures to protect children as performers at any premises</li> <li>• arrangements in place at events solely aimed at those under 18 years old</li> <li>• procedures for dealing with lost and found children, particularly at open-air events</li> </ul>

## 6. Health Considerations of Licensing

- 6.1 Health bodies are now responsible authorities as identified by the Act and as such are notified of all new premises applications to which they can make representations. Their representations must however still be relevant to the existing statutory licensing objectives.

## 7. Live Music, Dancing & Theatre

- 7.1 The Licensing Authority wishes to encourage and promote live music, dance and theatre for the wider cultural benefit of the community particularly for children.
- 7.2 When considering applications for such events and the imposition of conditions on licences, the Licensing Authority will carefully balance the cultural needs with the necessity of promoting the licensing objectives. The Licensing Authority would wish to avoid, so far as possible, measures which deter live music, dancing and theatre.
- 7.3 The licensing Authority draws all applicant's attention to the Live Music Act and other similar deregulations.
- 7.4 The Licensing authority suggest where applicants are minded to consider restricting the timings of live or recorded music to attempt to satisfy responsible authority concerns, that they also consider conditions in relation to the application of the deregulation. This is applicable when the application is requesting the sale of alcohol on the licence and would be entitled to utilise the deregulations mentioned above. The Licensing Authority recommend that in these circumstances the applicant speak to the Noise Nuisance department prior to application

## 7. Other legislative responsibilities

### 8.1 Crime and disorder

The licensing authority is under a duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of its' decisions, and to seek to reduce crime and disorder within the Borough.

### 8.2 Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention Right. The licensing authority will have particular regard to the following provisions of the European Convention on Human Rights:

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

### 8.3 **Better regulation**

The licensing authority is under a duty to have regard to the statutory Regulators' Code when setting this policy to:

- help those the licensing authority regulates comply with the Act and to grow
- provide straightforward and simple ways to comment on the licensing authority's policy and how we enforce the Act
- base regulatory activities on risk
- share information about compliance and risk with other regulators where possible
- make clear information, guidance and advice available to help licensees meet their responsibilities to comply
- ensure our regulatory approach is transparent.

### 8.4 **Equalities**

Harrow's diversity is one of its strengths and the Equality Act 2010 aims to tackle potential discrimination against persons with "protected characteristics". Harrow Council has published its Equal Opportunities Policy that sets out how it aims to reduce inequality issues within the Borough and create a more inclusive community. An Equalities Impact Assessment has been prepared in relation to the statement of licensing policy and is available on request and on our website.

We aim to ensure that our Statement of Licensing Policy and associated practices do not discriminate against any people with protected characteristics within the community and will pursue any opportunity to promote equality of opportunity and good community relations. To this end we will:

- encourage applications for licences and certificates to be made from the widest range of ethnic and cultural groups
- provide information and documentation in other languages and formats on request so the licensing policy can be conveyed to all members of the community
- conduct an equalities impact assessment during the five year period of the policy to identify the effects the policy may have had for different groups within the community, take appropriate action to prevent direct and indirect discrimination which may have been the result of the policy statement
- conduct a health impact assessment during the first two years of the policy to identify the possible health impacts and so the positive impacts can be maximised and any negative impacts minimised and monitored.

### 8.5 **Planning permission**

Planning and licensing are distinct regimes and will be properly separated to avoid duplication and inefficiency. Where planning permission has not yet been granted, or there appears likely to be a clear conflict between licensing and planning permissions (eg a difference in permitted hours) an informative will be issued to the premises

licence holder to remind them of the need to seek permission or to comply with the current permission as granted.

#### **8.6 Cultural strategies**

In its role of implementing local authority cultural strategies, the licensing authority recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community. When considering applications for such events and any conditions on licences or certificates, the licensing authority will carefully balance the cultural needs with the necessity of promoting the licensing objectives and the protection of the vulnerable.

Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where only limited disturbance may be caused.

## **9. Specific circumstances**

9.1 The licensing authority considers the following paragraphs to be appropriate to certain specific circumstances:

#### **9.2 Good neighbour principle**

The licensing authority expects all premises to promote the licensing objectives, regardless of whether any specific conditions are included on the authorisation. The licensing authority would encourage all premises to adopt the following Good Neighbour principles to:

- let neighbouring properties know about any changes to normal operations that might have an impact on them – such as temporary events notices that will end late at night or events likely to attract more customers than usual
- report to the council incidents of fly-tipping and excessive littering in the immediate vicinity, even if it does not directly affect the licensed premises
- report via the 101 non-emergency telephone line incidences of anti-social behaviour in the immediate vicinity, even if it does not directly affect the licensed premises
- provide a temporary haven for anyone in distress or need of immediate assistance (such as calling the police for someone who has been a victim of crime)
- maintain a litter-free and presentable area around their premises, even if it includes public highway
- help promote responsible alcohol consumption and local health initiatives such as health walks
- allow communal use of toilets where available

#### **9.3 Opening times and shops**

In accordance with the Secretary of State's guidance, the presumption will be that shops shall be licensed to sell alcohol during the same times as other goods in that shop, unless it is appropriate not to in order to further the licensing objectives. In some

cases it may be appropriate to restrict alcohol sales to certain times and conditions imposed to ensure alcohol are segregated from other goods on sale.

#### **9.4 Restaurants and take-aways**

Applications received from premises ostensibly acting as a restaurant will be closely scrutinised. The licensing authority reserves the right to examine the operating emphasis of premises and to take such steps as appropriate to avoid misrepresentation. A restaurant or take-away will normally be expected to offer the condition that alcohol would be served as being ancillary to a meal.

#### **9.5 External drinking areas**

Sales of alcohol may only take place where the external area has been included on the plan for the premises. Where appropriate, conditions will be placed on external drinking areas, including beer gardens. The council has a separate policy for licensing furniture on the public highway, which is available on our website.

#### **9.6 Arrangements for films**

The licensing authority would expect premises where films are shown to have in place measures to prevent children from viewing age-inappropriate films as classified by the British Board of Film Classification (BBFC) or the requirements of the licensing authority.

9.7 The licensing authority reserves the right to classify or reclassify any film to promote the child protection objective. Any classification will be notified to the relevant premises licence holder for advertisement at the premises and where tickets are sold for the performance, and a notice placed on the Council's website.

9.8 Any representation to reclassify a film that has already been classified by the BBFC must be presented with clear and cogent reasons why the licensing authority ought to contradict the professional view of the BBFC.

#### **9.9 Child protection and safeguarding**

Many children go to see and/or take part in entertainment arranged especially for them, for example children's film shows and dance or drama productions. Additional arrangements are required to safeguard them while at licensed premises without an accompanying responsible adult. Where appropriate the licensing authority will expect the licensee to provide evidence of how they intend to provide for the supervision and welfare of children as customers and as performers. Where children are supervised, the licensing authority will expect the operating schedule to demonstrate that staff are appropriately vetted, including via the Disclosure and Barring Service if necessary.

9.10 Where events are taking place that are solely provided for children, for example an under 18s disco, premises licences should include a risk assessment to prevent consumption of alcohol at or near the event; appropriate means for safeguarding children whilst at the event; and adequate arrangements to ensure the safe dispersal of children from the event.

9.11 The licensing authority will generally expect premises applying to open after 11 pm or that may be attractive to children to have in place a policy such as engagement with the Metropolitan Police Service's Operation Makesafe to ensure that staff are aware of the signs of potential child exploitation and how to report concerns about safeguarding.

### 9.12 **Adult entertainment**

When no entry is made in the application box relating to 'adult entertainment' it will be taken that there is no application for such entertainment and that a condition will be made to this effect. The licensing authority is responsible for licensing premises as sex entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009. The licensing authority has published a policy on the control of sex entertainment venues.

## 10 **Conditions and consultations**

10.1 In order to achieve the best outcome for promoting the licensing objectives, the licensing authority will liaise with applicants for new or varied premises licences (and club premises certificates) during the consultation process about conditions to be ultimately included on their licence. Where appropriate, the licensing authority will draw the wording for proposed conditions from its pool of model conditions that is available separately, unless the proposed wording on the operating schedule is appropriate, proportionate, clearly understandable and capable of being enforced. This will allow any discrepancies to be addressed during the consultation process, and for the licensing authority to submit a formal representation in the event of unresolved disputes. In accordance with the Secretary of State's guidance the licensing authority would expect applicants to also take into account the impact that their application might have on the local area.

## 11 **Representations**

- 11.1 The Licensing Act places duties on persons and organisations to make relevant representations and often in a relatively short timescale. In this context a "relevant representation" has to positively link the issues to the premises (or person) in question and the issues must relate to the statutory objectives.
- 11.2 The licensing authority cannot accept representations that it considers frivolous or vexatious. Additionally, in the case of a review of a licence or certificate, repetitive representations are also invalid. Officers will also be aware of the possibility of review applications being submitted as a consequence of an unsuccessful or rejected representation.
- 11.3 Licensing authority officers will determine whether a representation is irrelevant, frivolous, vexatious or repetitive in accordance with the Licensing Act and Guidance. In cases of doubt the representation will be allowed to stand and to be considered by a Licensing Panel.
- 11.4 Where the licensing authority determines that a representation is invalid it will notify the person of the decision and the reason. Where time exists, the person will be invited to make a further valid representation.
- 11.5 Representations should be made in writing to the licensing authority. The interested party must ensure they include their name, address and contact details. Please be aware that the Licensing Act 2003 requires all parties that wish to make a representation against an application ensure that their name and addresses are included in the representation to make it valid.

- 11.6 The representee name and address is required so that the Licensing Authority and the applicant or their representation can validate that the person making the representation qualifies to make the representation in terms of living or working in the vicinity to the premises concerned.
- 12.3 In exceptional cases an interested party can request the Licensing Authority to withhold their details, in any event the original letter must contain the information required.
- 11.7 All representation will be put out into the public domain and some will end up in reports that will be able to be viewed on the website.
- 11.8 All representations must be about the likely effect of granting the licence or certificate on the promotion of at **least one** of the four licensing objectives. It would be wise, therefore, to explicitly link any representation to one or more of the objectives.
- 11.9 It will also assist if the representations are specific to the premises and evidence based. Interested parties may, therefore wish to talk to the relevant responsible authority beforehand, or document problems themselves by, for example, keeping a diary or photographic evidence of any incidents.
- 11.10 Licensing authorities will need to be satisfied that there is an evidential and causal link between the representations made, and the effect on the licensing objectives.
- 11.11 When a representation is made which purports to be on behalf of a group, society or other association, the licensing authority will require reasonable proof to verify that a signatory is genuinely speaking on behalf of the members of that group. This could take the form of minutes to a meeting, a resolution passed or similar documentation. 'Group' has a wide meaning and can include a residents' association or similar.
- 11.12 Petitions will be accepted by the licensing authority. The licensing authority's approach will be to enquire how the petition was compiled, and whether each signatory signed in full knowledge of the facts of the application in order to assess how much weight to give the petition when determining the application. Names and addresses will be assessed to ensure they appear to be prima facie genuine, and that signatories have not also submitted their own representation independently of the petition.
- 11.13 In the absence of contrary evidence, the organiser(s) of the petition will be deemed to have been the person making the representation. Consequently they will be deemed to have the right to speak at and present evidence to any Licensing Panel and to exercise any right of appeal. They may invite other petitioners to speak and present evidence on their behalf but the other petitioners may not do so on their own behalf. The other petitioners will not be treated as parties to the hearing unless they have submitted their own independent and relevant representations.
- 11.14 The licensing authority will carefully scrutinise representations to ensure signatories have signed in full knowledge of the facts of the application. It is likely that more weight will be given to standard or 'round robin' letters than to petitions. Each signatory on a standard or 'round robin' letter will be deemed to be a party to the application with their own right to speak and present evidence to any Licensing Panel, and to exercise any right of appeal.



- 11.15 If no relevant representations are made, the licence or variation must be granted, therefore interested party representations are very important.
- 11.16 It may be beneficial for representees to get the backing of other people living, or businesses operating in the vicinity of the premises.
- 11.17 If interested parties want to ask another person, such as an MP or local Councillor to represent them, it is advisable to make such a request in writing so that the individual can demonstrate he or she was asked.
- 11.18 Representees should address how they would like the situation to be rectified. The Licensing authority often has to balance conflicting needs when determine licensing applications, it is beneficial for representees to outline what they feel would resolve or reduce their concerns.

## 12 Temporary event notices

- 12.1 Whilst the Act requires 10 working days' notice to be given of the temporary event (exclusive of the day which the event is to start and the day on which the notice is given), the Licensing Authority would wish applicants to make contact with the Licensing Authority at an early stage before a formal application is made. This is particularly important for large events and will enable responsible authorities to consider proposals. Early consideration will allow issues and the licensing objectives to be addressed and may avoid objections from the police and/or the Environmental Health Department..
- 12.2 Applicants should be aware that the serving on the Licensing Authority of a Temporary Event Notice does not remove their obligations under other legislation. Where appropriate, permissions should be sought from the appropriate body. The Licensing Authority expects that applicants understand their obligations in respect of:
- Planning permissions
  - Health and safety
  - Noise pollution
  - The erection of temporary structures
  - Road closures
  - The use of pyrotechnics
  - Anti-social behaviour
- 12.3 Applicants intending to sell alcohol should be aware that it is an offence to supply alcohol to minors or persons who are drunk. Also that the Police have powers to close down events without notice on the grounds of disorder, the likelihood of disorder or because of public nuisance caused by noise.
- 12.4 Applicants should be aware that a limit of less than 500 persons at any one time applies to temporary events and failure to comply with this limit may lead to prosecution. Organisers should be aware this is the total number of persons, not customers, therefore staff should be included in this number.
- 12.5 Where appropriate, organisers are strongly recommended to employ means of recording the number of persons entering and leaving the premises.

- 12.6 The attention of applicant is drawn to the Licensing Authorities need to be provided with adequate information on the TEN. The applicant should make clear:
- The nature of the event
  - If the event involves live or DJ music
  - whether it is open to the public or section of the public
- 12.7 The applicant should also ensure all fields on the application form are completed, including the national insurance number.
- 12.8 If a TEN is submitted without the required information it will be refused as invalid. In these circumstance any fee submitted is non refundable.

**12.9 Late Temporary Events Notices**

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. For the Licensing authority to be able to accept the applicant should confirm that they are submitting a Late TEN Failure to do so will deem the TEN invalid. In these circumstance any fee submitted is non refundable.

## **13 Administration, exercise and delegation of functions**

- 13.1 The following table sets out the delegation of decisions and functions to Licensing and General Purposes Committee, the Licensing Panel (sub-committee) and to officers.
- 13.2 Delegations are without prejudice to officers referring an application to a Licensing Panel; or a Licensing Panel to the Licensing and General Purposes Committee, if considered appropriate in the circumstances of any particular case.
- 13.3 Officers have delegated authority to classify films in the absence of classifications by the British Board of Film Classification, or to refer films to a Licensing Panel in the case of doubt. Officers will liaise with the chair of the Licensing and General Purposes Committee as to the approach to be taken about films to be re-classified that have already been classified by the BBFC.

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<b>DECISION</b>	<b>FULL COMMITTEE</b>	<b>LICENSING PANEL</b>	<b>OFFICERS</b>
Application for personal licence		If a police objection	If no objection is made
Application for premises licence/club premises certificate		If a valid representation is made	If no valid representation is made
Application for provisional statement		If a valid representation is made	If no valid representation is made
Application to vary premises licence/club registration certificate		If a valid representation is made	If no valid representation is made
Application for minor variation to premises licence/club registration certificate			All cases
Application to vary designated personal licence holder		If a police Representation is received	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police objection is received	All other cases
Application for Interim Authorities		If a police objection is received	All other cases
Application to review premises licence/club premises registration		All cases	
Decision on whether a representation is irrelevant, frivolous or vexatious			All cases
Making a representation as a responsible authority			All cases

<b>DECISION</b>	<b>FULL COMMITTEE</b>	<b>LICENSING PANEL</b>	<b>OFFICERS</b>
Determination of an objection notice to a temporary event notice (and Community and Ancillary Sales Notices when introduced)		All cases	
Determination of objection to disapply requirement to have Designated Premises Supervisors in community premises		All cases	
Power to vary time limits under the Licensing Act 2003 (Hearings) Regulations 2005		All cases once a hearing has commenced	All cases before a hearing commences
Determination of an objection to a temporary event notice		All Cases	
Decision on whether a minor variation application is valid, the need to go out to consultation and determination			All cases
Power to suspend a premises licence (S.55A (1) LA2003) or club premises certificate (S.92A (1) LA2003) for non payment of annual fees			All Cases
Determination of application to vary a premises licence at community premises to include alternative licence condition		If a Police objection is received	All other cases
Power to specify the date on which suspension takes effect. This must be at least 2 working days after the day the Authority gives notice			All Cases
Fulfil the function of the responsible authority for the Licensing Authority under the Licensing Act 2003			All Cases

# 14 Enforcement protocol

## 14.1 Licence reviews

To maintain a degree of consistency and transparency in decision-making, the Licensing Panel will be referred to the guidelines in appendix 1 when considering a review of a premises licence or club premises certificate. Each application for a review will be considered on its own merits and the Panel may depart from the guidelines should they have good reason to do so. The licensing authority reserves the right to amend and republish these guidelines in the light of operational experience.

## 14.2 Other enforcement powers

The licensing authority will work with other enforcement agencies and take a proportionate, risk-led approach to proactive and reactive enforcement.

14.3 Whilst the licensing authority will investigate complaints about unlicensed activities or licensed premises, it will also encourage self-resolution, mediation or referral to other agencies if that is more appropriate.

14.4 Complaints against licensed premises will be investigated promptly, having regard to feasibility. It must be noted that the licensing officers have limited statutory powers and that complete satisfaction to all parties may not be achieved. Regard will be given to all the events and wishes, and a resolution will be sought that is proportionate in the circumstances. The requirements of one individual cannot take precedence over others. Any decision taken on enforcement will be guided by our corporate enforcement policy and will not be driven by the wishes of any individual or group.

14.5 In most cases, advice or a written warning will be given for first and minor breaches. The table below is *indicative* of our approach to ensuring compliance and enforcing the Act in relation to first or single contraventions:

NATURE OF CONTRAVENTION	INDICATIVE RESPONSE(S)
Activities at premises likely to undermine the licensing objectives	<ul style="list-style-type: none"> <li>• Action Plan</li> <li>• Notice under section 19, Criminal Justice &amp; Police Act 2001</li> <li>• Request to submit minor variation and/or review application</li> </ul>
First contravention of administrative issues eg failure to display summary of the licence, a “refusals” book or incident book in breach of a condition	<ul style="list-style-type: none"> <li>• Written warnings</li> </ul>
Breach of other condition	<ul style="list-style-type: none"> <li>• Action Plan</li> <li>• Notice under section 19, Criminal Justice &amp; Police Act 2001</li> <li>• Caution/prosecution and/or review application</li> </ul>

Conducting unlicensed activities	<ul style="list-style-type: none"> <li>• Notice under section 19, Criminal Justice &amp; Police Act 2001</li> <li>• Caution/prosecution</li> </ul>
Failure to maintain safety systems eg CCTV, panic buttons in breach of condition	<ul style="list-style-type: none"> <li>• Notice under section 19, Criminal Justice &amp; Police Act 2001</li> <li>• Caution/prosecution</li> </ul>

<b>NATURE OF CONTRAVENTION</b>	<b>INDICATIVE RESPONSE(S)</b>
Management failure leading to serious injury of any person	<ul style="list-style-type: none"> <li>• Action Plan</li> <li>• Caution/prosecution and review application</li> </ul>
Providing licensable activities in breach of licensable hours	<ul style="list-style-type: none"> <li>• Notice under section 19, Criminal Justice &amp; Police Act 2001</li> <li>• Caution/prosecution</li> </ul>
Sustained disturbance to neighbouring properties in breach of condition	<ul style="list-style-type: none"> <li>• Informal mediation</li> <li>• Action Plan</li> <li>• Caution/prosecution and/or review application</li> </ul>
Sustained disturbance to neighbouring properties not in breach of condition	<ul style="list-style-type: none"> <li>• Informal mediation</li> <li>• Action Plan</li> <li>• Review application</li> </ul>
Unauthorised alteration to premises layout	<ul style="list-style-type: none"> <li>• Warning and/or request to submit variation application</li> <li>• Notice under section 19, Criminal Justice &amp; Police Act 2001</li> <li>• Caution/prosecution</li> </ul>
Underage sales	<ul style="list-style-type: none"> <li>• Warning and/or request to submit variation application to adopt Brent &amp; Harrow Trading Standards' Responsible Trader Manual</li> </ul>

NB: Enforcement of underage alcohol off-sales is the responsibility of Brent & Harrow Trading Standards Service who will utilise their own enforcement policy

**APPENDIX 1**

**Licence review guidelines**

	<b>Aggravating factors</b>	<b>Mitigating factors</b>
<b>Prevention of crime and disorder</b>	<ul style="list-style-type: none"> <li>• Failure to heed police or licensing authority advice</li> <li>• Encouraging or inciting criminal behaviour associated with licensed premises</li> <li>• Serious injury results from poor management</li> <li>• Previous track record</li> <li>• Deliberate or direct involvement in criminality</li> </ul>	<ul style="list-style-type: none"> <li>• Minor breach of condition not justifying a prosecution</li> <li>• Confidence in management ability to rectify defects</li> <li>• Previous track record</li> <li>• Voluntary proposal/acceptance of additional conditions</li> </ul>
<b>Prevention of public nuisance</b>	<ul style="list-style-type: none"> <li>• Noise late at night in breach of condition or statutory abatement notice</li> <li>• Previous warnings ignored</li> <li>• Long and prolonged disturbances</li> <li>• Excessive noise during unsocial hours (relating to locality and activity concerned)</li> </ul>	<ul style="list-style-type: none"> <li>• Noise limiting device installed</li> <li>• Licence-holder apologised to those disturbed by nuisance</li> <li>• Hotline complaints telephone available</li> <li>• Undertaking/commitment not to repeat activity leading to disturbance</li> <li>• Willingness to attend mediation</li> <li>• Voluntary proposal/acceptance of additional conditions</li> </ul>
<b>Public safety</b>	<ul style="list-style-type: none"> <li>• Death or serious injury occurred</li> <li>• Substantial risk in view of a responsible authority to public safety involved</li> <li>• Previous warnings ignored</li> <li>• Review arose out of wilful/deliberate disregard of licence conditions</li> </ul>	<ul style="list-style-type: none"> <li>• Minor or technical breach of licence condition</li> <li>• Confidence in management to rectify defects</li> <li>• Confidence in management to avoid repetition of incident</li> <li>• Voluntary acceptance/proposal of additional condition</li> </ul>
<b>Protection of children from harm</b>	<ul style="list-style-type: none"> <li>• Age of children</li> <li>• Previous warnings ignored</li> <li>• Children exposed to physical harm/danger as opposed to other threats</li> <li>• Activity arose during normal school hours</li> <li>• Deliberate or wilful exploitation of children</li> <li>• Large number of children affected/involved</li> <li>• Children not allowed on premises as part of operating schedule/conditions</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct occurred with lawful consent of persons with parental responsibility for child</li> <li>• Short duration of event</li> <li>• No physical harm</li> <li>• Short-term disturbance</li> <li>• Undertaking/commitment not to repeat activity</li> <li>• Children permitted on the premises as part of operating schedule</li> <li>• Not involving under-age exposure to alcohol</li> </ul>

	<b>Aggravating factors</b>	<b>Mitigating factors</b>
<b>Application for review after other enforcement action taken by responsible authorities</b>	<ul style="list-style-type: none"> <li>• Penalty imposed by court</li> <li>• Previous warnings ignored</li> <li>• Previous review hearing held resulting in any corrective action</li> <li>• Premises licence holder previously convicted or cautioned for same or similar offences/contraventions</li> <li>• Offences over prolonged period of time</li> <li>• Offences resulted in significant danger or nuisance</li> <li>• Offences as a result of deliberate actions or reckless disregard for licensing requirements</li> <li>• Offence likely to be repeated</li> </ul>	<ul style="list-style-type: none"> <li>• Compensation paid by offender or agreement towards mediation</li> <li>• Voluntary acceptance/proposal of additional conditions</li> <li>• Offence disposed of by way of simple caution or fixed penalty notice</li> <li>• First offence or warning</li> <li>• First review hearing</li> <li>• Single offence/breach</li> <li>• No danger to the public or nuisance</li> <li>• Offences merely administrative in nature</li> <li>• Offence unlikely to be repeated</li> </ul>
<b>Range of likely responses available to the Licensing Panel</b>	<ul style="list-style-type: none"> <li>• To take no action</li> <li>• To issue a written warning</li> <li>• To remove the designated premises supervisor (or require a designated premises supervisor in community premises without one)</li> <li>• Modify the conditions of a premises licence or club premises certificate, including adding new conditions or deleting old conditions</li> <li>• To exclude a licensable activity or qualifying club activity from the scope of the premises licence or club premises certificate</li> <li>• To suspend the licence for a period not exceeding three months</li> <li>• To revoke the premises licence or withdraw the club premises certificate</li> </ul>	



