

London Borough of Harrow



GENERAL PURPOSES AND LICENSING COMMITTEE

MONDAY 29 SEPTEMBER 2003
7.30 PM

COMMITTEE AGENDA

COMMITTEE ROOM CR1&2
HARROW CIVIC CENTRE

MEMBERSHIP (Quorum 3)

Chair: Councillor Bluston

Councillors:

Blann	Mrs Bath	Branch	(none)
Ann Groves	Janet Cowan		
O'Dell	Knowles		
Ray	Vina Mithani		
	John Nickolay		

Reserve Members:

1. Omar	1. Billson	1. Thornton	(none)
2. Lavingia	2. Myra Michael	2. Miss Lyne	
3. Idaikkadar	3. Osborn		
4. Gate	4. Harriss		
5. Dharmarajah	5. Versallion		

Issued by the Committee Services Section,
Law and Administration Division

Contact: Michelle Fernandes, Committee Administrator
Tel: 020 8424 1542 E-mail: michelle.fernandes@harrow.gov.uk

***NOTE FOR THOSE ATTENDING THE MEETING:
IF YOU WISH TO DISPOSE OF THIS AGENDA, PLEASE LEAVE IT BEHIND AFTER THE MEETING.
IT WILL BE COLLECTED FOR RECYCLING.***

LONDON BOROUGH OF HARROW

GENERAL PURPOSES AND LICENSING COMMITTEE

MONDAY 29 SEPTEMBER 2003

AGENDA - PART I

1. **Attendance by Reserve Members:**
To note the attendance at this meeting of any duly appointed Reserve Members.
2. **Declarations of Interest:**
To receive declarations of interest (if any) from Members of the Committee arising from business to be transacted at this meeting.
3. **Arrangement of Agenda:**
To consider whether any of the items listed on the agenda should be considered with the press and public excluded on the grounds that it is thought likely, in view of the nature of the business to be transacted, that there would be disclosure of confidential information in breach of an obligation of confidence or of exempt information as defined in the Local Government (Access to Information) Act 1985.
4. **Minutes:**
That the minutes of the meeting held on 23 June 2003, having been circulated, be taken as read and signed as a correct record.
5. **Public Questions:**
To receive questions (if any) from local residents or organisations under the provisions of Committee Procedure Rule 15 (Part 4B of the Constitution).
6. **Petitions:**
To receive petitions (if any) submitted by members of the public/Councillors under the provisions of Committee Procedure Rule 15 (Part 4B of the Constitution).
7. **Deputations:**
To receive deputations (if any) under the provisions of Committee Procedure Rule 16 (Part 4B of the Constitution).
8. **Electoral Commission Consultations "The Cycle of Local Government Elections in England" and "The Minimum Age of Voting and Candidacy in the UK" and pilot Schemes Evaluation Report:** (Pages 1 - 22)
Report of the Borough Solicitor and Electoral Registration Officer.
9. **Licensing Act 2003, Interim Report:** (Pages 23 - 56)
Report of the Environmental Health Officer.

AGENDA - PART II

10. **Paternity Leave:** (Pages 57 - 60)

Report of the Head of Housing and Environmental Health Services.

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Meeting:	General Purposes & Licensing Committee
Date:	29 September 2003
Subject:	Electoral Commission Consultations "The Cycle of Local Government Elections in England" and "The minimum age of Voting and Candidacy in the UK", and Pilot Schemes Evaluation Report
Key decision:	No
Responsible Chief Officer:	Gerald Balabanoff, Borough Solicitor, Electoral Registration Officer
Relevant Portfolio Holder:	-
Status:	Part 1
Ward:	N/a
Enclosures:	Appendix A - EC Executive Summary re Local Government Electoral cycles Appendix B - EC Executive Summary re voting and candidacy ages Appendix C - EC Executive Summary of pilot evaluation report Appendix D - LGIU draft response re electoral cycles Appendix E - Harrow draft response re electoral cycles

1. Summary

- 1.1 The Electoral Commission (EC) has been asked by the Government to review the cycle of local elections in England. As it is a matter affecting the democratic process in the borough, the views of the council should be included in the consultation. The closing date for responses is 3rd October 2003. The Electoral Commission will review the responses and other evidence, and publish its recommendations to Government by January 2004.
- 1.2 Two other recently published EC documents respectively deal with minimum age of voting and candidacy, and an evaluation of pilot schemes to date.

2. Recommendations (for decision by General Purposes and Licensing Committee)

- 2.1 That the draft replies attached to this report at Appendix E be approved.
- 2.2 That the Committee note that the Electoral Commission is consulting on the ages for voting and candidacy.
- 2.3 That the Committee note that the Electoral Commission is recommending Government that future local elections be all-postal.

REASON: To consider consultations/reports from the Electoral Commission.

3. **Consultation with Ward Councillors**

3.1 n/a

4. **Policy Context (including Relevant Previous Decisions)**

4.1 n/a

5. **Relevance to Corporate Priorities**

5.1 Increased participation in the democratic process is conducive to strengthening communities.

6. **Background Information and options considered**

6.1 Depending on where they live in England, electors may vote at local government elections between one and four times in each four years.

6.2 The 1998 local government white paper proposed annual elections for all local councils, but this has not progressed any further.

6.3 The attached draft response was produced on the principle of desiring a straightforward system generally understood by the electors.

6.4 The Commission have framed their consultation in 8 questions, and the response is produced in the same format.

6.5 Officers have not formulated a draft response to the Commission's paper regarding voting and candidacy ages. If there is a consensus of view amongst Members, this can be done; or alternatively Members/Groups/Parties may wish to write to the Commission direct. The closing date is 31st October 2003.

6.6 On 11th August 2003, I wrote to all Members with the Executive Summary of the Commission's "The shape of elections to come" evaluation report on pilot schemes, explaining that the Commission was recommending Government that all local elections should be all-postal. This will not apply to the European Parliament and GLA/London Mayor elections on 10th June 2004, which will be by traditional polling station method throughout the London Boroughs and the City Corporation.

7. **Consultation**

7.1 Copies of the elections cycles consultation paper were circulated to Group Leaders on 14 July 2003, the Executive Summary of the pilot evaluation report was circulated to all Members on 11th August.

8. **Finance Observations**

8.1

9. **Legal Observations**

9.1 Incorporated in the report.

10. **Conclusion**

10.1 The Electoral Commission has offered opportunities for consultation. A suggested response to one appears at Appendix. E.

11. **Background Papers**

Electoral Commission documents of which the Executive Summaries are attached.

12. **Author**

Pete Kelly, Electoral Services Manager, 020-8424 1097, Civic Centre room 137.

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The cycle of local government elections in England

This consultation paper invites comments to inform our review of the local government electoral cycle in England, and our recommendations for change to simplify the current cycle.

Please send your responses to:
thawthorn
@electoralcommission.
org.uk
by Friday 3 October
2003.

Background

In its white paper *Strong local leadership – quality public services*, published in December 2001, the Government noted that:

The current cycle of local government elections is confusing ... It is too easy for electors to lose track of when elections are to be held or how many votes they have on any particular election day. And this arrangement can lessen the immediate impact of voters' behaviour on council control.

In January 2003, the Government invited The Electoral Commission to review the cycle of local elections in England and identify options for change that would simplify the current cycle. This review considers elections to principal local authorities (including mayoral elections), the Greater London Authority and parish councils. In recommending any options for change, the Commission may consider changes to councillors' terms of office, the number of councillors for local authority areas and the number and boundaries of local authority wards and divisions.

Review process

This consultation paper seeks views and evidence on a number of key questions, and the consultation period will extend until early October 2003. We will consider all responses submitted to us, before formulating options for change to the current cycle of local government elections. We will submit our final report, including our recommendations, to the Deputy Prime Minister by 29 January 2004. Our report will be published and made available on our website.

The current local government electoral cycle

The current cycle of local government elections in England is by no means straightforward. Although all local councillors serve for four years, there is no clear or consistent pattern of elections:

- metropolitan borough authorities elect one third of their members each year;
- London boroughs elect all their members at once every four years;
- shire districts may hold either whole council elections, elections by thirds or by halves; and
- county councils elect all their members once every four years.

Electors in different areas of England may be able to vote between one and four times in each four-year electoral cycle, depending on the area in which they live.

Q1 Should there be a more uniform pattern of local government electoral cycles in England? If so, why?

Q2 To what extent should local preferences be taken into account when considering future arrangements for local government electoral cycles?

Q3 Should the current four-year term of office for local councillors be retained? If not, why?

In areas with two tiers of local government, county council areas for

The Electoral Commission: The cycle of government elections in England

example, elections to the different tiers are currently staggered. Local government elections in England may also be held at the same time as general elections, and the Government has recently proposed that the 2004 local elections should be combined with European parliamentary elections.

Q4 In areas with more than one tier of local government, should elections to different levels continue to be staggered, or held at the same time? Why?

Q5 In developing options for change to the current local government electoral cycle, should the Commission consider the possible future combination of local government elections in England with other national or European elections? If so, why?

Evidence

Public perceptions

The results of an opinion survey carried out for the Commission by MORI in April 2003 indicate that there is widespread public confusion and lack of knowledge about when local elections in England are held. While three-quarters of respondents were able to correctly identify whether there were elections in their area on 1 May 2003, fewer than one in five were unable to actually name which council they were for. More than half of respondents incorrectly identified how often local elections were held in their area, while 32% did not know. There was broad support for moves to harmonise electoral cycles across England, although still some support for retaining some variations according to local circumstances.

Participation

The Local Government Chronicle Elections Centre, University of Plymouth, undertook a statistical analysis of the relationship between the local electoral cycle and turnout at local government

elections in England, which indicates that differences in turnout do exist between local authorities using alternative electoral cycles. The research suggests that, in theory, turnout in local authorities with whole council elections could decline if they were to switch cycle, and could increase if areas with elections by thirds were to switch. The frequency with which electors are invited to vote also appears to affect the level of participation, with marginally greater turnout in areas where electors are given less frequent opportunities to vote.

Performance

We have been asked to consider the extent to which the local electoral cycle may facilitate the effective management of local authorities, and note that there does not appear to be a clear relationship between Comprehensive Performance Assessment (CPA) ratings and local authority electoral cycles. A small number of CPA reports considered the impact of issues relating to the turnover of council members, changes in political composition and the effects of short-term or changeable decision-making.

Q6 Do you have any comments or further evidence on the evidence which we have gathered? In particular, we would value any practical experience or local examples of the issues discussed.

Arguments

The range of arguments for and against either partial or whole council elections is extensive, and this debate has been rehearsed and refined on numerous occasions during recent years. In summary, we have identified a number of arguments for either cycle:

For partial elections

- More frequent opportunities for electors to exercise their right to vote;

- may facilitate more immediate political accountability;
- may tend to produce less drastic changes in political direction, and provide greater political continuity;
- can ensure that the political composition of authorities more accurately reflects the current political complexion of local areas;
- may reduce the likelihood that the timing of important or controversial decisions are distorted by the timing of elections.

For whole council elections

- Greater possibility of wholesale change in control may encourage participation;
- too-frequent elections might dilute public interest;
- opportunity for all electors in an area to influence the composition of the authority at the same time;
- may tend to encourage greater long-term planning by authorities, and discourage continuous election campaigning.

Q7 In addition to the arguments outlined above, are there any other relevant issues which we should take into account?

Q8 In considering the simplification of the local government electoral cycle, which issues or arguments are the most important? Why?

Further information

The full paper is available on The Electoral Commission's website www.electoralcommission.org.uk or in hard copy from the Commission's offices.

We are an independent body set up by the UK Parliament. We aim to gain public confidence and encourage people to take part in the democratic process within the UK by modernising the electoral process, promoting public awareness of electoral matters, and regulating political parties. For more information see: www.electoralcommission.org.uk

The
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How old is old enough?

The minimum age of voting and candidacy in UK elections

The Commission believes that the time is right to review the current minimum age at which people can take part in elections. The Commission has therefore published a consultation paper and seeks views on the issues outlined here by **Friday 31 October 2003**.

Current legal position

To vote in all elections in the UK an individual must be at least 18 years old. This requirement is now contained in the Representation of the People Act 1983, although it was first enacted in 1969.

To stand as a candidate, an individual must be at least 21 years old. This is found in different legal provisions, dependent on the body or office for which the election is being held.

In the UK, there is no standard legal 'age of majority', with different minimum ages applying in relation to different activities. For example:

- 10 (8 in Scotland): criminal responsibility;
- 13: part-time employment;
- 16: leave education, enter full-time employment, have sex, smoke, play the National Lottery, join a trade union, apply for a passport, pay tax and National Insurance, and (with parental consent) join the armed forces, get married, or leave home;
- 17: drive a car or light motorbike;
- 18: buy alcohol without a meal, gamble in a betting shop or casino, be tried in an adult court, serve on a jury, and do without parental consent those things exercisable at 16 only with;
- 21: drive larger and more powerful motor vehicles.

International context

Most Western democracies have a minimum voting age of 18, although there are some variations within countries, e.g. a higher voting age for senior levels of government and a lower voting age for local elections. The international picture is more mixed in relation to candidacy. Many countries have the same minimum age for candidacy and voting (i.e. often 18), but again with some variations by seniority of the elected office.

Young people and democratic engagement

The Commission is particularly concerned about declining participation rates in UK elections, especially among young people. Estimated turnout at the 2001 general election among 18-24 year-olds fell to just 39%.

Young people often take an interest in specific issues, but can be alienated from political structures, including elections, for a number of reasons. These reasons include a perceived failure of politicians to listen to and act upon young peoples' concerns.

Recent developments that might strengthen the link between young people and the democratic process include the introduction of Citizenship Education in secondary schools and the increasing use of elected school councils. Some suggest that allowing voting at 16 would be the logical conclusion of citizenship education in schools. However, different approaches are being taken in

The Electoral Commission: How old is old enough?

England, Wales, Scotland and Northern Ireland, and the curriculum changes are still new.

Some people believe that lowering the minimum ages would be a clear statement that politicians trust young people and take their views seriously. Others say a better approach is to involve young people more directly, for instance through local authority forums.

- Do you think that lowering the voting age, or allowing younger candidates to stand for election, might encourage young people to take part in elections?
- Do you think that lowering the voting age, or the age for standing as a candidate, would increase the levels of trust between young people and politicians?
- If you are a young person, teacher or parent – in your experience, is citizenship education changing young peoples' knowledge of and interest in elections and democracy?

Time for change?

Neither the Labour Party nor the Conservative Party have an official party policy on the minimum voting and candidacy ages. Many other parties do: the Liberal Democrats, SNP, Plaid Cymru, the Greens, and the Scottish Socialists all back lowering the voting and candidacy age. Both the Local Government Association and the Mayor of London also support a lower voting age of 16.

Three independent commissions have recently recommended lowering the voting age and/or the candidacy age for local elections: the Kerley Working Group in Scotland; the Commission on Local Governance in England; and the Sunderland Commission in Wales. In Northern Ireland, the Human Rights

Commission has also suggested a voting age of 17.

The main argument supporting the status quo has been that most voters under 18 and candidates under 21 would not be sufficiently mature to use those rights properly, because they would: have insufficient understanding of the issues; be more likely to act irresponsibly; and be more easily influenced by others. When lowering the voting age to 16 was voted on in the House of Commons in December 1999, it was heavily defeated.

Results from straw polls we have conducted recently indicate young people themselves are fairly evenly split on whether or not the minimum ages should be lowered. However, a significant number of youth and democracy organisations have joined together in a 'Votes at 16' campaign launched in January 2003.

- Do you want to see a change in the current minimum age for voting (18)? Why?
- Do you want to see a change in the current minimum age for standing as a candidate (21)? Why?

Options for change

There is a school of thought that believes there should be no fixed minimum age, but most supporters of change accept there should be some fixed age at which voting is permitted, usually 16 or 17.

- If the voting age were to be reduced, what age do you think it should be reduced to? Why?
- Would you advocate the same minimum age for all levels of election in the UK?

For candidacy, most of the issues discussed above are equally relevant, but there is also a particular issue of the relationship between voting and candidacy: should there be any difference between the two minimum ages, and if so why and what should be the extent of that difference?

- If the minimum age for standing as a candidate at UK elections were to be reduced, what age do you think it should be reduced to? Why?
- Would you advocate the same minimum age for all levels of election in the UK?

Further information

The full consultation paper and a 'young people's version' entitled '16-18-21?' are both available on The Electoral Commission's website www.electoralcommission.org.uk or in hard copy from the Commission's offices.

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The
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Executive summary

The Commission believes that voting should be made easier and more convenient for a twenty-first century electorate.

It is necessary to ensure that security measures are in place to maintain the public confidence that is vital to our democracy.

The process of testing innovations in the electoral process is an important one, in terms of delivering improved 'customer service' – to both regular voters and current non-voters – and anticipating future technological and lifestyle changes. Pilot schemes to test innovative voting and counting methods took place in 59 local authorities across England on 1 May 2003. Approximately 6.4 million people were eligible to vote in these pilot areas – over 14% of the English electorate.

The 2003 pilots programme featured an impressive range of schemes. The use of technology was more widespread than in previous years, with 17 schemes offering electors the chance to cast a vote electronically through a variety of channels – on the internet, by telephone, via text messaging and for the first time through interactive digital television. Over half of the schemes offered all-postal voting. Pilot schemes also tested new voting hours and locations. All pilot schemes were well-conducted and successfully delivered an election result.

The Commission has a statutory duty to evaluate any electoral pilot scheme approved by the Government. Following the 2003 pilot programme, we believe that the point has been reached where a distinction can and should be made between the different categories of pilot scheme. We summarise here our conclusions.

All-postal voting

Our evaluation of the all-postal pilot schemes suggests that this approach is effective in boosting participation rates at local elections – to an extent that was largely underestimated when the pilots process first began, and which appears to be sustainable. Indeed, there are real risks that if Returning Officers in areas with repeated experience of all-postal elections are obliged to revert to use of polling stations alone, voters will express considerable frustration and disappointment. There is only very limited evidence of any increase in fraud or electoral offences linked to the use of all-postal ballots, but that is not to say that they are risk-free, any more than a traditional election is.

We have concluded that all-postal elections are ready to be made available at all local government elections in Great Britain, while recognising that the form of local elections in Scotland is a devolved matter.

The measures we recommend in this report are intended to provide a robust basis for enabling all-postal voting to be extended to all local elections as a matter of standard practice, whilst providing for a polling-station based process under exceptional circumstances.

We recommend that:

- There should be a statutory presumption that all local elections be run as all-postal ballots unless there are compelling reasons why an all-postal ballot would be inappropriate or disadvantageous for a group or groups of electors. The final decision should rest with the Returning Officer following consultation with party group leaders and independent members represented on the Council. If polling stations are to be used, the Returning Officer should publish a statement of reasons for the decision at the time of notice of poll.
- The current declaration of identity should be replaced with a new security statement to accompany postal ballots, whether in the context of all-postal elections or otherwise. This security statement should:
 - require the voter to sign a statement that he/she is the individual to whom the ballot paper was addressed;
 - not require any form of witness signature;
 - include a clear explanation of the role and use of the declaration, in particular that it will be separated from the ballot paper before counting can begin and that failure to complete the statement will render a ballot paper invalid;
 - be designed and printed to make it obvious to the voter that this separation will occur.
- Staffed delivery points should be provided as part of the all-postal ballot. The decision on how many staffed delivery points is a matter for the Returning Officer. There should be at least one, and in many cases this may be sufficient. In other cases more may be needed

but in no cases should there be more than the number of wards in which elections are to be held. Delivery points should be permitted in both mobile and fixed locations. To minimise voter confusion, unstaffed delivery points should not be permitted.

- All delivery points must provide electors with the ability to
 - deliver their completed postal vote, or complete their ballot paper in private;
 - receive assistance in completing their ballot if they so desire;
 - access election information in different formats and languages, including the tactile template;
 - have a replacement ballot paper issued.

Staff employed at delivery points must receive training with a focus on the provision of assistance to voters. These staff must also be bound by the secrecy provisions in electoral law.

A statutory requirement should be introduced requiring that all postal ballot papers be sorted 'face down' at the verification stage.

These measures should also be reinforced by the implementation of the Commission's earlier recommendations for increasing the security of postal voting generally:

- There should be a new offence of intending fraudulently to apply for a postal or proxy vote. The maximum penalty should be a custodial sentence in line with the penalties for personation.
- The drafting of the law on undue influence should be revised to clarify the nature of the offence.
- It should also become a legal requirement that secrecy warnings are included on postal and proxy voting literature; these warnings should be specified in law.
- The existing statutory provisions on personation should be extended to give the police the power of arrest, based on 'reasonable suspicion' of personation, at any location, not just at polling stations.

- A new legal provision should be introduced so that in exceptional circumstances, and where the prosecution has demonstrated all due diligence, the court may extend the period in which a prosecution must be brought by up to 12 months.
- There should be more rigorous and routine checks for fraud after significant elections, on the basis of a random audit process.
- The Commission will develop a Code of Practice in relation to the handling of postal ballots by representatives of political parties, in conjunction with political parties. If self-regulation does not prove to be effective, there may be a need for legislative action in the future.

A further integral component of a successful roll-out of all-postal voting is implementation of the Commission's recommendation for a move from household to individual voter registration. Improved funding arrangements for electoral services will also be important in ensuring that all-postal elections can be efficiently and effectively delivered by local authorities.

The 2003 statutory orders for the all-postal pilot schemes in Herefordshire, Gateshead and Stevenage should be used as the starting point for creating a new pilot order. This new pilot order should also take account of the detailed recommendations in this report and should be piloted at local authority by-elections during the remainder of 2003 and in 2004. Subject to the outcome of evaluation, this order should then provide the basis for making all-postal voting available at local elections without pilot status.

We recommend that all-postal voting should not progress beyond pilot status until our wider recommendations for legislative change detailed above are enacted.

Electronic voting

In relation to electronic voting, we are clearly some way from the prospect of an e-enabled general election. We support the Government's vision for a future in which electors have more choice about how they cast their ballot, provided all voting channels available are as secure as (if not more secure than) those traditionally

available. We believe that the primary aim of e-voting pilot schemes is to develop the infrastructure for providing such choice, rather than in the hope of securing short-term increases in turnout. We are clear that there should continue to be tests of electronic voting in order to ensure that in the future, the mechanics of democracy are not regarded by considerable sections of the public as irrelevant and effectively redundant, even if there is widespread adoption of all-postal voting.

However, we do not seek to put a date on when e-voting will be 'ready for roll-out' as there is still insufficient evidence on which to base any such conclusion. We said in our report on the 2002 pilots programme that a clearer strategic direction was needed to demonstrate the key milestones and risks involved in moving towards 'an e-enabled general election some time after 2006'. We remain concerned that there is a need for more detailed planning towards this goal.

We recommend that:

- The Government should – as a priority – develop a detailed road map towards its stated goal, drawing on expertise across the public and private sectors in the successful development of major IT projects. It is important that this road map is in place before the next round of electronic pilots to enable progress to be reported against an agreed long-term project plan.
- Technical requirements for future e-enabled elections should be further developed, based on the existing Statement of Requirements for suppliers of electronic voting and counting services. In particular, the individual requirements should state more specifically the standard that is expected from the solutions. This includes both the overall requirements and the security requirements. There should be stricter controls to ensure that the stated requirements are adhered to.
- The Government should work with the Commission to develop some form of accreditation to ensure that systems meet the agreed requirements and to increase public confidence in the systems used. The accreditation should focus on security issues, but should also cover accessibility issues.

- Specific and more proactive methods for measuring the number of attacks and level of potential fraud should be mandated for future pilots. A full risk assessment should be undertaken for each e-voting service provided.
- A greater involvement in project management, oversight and involvement is required by the local authorities to ensure that the technical components are well integrated into the overall electoral process and that the election is carried out correctly. It is important that Returning Officers and their staff play a larger role in the operation of future electronic voting schemes.
- Future pilots should explore more explicitly the key issue of scalability with respect to the total cost of the services. In the short- to medium-term, the focus of pilot schemes should be the provision of the internet and telephone channels with a view to providing this scalability.
- The text message and digital TV channels currently add limited value to multi-channel pilot schemes. However, as the adoption of these technologies is changing rapidly, some development of these channels should be continued. It is recommended that, in the short-term, the number of digital TV pilots is kept to a minimum and particular consideration is given to the usability issues.
- Future pilots should investigate the use of electronic voting kiosks in a more targeted fashion. Experience to date suggests that kiosks in polling stations do not provide significant cost benefits and future pilots should therefore not use kiosks simply to replace paper ballots in polling stations. However, the use of kiosks at remote locations and combined with early voting should be investigated further; but issues relating to location, position and secrecy of kiosks and the promotion of the scheme should be carefully considered.

Other innovations

There is also a further category of pilot schemes which we describe here as 'other administrative innovations' – those focused on changing the time and location of voting, and those testing innovations designed to improve the efficiency of election management.

We recommend that:

- The use of watermarked or similarly security-printed ballot paper be introduced as a replacement of the stamped official mark to prove a ballot paper's authenticity. This change should also be introduced for other elections at the earliest legislative opportunity.
- The law should be amended to allow for barcodes to be used to replace serial numbers on ballot papers as an interim measure pending completion of the Commission's review of vote-tracing devices. Ballot stationery should clearly describe the role of the barcode, which should always be placed on the back of the ballot paper. This change should also be introduced for other elections at the earliest legislative opportunity.
- Authorities should continue to pilot new times and places for polling, but that any such application must include fully costed promotion plans.
- Pilot schemes directed at providing more information to voters about candidates should be sought by the Government.
- Further pilots of e-counting should be conducted, both to develop a generic Order suitable for implementation more generally and to investigate scalability issues on a regional basis.

Future pilot schemes

For the future of electoral modernisation, pilots will continue to play an important part, in parallel with the implementation of some of the measures whose success has already been demonstrated. In this context, the Commission also notes that, for 2004, the prospect of combined European and local government elections will have a significant impact on the pilots programme. Where elections are held together, piloting can only occur if the current legislation is changed, and will only be practical and feasible if all elections within a European region are conducted on the same basis.



LGIU POLICY BRIEFING

Local Government Information Unit

14 August 2003

107/03

Cycle of local elections: draft LGIU response

Summary

This briefing provides a draft LGIU response to the Electoral Commission consultation on the cycle of local elections in England. Comment by affiliates is invited by 12 September 2003.

Contact: [Jo Dungey](#)

The information in this policy briefing applies to **England only** but the issues raised may be of a wider interest to our affiliates

This policy briefing is produced for our affiliates only. It should not be forwarded or circulated to non-members.

Background

The Electoral Commission has been asked by the government to review the cycle of local elections in England. The Commission has published a discussion paper, which is summarized in policy briefing 080/03.

A draft submission from LGIU is given here. This is based on discussions of the LGIU Executive Committee. Comments on this are welcome from affiliates, preferably by 12 September. We would also like to receive copies of submissions from affiliates to the Commission.

The Electoral Commission will review the responses and other evidence, and publish recommendations to government, by January 2004.

The cycle of local government elections in England: draft response of the LGIU

The LGIU endorses change to the current arrangements for local elections in England. The current pattern of elections is inconsistent, and does not encourage maximum turnout. In summary:

- We support all councils being elected on an all-out basis (all seats elected on the same date).
- There should be a pattern of local elections, with districts, counties, and metropolitan authorities/unitaries being held on successive years, with four year terms. Ideally none of these would be held in a general election year, although to achieve this consistently, this would need a move to a fixed four year term for the House of Commons.

If local government reorganisation is carried out after referenda to establish English regional government, the pattern of local elections should at that point be established consistently for all councils throughout the region.

Further details on our views are given in the answers to the Electoral Commission's questions, below. Although we welcome the Commission's review, the pattern of electoral cycles is only one of the issues which need to be

addressed to improve the turnout in local elections. The LGIU will also be publishing an action plan to improve local turnout, which will set out a wider context and summarise the change we believe needs to take place.

Q1 Should there be a more uniform pattern of local government electoral cycles in England? If so, why?

Yes. We support all local elections being held on an all-out basis (apart from by-elections). Elections for county councils, districts and metropolitan borough councils (with new unitaries being treated as Metropolitan Councils rather than Districts) should be held systematically on successive years. Ideally the fourth year would be the year of the general election.

The current pattern has come about in a piecemeal way and is not logical or defensible. We support change because:

- Election by thirds lowers turnout. It is frequently the case that the election cannot offer the possibility of a change of administration, which lowers public and media interest.
- It would create a more logical pattern of elections, easier for the public and media to understand.
- A more focused pattern of elections, with more at stake, would encourage local campaigning.
- There is no reason for some councils to have an option of election by thirds or all-out and others not to have that choice.
- There would be some decrease in the cost of running local elections, where the current pattern is election by thirds.
- All-out elections can be more easily combined with a flexible pattern of wards, compatible with the geography of the area (e.g. sparsity), with one, two or three member wards within one council.
- Annual elections may encourage short-termism and avoidance of difficult decisions; they also may undermine effective scrutiny in the lead up to elections.

Q2 To what extent should local preferences be taken into account when considering future arrangements for local government electoral cycles?

We think the need to improve turnout and provide consistency is more important than the right of some councils to choose their electoral cycle. Local preferences should not be taken into account on this issue.

Q3 Should the current four-year term of office for local councillors be retained? if not, why?

It should be retained. It seems to provide a reasonable balance between providing scope for an elected administration to implement their policies and see them take effect, and accountability to and judgement by the electorate.

Q4 In areas with more than one tier of local government, should elections to different levels continue to be staggered, or held at the same time? Why?

Both tiers should have all-out elections. These should not be held in the same year (apart from by-elections, if convenient). This would provide greater clarity for the electorate and the media; and provide for focused debate on the particular services for which the council is responsible.

Q5 In developing options for change to the current local government electoral cycle, should the Commission consider the possible future combination of local government elections in England with other national or European elections? If so, why?

We would like to see local elections focus on local issues and provide accountability on the services and decisions for which councilors are genuinely responsible. Currently, local elections are treated too much as opinion polls on national government, by the media and by national politicians and political parties.

It is, therefore, preferable for local elections not to coincide with the general election. However, to achieve a rational programme of elections, there would have to be a move to a fixed term for the House of Commons, removing the present scope of the incumbent government to choose the date of the general election.

European Parliament elections are organized on a five year cycle, Europe wide date, and radically different constituencies from local government. The date of local elections should not be changed to fit in with this. Possibly there is a case for devolved bodies including any new regional assemblies in England to have elections on the same date as local elections.

Q6 Do you have any comments or further evidence on the evidence which we have gathered? In particular we would value any practical experience or local examples of the issues discussed.

We also submit as evidence, survey research carried out for the Commission for Local Governance, on public views on what would encourage them to use their vote.

(NB The survey report is not included with this policy briefing but is available from LGIU on request.)

Q7 In addition to the arguments outlined above, are there any other relevant issues which we should take into account?

If directly elected regional assemblies are introduced in England after referenda, there should be rationalisation of the pattern of local elections. As the government is committed to a completely unitary pattern of local government in such regions, the metropolitan councils and new unitaries should have the same all-out pattern of election and common election date.

More generally, whilst we welcome this review of election cycles, action is needed on many other factors in order to increase local election turnout. LGIU's ten point action plan summarises these (to be attached to submission).

Q8 In considering the simplification of the local government electoral cycle, which issues or arguments are the most important? Why?

Consistency, being clear and rational to the electorate, maximizing election turnout, maximizing media and campaigning interest in local issues and local government.

Why? Local democracy matters and needs to be strengthened.

Jo Dungey

Acting Head of Policy

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Q1 Should there be a more uniform pattern of local government electoral cycles in England? If so, why?

Q2 To what extent should local preferences be taken into account when considering future arrangements for local government electoral cycles?

It is perhaps not the job of a London Borough to suggest what pattern of local government elections is held elsewhere, where local circumstances need to be taken into consideration. However, it can be noted that the continuation of all out elections every 4 years in London is supported. A move away from this system would be unnecessarily confusing for electors. The London model with Greater London Authority / Mayor for London elections every 4 years, 2 years after the council elections give the electorate a say about their local services at the ballot box every 2 years. We are not able to report any elector-based demand for more frequent elections or a different pattern. On the other hand, news reports there are elections "across the country" when there are no elections in London does cause some confusion, and Electoral Services take a stream of phone calls from would-be electors waiting on a poll-card.

Q3 Should the current four-year term of office for local councillors be retained? If not, why?

The four year term could be said to provide a reasonable balance between an accountability to the electorate and providing enough time for an administration to implement their policies.

Q4 In areas with more than one tier of local government, should elections to different levels continue to be staggered, or held at the same time? Why?

Q5 In developing options for change to the current local government electoral cycle, should the Commission consider the possible future combination of local government elections in England with other national or European elections? If so, why?

It seems desirable, if electors are to focus on the relevant local issues at a local government election, for the election to not be combined with either elections for other tiers of local government or with other national or European Union elections where possible.

Q6 Do you have any comments or further evidence on the evidence which we have gathered? In particular, we would value any practical experience or local examples of the issues discussed.

Q7 In addition to the arguments outlined above, are there any other relevant issues which we should take into account?

No.

Q8 In considering the simplification of the local government electoral cycle, which issues or arguments are the most important? Why?

In order to legitimize local democracy, maximizing election turnout is most important. A confusing and poorly understood pattern of elections would be to the detriment of turnout.

Agenda item:

Page no:

Meeting:	GENERAL PURPOSES AND LICENSING
Date:	29TH SEPTEMBER 2003
Subject:	LICENSING ACT 2003, INTERIM REPORT
Key decision:	
Responsible Chief Officer:	CHIEF ENVIRONMENTAL HEALTH OFFICER
Relevant Portfolio Holder:	COUNCILLOR PHIL O'DELL
Status:	PART I (PUBLIC)
Ward:	WHOLE BOROUGH
Enclosures:	DRAFT LICENSING POLICY

1. Summary

- 1.1 This report provides an update on the Licensing Act 2003 and the stages in the implementation of the new duties. The legislative timescale for the approval of the Statutory Guidance to authorities has slipped. The report gives the current estimates of operative dates for the new duties.
- 1.2 The report also considers the approach to the Licensing Policy and asks the Committee to hold a special meeting to consider and approve a draft Licensing Policy to go forward to the formal consultation stage with business, residents, Police, Fire Brigade and other stakeholders to the process.

2. Recommendations (for decision by General Purposes and Licensing Committee)

- 2.1 To comment on the current content of the Draft Licensing Policy (appended to this report).
- 2.2 To approve the provisional implementation timetable for the Licensing Policy (paragraph 9.2).
- 2.3 To agree to hold a meeting of the Committee in November 2003 to agree a final draft of the Licensing Policy for consultation (paragraph 9.2).

2. Recommendations (continued)

- 2.4 To move the meeting of this Committee scheduled for the 3rd December 2003 to a date to be agreed later in early January to approve the Licensing Policy for referral to Council for approval (paragraph 9.2).
- 2.5 To approved the consultees for the draft Licensing Policy (11.3).
- 2.6 Instruct the Chief Environmental Health Officer to continue to review the proposals regarding the extent of the new powers as they become clear and report these to the Committee for decision.

REASON: In order to meet the statutory deadline to consult stakeholders, approve and publish the Licensing Policy by the end of April 2004.

3. Consultation with Ward Councillors

- 3.1 The changes affect the whole Borough. Member briefings for all parties took place earlier in the year.
- 3.2 Additional training and information for members will be provided at the appropriate time for those members involved with licensing decisions and for those members with an interest in the subject.

4. Policy Context (including Relevant Previous Decisions)

- 4.1 The report to this committee on the 5 March 2003, agreed the initial approach to the then Licensing Bill 2002.
- 4.2 The Council awaits the Regulations to accompany the Licensing Act and the final Statutory Guidance. A further report to members will be required once these are available.

5. Relevance to Corporate Priorities

- 5.1 The prevention of crime and disorder, public safety, the prevention of public nuisances and the protection of children from harm are the stated Licensing Objectives in the Act. Additionally the Department of Culture, Media and Sports (DCMS) expects that the changes to opening hours and the availability of a wide range of customer oriented premises will assist the tourism and the local economy. All these issues are central to Corporate Priorities.

6. Background Information

- 6.1 The White Paper, a 'Time for Change' was published in 2000, and put forward a range of options to address perceived problems with the licensing systems for alcohol, entertainments and night cafés. Following consultation, the Government published the Licensing Bill at the end of 2002. The Bill brought together the systems for alcohol, entertainments and night cafés in a unified system administered by local authorities, that imposes only a light touch on business.

6.2 The Licensing Act 2003 (the Act) reproduces much of the content of the Bill. The minor changes are outlined later in this report; hence the detailed listing of provisions in the Report to this committee on the 5th March 2003 is not repeated.

6.3 The Act creates new responsibilities for the following:

Businesses and other persons providing licensable activities:

- Persons running premises will require a premises licence. This licence lasts for the duration of the business, although a power does exist to grant the licence for a set period. The licence can be varied and transferred.
- Persons supervising the retail sale of alcohol will need to have a personal licence. This lasts for 10 years and is valid throughout England and Wales facilitating the movement of staff. The applicant applies to the authority where they reside at the time and that Council remains as the Licensing Authority for that individual for the duration of the licence. The licence can be renewed after 10 years.
- Clubs will have to have a club registration certificate.
- Certain small temporary events can be approved by a Temporary Event Notice, a rapid procedure that avoids the need for a full premises or personal licence.

Local authorities have to:

- Produce a Licensing Policy to provide a basis for the decisions of the authority by the end of April 2004.
- Devise the Licensing Policy in accordance with Statutory Guidance issued by Parliament, and consult widely with prescribed stakeholders including the Police, representatives of business and residents, prior to approval.
- Establish systems for the processing of applications for personal and premises licences, club registration certificates and temporary event notices.
- Establish a Licensing Committee of between 10 and 15 members. Although the Committee can consider matters other than licensing the principal purpose of the Committee will be to decide on the grant, or refusal of applications. The functions of the Committee can be delegated to a Sub-Committee of three members and in cases where there are no representations (formerly called objections) it is expected that the approval of applications be delegated to officers.
- Produce and keep up to date a Licensing Register, containing details of applications to the authority and the decisions made. This should be available on the Council's web site as well as in printed form.

7. **Amendments in the Act**

7.1 There were few amendments of major consequence to the Bill. Exemptions from the need for licensing for religious services, for education related activities at schools and similar premises, received wide media coverage in the spring. Also as a response to lobbying, certain exemptions from licence conditions were made for live music in small premises, although a licence will still be required. To avoid a last minute delay to the Act, Parliament gave special treatment to the performance of morris dancing by exempting it and the music for its performance, from the need for a licence.

7.2 A new procedure for the notification of freeholders and similar persons of changes to the Licensing Register was introduced. In return for an annual fee authorities will have to ensure that such persons who have registered their interest receive notifications. It is not

yet clear how much use will make of this system, neither is there an indication of the fee that may be payable.

- 7.3 A significant implication of the Act is the change to permits for gaming machines issued by the Licensing Justices. As members will be aware this authority issues permits for those premises not licensed for the supply of alcohol. The Licensing Justices are currently responsible for the issue of such permits in premises licensed for the supply of alcohol and this will transfer to local authorities.
- 7.4 At present change to gaming machines is likely to take place in February 2005, when the Act is expected to come into full operation. Officers are currently assessing the work involved in this new duty, together with the implications for the Council's existing resolutions linked to the issue of permits. For additional information on the resolutions, a recent report was made to the Licensing Panel at its meeting on the 28th August 2003 (agenda item number 9). Officers will report in due course when the position is clear.

8. **The implementation timetable**

- 8.1 The Department of Culture, Media and Sport (DCMS) has recently sketched out a revised timetable. The Act will be implemented in stages through a series of commencement orders. The anticipated dates stated are therefore subject to change.
- 8.2 The initial commencement order in July, concerned referenda in Welsh districts, with no local effect in Harrow. The second order will impose a duty on all authorities to produce, consult and approve a Licensing Policy in six months, by the end of April 2004. This order is expected once the Statutory Guidance has been approved in October, or possibly November.
- 8.3 The third commencement order (defining the first appointed day in the Act), in about May 2004, will permit existing licence holders to start applying to the local authority for both premises and personal licences. Additionally if the existing licensee wishes to extend or change their premises licence, they can apply for a variation at the same time.
- 8.4 Existing clubs will be able to apply for the new Club Registration Certificate, and also for variations in a similar way to premises licences. This part of the transitional period will last for six months and finish towards the end of 2004. Surveys by some other London Boroughs have indicated that perhaps 75% of premises selling alcohol will be seeking a change in their licence.
- 8.5 The Licensing Act 2003 is expected to come into full effect in February 2005, with the fourth and final commencement order (the second appointed day). Until this point the existing systems of liquor, public entertainments and night cafés continue in force. After this date the premises licences, personal licences and club registration certificates issued by the authority in the period since May 2004 will come into force. The system of Temporary Event Notices will also come into operation, and the responsibility for the issue of gaming machine permits in premises licensed for the sale of alcohol, will come to the authority. It would appear that the Licensing Justices would cease to exist from this time.

9. **Licensing Policy**

- 9.1 The development of the Licensing Policy is the initial duty expected of licensing authorities. It establishes the basis for applications under the Act, and the way these are

determined by an authority. Hence the Policy must be complete and approved prior to the commencement of applications to a licensing authority. The Policy is for a three year period and has to be kept under review during this period. In drawing together its Licensing Policy the authority has to:

- Comply with the requirements of the Licensing Act.
- Have regard to the Statutory Guidance issued to authorities by the Secretary of State under Section 182 of the Act.
- Consider responses made to the Draft Policy as a part of the consultation.

At the time of this report the Statutory Guidance is still in draft form and authorities have been advised by LACORS to await the issue of the final version of the Guidance before commencing consultation on the Policy. To issue the policy early would lay the document open to future challenge by those who might see themselves adversely affected by it. Additionally LACORS is currently working on guidance for licensing authorities and consulting with the DCMS on the content of policies.

9.2 Thus while a draft policy has been prepared, formal consultation should not commence for the present. The current draft of the Licensing Policy is appended to this report for comment by Members. In planning the consultation timetable for the policy, any time scales are approximate. However the following are the proposed stages:

October or early November 2003	Member consideration of the draft Licensing Policy and approval by General Purposes and Licensing Committee. Followed by the printing of the Consultation Policy. It is therefore recommended to hold an additional meeting of this Committee in November and postpone the meeting of the 3 rd December to early January 2004.
28 October 2003	Launch of the consultation process with business, residents and media. A date has had to be set for this, the Policy should be available for the launch, but can be distributed following the launch.
November to December 2003	Consultation with business and residents. LACORS suggests allowing a 28 day period for responses.
December to January 2004	Evaluation of the responses to the consultation and amendment of the Draft Licensing Policy.
Early January	GP and L meeting to review the Policy for recommendation to Council. It is recommended to move the meeting of the 3 rd December 2003 to accommodate this process.
22 January 2004 or later.	Consideration of the Draft Policy for approval at the first practicable meeting of full Council.

9.3 As licensing is defined in legislation as a Non-Executive function, the Policy will have to be formally approved by Council. The time scale is short, there being little flexibility between the estimated date of issue of the Guidance and the next available Council meeting on the 22nd January 2004. The Council meeting in February has as its principal business the approval of the budget and Council Tax for 2004/5. The following Council meeting at the end of April would leave no time for the introduction of any amendments

prior to the anticipated start date for the conversion of existing licences from May 2004. Any changes in the legislative timetable will result in changes to the above.

10. **Determination of applications**

- 10.1 Government expects that licence applications will be decided promptly. In the Act there are periods set down for the processing of licences. During the transitional period between May 2004 and October 2004 if a personal licence takes longer than 3 months to process (including any hearing) it is automatically granted. For a premises licence, or a club registration certificate the application is automatically granted after a time period of 2 months. However, where an application to vary an existing licence is made during the transitional period, if this is not granted in 2 months, the application is deemed to be refused.
- 10.2 These limits have a number of implications for those involved in the licensing process:
- The inspection of any premises and the processing of any paperwork will have to be completed rapidly.
 - If an applicant's premises do not comply with public safety requirements, the application may have to be refused. At present the applicant is often given the opportunity to undertake works prior to the grant of the licence.
 - Representations (objections) against the application received later than the allowed period cannot be included.
 - Licensing Committees or Sub-Committees would have to meet at short notice to consider applications. As a matter of routine, the Government expects such meetings to be held during the working day.
- 10.3 In the new systems licensing authorities have less discretion than in the current systems for public entertainments and night café licensing. For example only the Police can object to an applicant for a personal licence, and the Council is not able to determine its own procedures for the hearing of applications; it is expected that these will be set down in regulations.
- 10.4 Authorities also have to consider the practical arrangements for the determination of applications. It is proposed that this Committee is the Licensing Committee for the purposes of the Act and the Licensing Panel is delegated powers to determine applications, as at present. The DCMS expects that where there are no objections, then officers will grant these applications. The Licensing Policy will set out the delegations to the Licensing Committee, to the Licensing Panel and to officers. The draft proposals are in the Licensing Policy appended to this report. Members may wish to comment on the proposals.
- 10.5 Regular daytime meetings of a Licensing Panel will place the available elected Members under some pressure. Consideration must be given to the need for a pool of trained members who are willing and able to undertake these duties. The Borough Solicitor will be reporting to this Committee when plans are further advanced. The procedures and delegations in the Authority's Constitution may need amendment to accommodate the changes.
- 10.6 The training of Licensing Panel members will be important to ensure a consistent approach to the application of the legislation and the Council's Licensing Policy. Current plans anticipate a number of training sessions for members in the period after the

formulation of the Licensing Policy, leading up to May 2004. The Member Development Panel will be consulted in making further arrangements.

10.7 Decisions by the authority are open to appeal to the Magistrates Court. An applicant who is refused all, or part of an application may appeal. Those persons who made representations against an application, where the authority subsequently granted the application, may also lodge appeals. At present objectors have no right of appeal against the decision of the authority. In all these cases if the Council lost an appeal, an award of costs may be made against the authority.

11. **Consultation**

11.1 Consultation on the new proposals is an ongoing process given the transitional approach of the Government to the new duties and the formal procedures for the Licensing Policy. Consultation as part of the application process for a licence will be set down in the awaited regulations. The regulations will be the subject of a future report to Members.

11.2 The Act requires the consultation on the Licensing Policy to include:

- The chief officer of police for the area
- The fire authority for the area.
- Such persons as the Licensing Authority considers to be representative of holders of:
 - Premises Licences
 - Club Premises Certificates
 - Personal Licences
- Such other persons as the Licensing Authority consider being representative of business and residents in its area.

11.3 To meet these requirements it is proposed to consult the following:

- The chief officer of police and the fire authority for Harrow.
- Partner organisations including: Harrow Licensing Justices, Harrow Primary Care Trust, Central & North West London Mental Health Trust.
- The occupiers of all premises likely to require licensing.
- Business representatives including the Chambers of Commerce, Harrow Town Centre Forum, Harrow in Business
- Residents' representatives including Residents' Associations,
- Members of Parliament, Ward Councillors, plus those groups and persons who responded to the Council's initial awareness raising publicity in May 2003.
- Internal to the Council including; Social Services, Planning, Transportation, Crime and Disorder, Drug Action Team, Youth Offending Team.

11.4 Members are asked to consider the proposed consultees, consider amendments and approve the list as the basis for consultation under the Act.

12. **Finance Observations**

12.1 The funding for the initial three years (2003/04, 2004/5 and 2005/6) of the new statutory duty, was approved as unavoidable growth at Cabinet on the 18th February 2003. The ongoing revenue costs will be offset by licensing fees and charges. However, these fees and charges will be set centrally by the Government and details are still awaited. A

further report on the financial implications of the duties will therefore be made, once this information is available.

13. **Legal Observations**

- 13.1 The legal implications are set out in the body of the Report. It should be noted that section 4(3) of the Licensing Act 2003 provides that in carrying out its licensing functions a licensing authority must have regard to its statement of licensing policy published under section 5 of the Act.

14. **Conclusion**

- 14.1 It is indicated by the DCMS that the Licensing Act is expected to liberalise the regulatory regimes for the licensable activities so as to promote business, tourism and sensible (non-binge) drinking. However in the event of problems at premises there are powers available to the Police, Licensing Authorities and the Courts to intervene.
- 14.2 The Licensing Policy will be a key element in the way the Council as Licensing Authority is able to reflect local needs in determining licence applications.

15. **Background Papers**

- 15.1 Licensing Bill, available on the Stationery Office web site at:

<http://www.legislation.hmso.gov.uk/acts/acts2003/20030017.htm>

- 15.2 Explanatory Notes to the Licensing Bill, available at:

<http://www.legislation.hmso.gov.uk/acts/en/2003en17.htm>

- 15.3 Draft Statutory Guidance, available at:

http://www.culture.gov.uk/alcohol_and_entertainment/default.htm

16. **Author**

- 16.1 Andy Appleby, Environmental Health Manager. 020 8424 1375

Licensing Act 2003 – Consultation Document on Licensing Policy

Introduction

1. The new Licensing Act 2003 changes the basis for the licensing of the sale of alcohol, the provision of entertainments and the opening of late night restaurants and cafés. A fundamental aim is to foster a more relaxed licensing system that reduces binge drinking and encourages the responsible management of premises, but with legislative safeguards where premises do not achieve the required standards. For the first time, it brings together these licensing duties in a unified system administered by the Local Authority. The time-honoured role of local Licensing Justices deciding liquor consultations will cease to exist when the Act is fully implemented (currently expected in February 2005). However, any appeals against the decision of the Local Authority will still go to be decided at the local Magistrates' Court.
2. The new system introduces a system of premises licences and temporary event notices for licensable activities at premises. Additionally, for the sale of alcohol, persons have to possess a personal licence. The personal licence has been compared with a driving licence in that it enables the holder to move from premises to premises with a minimum of administrative requirements. There are certain exemptions from these general requirements. Please see the Council's booklet "How will the new Licensing Act affect me?", this is available from the address on the rear of this document, or on the Council's web site at www.harrow.gov.uk.

Licensing Policy:

3. The Licensing Act also establishes the approach to licensing policy and in a form that is more prescriptive than exists at present. The basis for policy comes from the four licensing objectives in the Act. These are: -
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
4. Local Authorities are required to decide a licensing policy designed to meet these licensing objectives and also the Statutory Guidance to Local Authorities (issued under Section 182 of the Licensing Act). Copies of the Act and Guidance are available from The Statutory Office (TSO) in printed form and electronically from the web site at www.tso.gov.uk. Local Authorities are required to consult widely with the statutory agencies such as Police and Fire Brigade, but also representatives of local organisations. This document has been drawn together in order to meet this requirement for consultation.
5. The Licensing Policy of the Council will be published and provides, with the Licensing Objectives, the basis for decisions on premises licences, and to a lesser extent personal licences and temporary event notices. The Council will consult with neighbouring Authorities; however, it is for each Authority to draw together its policy. Inevitably, there will be variations between the policies of authorities, although this is likely to mirror the differences that already exist. There is no framework within the Act for a regional approach to Policy development. As time progresses and policies are reviewed, it is likely that there will be a greater level of standardisation, however, the policies must reflect local needs and local issues. This is the democratic basis of the role of the Local Authority.

6. There is a clear expectation that the Licensing Policy will be a document addressing the realities of an important part of the service sector with implications for leisure, tourism and the more recent term, “the late night economy”. The Policy must be revised at least every three years.
7. The whole of Appendix A is the draft Licensing Policy.

Context of the Policy:

8. The service industries, voluntary groups, clubs and individuals covered by this Licensing Policy provide a core to the social and leisure scene in our society today. The innovation and investment provided by these diverse organisations has many benefits to society: -
 - We are entertained in cinemas and theatres.
 - We are able to take part in cultural activities.
 - We are able to socialise in pubs and clubs.
 - We can witness at first-hand feats of sporting achievement.
 - We are fed at restaurants and takeaways.
 - Many visitors and tourists are brought into the Borough through its facilities.
 - Many of these premises are important to certain groups in society, such as young persons.
 - Open, attractive and accessible premises improve the visual appearance and vitality of our town centres, both daytime and night-time.
 - Many find employment in these industries.
9. Regrettably, our society today has problems too. Some of these problems relate to alcohol and its consumption, and include violence, assaults and underage drinking. There can be life-threatening implications of the over-consumption of alcohol. Although as this policy is prepared in accordance with the Statutory Guidance issued to Licensing Authorities and it not able to address all the issues relevant to alcohol consumption and over-consumption.
10. A further reality today is the trading and use of illegal drugs. The enforcement of drugs control legislation is primarily the responsibility of Police and Customs Officers. However, the effect of the “drugs culture” is more widespread, being associated with late night entertainments premises and also fuelling criminal activities ranging from “turf wars” over dealing activities, to robberies and shop lifting as a way of feeding the habit. This policy therefore fits alongside the Council’s lead on drug measures through the Drug Action Team.
11. Noise, a traditional area of work for Local Authorities, can lift our emotions at a concert or club, but to the neighbour next door, it may well be a debilitating curse. For the employee regularly exposed to high sound levels it may lead to permanent hearing damage.

How will the Policy be used?

12. The Act is prescriptive in many areas, but alongside these statutory requirements, the Licensing Policy will provide the basis for premises applications to the Authority and the way they are decided. The Act expects prompt decisions on applications, either by officers through delegated powers, or by elected Councillors on a Licensing Committee or Sub Committee. Where there are concerns over an application by persons such as the Police, local people or businesses, representations can be made to the Council. The Act requires representations to relate to the licensing objectives (see above), the local authority has to reject them if they do not. If valid representations cannot then be resolved between the parties involved, it comes to be decided by Councillors at a Committee meeting. Having heard the parties, the Councillors in deciding the application, will refer to the Licensing Policy, plus the legislation and guidance to authorities.
13. In the event of an appeal against the decision of the Local Authority, this will be heard at the local Magistrates’ Court. However the Magistrates in determining the appeal would use the Policy of the Licensing Authority.

Can anything be in the Licensing Policy?

14. The Licensing Policy has to reflect the Licensing Objectives. Hence, if a particular issue does not come within the scope of the objectives, it cannot be involved in the Policy. Additionally, the Council in drafting the Policy has to have regard to the Statutory Guidance issued to Local Authorities. The guidance expands in detail on the licensing objectives and how the policy should approach many of the issues relevant to licensing. The Council only has limited opportunity to depart from the Statutory Guidance.
15. In summary, unless the issue is included within the Licensing Objectives and the Statutory Guidance, then only in exceptional circumstances is it possible for it to appear in the Licensing Policy.
16. In determining any exceptional circumstances, detailed information would be necessary. As far as possible, this should be supported by detailed evidence, observations, statistics or other reliable data. Information from an independent, reliable source is likely to add additional weight to the issue.

How will the Policy be drawn together?

17. This draft Policy has been prepared by Council Officers to reflect the statutory requirements within the Act, the Statutory Guidance issued by the Secretary of State, together with the experience of officers and practice established through recent decisions by the Council's Licensing Panel. This draft is at Appendix A of this document and to assist responses as part of this consultation, a reply form is in Appendix C. To assist in the review of the responses to the consultation, please use the reply form. The deadline for responses is the (date to be confirmed). From these submissions, a revised version will be produced for consideration by Elected Members and this will provide the basis for a report to the Council's General Purposes and Licensing Committee in (date to be confirmed). It is anticipated that the Policy will then be referred to the Full Council Meeting at the earliest available date in 2004. Current expectations are that the Policy has to be approved by the (date to be confirmed).

Address for Comments:

18. Comments on the policy should be on the form in Appendix C, or a photocopy. They should be sent to:

Chief Environmental Health Officer
Licensing Consultation
Harrow Council
P O Box 18
Civic Centre, Station Road
Harrow
Middlesex, HA1 2UT

19. Responses will be considered to be public documents and will be retained for a period for viewing at the above office. If you wish to see the consultation responses, please telephone 020-8424-1379, prior to visiting, to enable the documents to be available. The Council's usual copying charges will apply.

Appendix A:

London Borough of Harrow
Committee Consultation Draft – September 2003
Licensing Policy – Licensing Act 2003

This draft has been prepared without the benefit of the final version of the Statutory Guidance or regulations. It will require amendment.

1. Introduction:

- 1.1 Harrow Council is the licensing authority under the Licensing Act 2003. It is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the Borough in respect of licensable activities: -
- The sale and/or supply of alcohol;
 - The provision of regulated entertainment; or
 - Late night refreshment.
- 1.2 This consultation draft policy has been produced by Council Officers based on the legal requirements in the Licensing Act 2003, the Statutory Guidance issued to Local Authorities under Section 182 of the Act and, where relevant, established practice through recent decisions by the Council's Licensing Panel. Comments on this draft should be made to the Chief Environmental Health Officer on the attached form. Submissions should be made by (date to be confirmed).
- 1.3 The guiding principles in the Licensing Act 2003 are the Licensing Objectives: -
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 1.4 These objectives are the basis for this Policy. Matters outside the scope of the objectives cannot be included in the Policy. In the context of licensing, our society is often a balance between those activities that pleasure one portion of that society and have a detrimental effect on another. It is in this middle ground, that the Council has the responsibility to determine licensing policy.

2. Main Principles:

- 2.1 Nothing in this Policy will undermine the rights of any person to apply under the Act and have the application considered on its individual merits, and/or override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 2.2 Licensing in this policy is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and conditions are likely to be attached to licences, certificates and permissions that will cover matters which are within the control of individual licensees.
- 2.3 When considering these conditions, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on persons living, working or engaged in normal activity in the area concerned. The Council acknowledges that the licensing function is not for the general control of the anti-social behaviour of individuals, once they are beyond the direct control of the licensee of any premises concerned.

- 2.4 There are a number of other available mechanisms for addressing issues of unruly behaviour that can occur away from licensed premises, including:
- planning controls;
 - ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments;
 - designation of parts of the Borough as places where alcohol may not be consumed publicly;
 - regular liaison with Borough Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk; confiscation of alcohol from adults and children in designated areas and the instant temporary closure of licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises;
 - the power of the police, other responsible authority or a local resident or business to seek a review of the licence or certificate.
- 2.5 The Council is currently addressing many of these issues in partnership with the Police and other stakeholders in the Borough's crime and disorder reduction strategy.

3. Crime And Disorder:

- 3.1 Licensed premises that serve alcohol and refreshment, especially those offering late night/early morning entertainments, can be a source of crime and disorder problems through the actions of their patrons and staff.
- 3.2 The Council will expect Operating Schedules to satisfactorily address these issues from the design of the premises right through to the daily operation of the business. Applicants are recommended to seek advice from Council Licensing Officers and the Police, as well as taking in account, as appropriate, local planning and transport policies, and, tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.
- 3.3 In addition to the requirements for the Council to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonable can to prevent crime and disorder in the Borough.
- 3.4 The Council will consider attaching Conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises, and these may include conditions drawn from the Model Pool of Conditions relating to Crime and Disorder.

4. Applications:

- 4.1 The Act imposes duties on applicants to provide the Council with information in the form of applications and a fee in order to process an application. To assist the Council applicants should check that the application pack is fully completed before sending it to the Council and other statutory consultees.
- 4.2 Applicants for the initial grant or variation of a licence are to describe in detail how they propose to meet the requirements of the four Licensing Objectives (see above) in the Operating Schedule which accompanies the application for a premises licence.
- 4.3 Applications that are incomplete will be returned to the applicant with an explanation for the return.

- 4.4 Reasons may include incomplete or missing forms, the absence of the fee (including the failure of a means of payment such as a bounced cheque); absence of required plans, certificates, photographs, advertisements, licences (or authorised copies), etc.
- 4.5 Planning legislation exists as a control over the use of property, it is independent of licensing legislation and has different objectives. The Council considers as a matter of routine, that the planning position for a premise is resolved before an application for a licence is made.
- 4.6 Applications for the initial grant of a licence will only be considered (or in the case of a renewal, granted), if:
 - 1. The proposed licensable activity does not contravene planning legislation; and
 - 2. The hours sought are within the limits authorised by any planning permission.
- 4.7 In circumstances where an applicant seeks to apply without resolving the necessary planning requirements, it will be for the applicant to detail the special circumstances that justify a departure from the policy.
- 4.8 Potential applicants are requested to seek early advice from the Council and other responsible authorities about the licensing requirements for premises, or for activities they are planning. Large or unusual events often need particular consideration, the Council will expect responsible authorities to be consulted at the planning stage for such an event, and not less than six months prior to the performance. This will minimise uncertainty and provide time to discuss operating schedules with the organisers well before a formal application is submitted.
- 4.9 In the case of Temporary Event Notices, the Council should be consulted at the earliest practical stage. The application for the Notice should be made not more than 10 weeks, and not less than 10 working days prior to the event.

5. Representations:

- 5.1 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 Licensing Objectives. The intention of Parliament is to apply a lighter bureaucratic touch to applications for licences and their variation. However in the case of poorly performing premises, one of the sanctions is a new power of review.
- 5.2 The Council cannot accept representations that it may consider frivolous or vexatious. Additionally in the case of a review of a licence, repetitive representations are invalid.
- 5.3 Council officers will determine whether a representation is irrelevant, frivolous, vexatious, or repetitive in accordance with the Licensing Act and Guidance. This is subject to the power to refer a decision to the appropriate meeting of Elected Members where the particular circumstances require such an approach.
- 5.4 Where the Council determines that a representation is invalid it will notify the person of the decision and the reason.
- 5.5 The ability to make representations to applications under the Act is more restricted than previous legislation. ‘Interested parties and responsible authorities’ may only make representations. Interested parties include persons and businesses in the vicinity, or the bodies representing them. Responsible authorities are usually public bodies including the Police, Fire Authority, planning, environmental health, health and safety authorities.

5.6 In determining whether 'interested parties' are in the vicinity of an applicant's premises the Council will consider whether the individual's residence or business is likely to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside. It is recognised that where there is a cumulative impact or effect of a premises on an area, other considerations may be relevant to the consideration of the vicinity of a premises.

6. Cumulative Impact or Effect:

6.1 In its licensing role, the Council is not empowered to determine the need or commercial demand for another pub, restaurant or hotel. These are issues for relevant planning controls and the market to determine. Nevertheless the cumulative impact of licensed premises in a locality, where there is an impact on the promotion of the Licensing Objectives, is a licensing matter.

6.2 In circumstances where areas appear to be under stress and giving rise in the locality to concerns over nuisance, crime and disorder from large groups of persons gathering and circulating away from licensed premises, the Council will consider the adoption of a special policy to refuse new licences.

6.3 In applying this policy, the Council will consider any application validly made. It will be for the applicant to detail the special circumstances that justify departure from the policy.

6.4 The Council will take the following steps when considering whether to adopt a special saturation policy:

- The initial identification of serious and chronic concern from a responsible authority or from residents or their representatives about nuisance, crime and disorder;
- An assessment of the causes;
- Where it can be demonstrated that nuisance, crime and disorder is arising as a result of customers of licensed premises, identifying the area from which problems are arising and the boundaries of that area;
- Adopting a policy about future licence applications from that area.

6.5 The Council will consider representations based on the impact on the licensing objectives of the particular application. The onus is, however, on the objectors to provide evidence to back up any assertion that the nature of the application would produce the cumulative impact claimed. Account is to be taken of the differing impacts of premises with different styles and characteristics. It is recognised that there is a diverse range of premises that sell alcohol, serve food and provide entertainment. These cover a wide range of contrasting styles and characteristics, hence the Council will have regard to those differences and the differing impacts on the local community. It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application.

6.6 The Council will not use such policies solely:

- As the grounds for removing a licence when representations are received about problems with existing licensed premises; or,
- To refuse modifications to a licence, except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits.

6.7 The Council will review any special saturation policies every three years to see whether they have had the effect intended, and whether they are still needed. The success and application of such policies have to be considered alongside the effect of other of the policies, and in particular, those in section 7 below.

7. Licensing Hours and Nuisance:

- 7.1 It is recognised that longer licensing hours for the sale of alcohol would avoid large numbers of people leaving premises at the same time, which in turn could reduce the friction at late night fast food outlets, taxi ranks, minicab offices and other sources of transport. Such friction can lead to disorder and disturbance. The Licensed trade also have been given the expectation through the consultation in preparation for the Act, of a more flexible licensing system than currently exists.
- 7.2 It is also recognised that opening hours have long been regarded by sectors of the licensed trade as matters of competitive advantage between premises in some localities. While a universal finish hour does provide equality between such premises, such policies can distort trading patterns, result in cross boundary movement of patrons, and moreover the Licensing Objectives cannot be used to regulate competition. For these reasons the creation of zones with differing finish hours is discouraged in guidance to Licensing Authorities. Further disadvantages of zoning are the treatment of residents in one area less favourably than those in another, as well as causing the peaks of disorder and disturbance the Act is trying to avoid.
- 7.3 Nevertheless late night licensable activities have the potential to disturb local residents. In a Borough such as Harrow, with its extensive residential population many persons live next to commercial premises and within the commercial centres. These potential conflicts are increasing as housing policies are encouraging the use of all available accommodation, including flats over shops, as a way of meeting the shortage of homes. Existing liquor legislation establishes the principle of an 11pm finish for the sale of alcohol in pub type premises. With allowances for drinking up and homeward travel, then by around midnight, those persons living within the locality of conventional pub type premises can reasonably expect quiet from the impact of these licensable activities. A further consideration is the prompt and safe dispersal of patrons homeward after the evening's entertainment. Public transport is much less available after midnight.
- 7.4 Even with the current permitted hours there are indications from the pattern of noise complaints to Environmental Health in recent years, that individual premises have been causing periodic noise problems. A limited number of premises with public entertainments licences open beyond 11pm. In autumn 2003 the latest licensed hour is 2.30am at four premises in Central Harrow and 3am at a premises to the south of Harrow and Wealdstone station. In the last five years a number of these premises have been the focus for complaints either about noise from the premises, or disturbance from patrons.
- 7.5 It is important to note that well designed and equipped premises with effective management, can operate within a few meters of residents without causing a problem. There is a particular example of such a premises in South Harrow with a midnight finish hour.
- 7.6 Later trading hours have implications for Police resources; planning for the availability of police officers late at night has attendant implications for daytime staffing and budgets. In recent years these kinds of issues have been a focus for Police objections to late night premises. This bears consideration as resources are finite and additional costs are not borne by the late night premises, but have to be met by the general taxpayer.
- 7.7 The Council will consider attaching Conditions to licences and permissions to prevent public nuisance, crime and disorder, and these may include Conditions drawn from the Model Pool of Conditions.

- 7.8 The Council will deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given to imposing conditions in respect of issues such as noise control measures, security staff, use of external gardens, CCTV, travel planning, etc, where premises effect, or are likely to effect residential areas.
- 7.9 As a general guide to applicants the Council would expect pub type premises (characterised by the predominant consumption of alcohol, 'vertical drinking', etc) applying for the 'on' sale of alcohol beyond 11pm, to have stricter conditions. Other types of premises seeking to apply for licences after midnight either to sell alcohol for consumption on the premises, or for entertainments, are expected to have stricter conditions applied. Typically these latter premises are restaurants and cafes.
- 7.10 Where the only licensable activity is the sale of alcohol for consumption off the premises the Council will generally consider licensing premises at any times they are open for shopping.
- 7.11 Typically these premises are shops, stores and supermarkets. However, it may considered that there are very good reasons for restricting hours, or imposing stricter conditions where, for example, the police make representations in respect of shops known to be the focus of disorder and disturbance.
- 7.12 Licensed premises, especially those operating late at night and in the early hours of the morning, can have a significant impact on people living, working or sleeping the vicinity of the premises. The concerns include noise nuisance, light pollution, the potential for disorder and noxious smells. Due regard will be taken of the impact these may have and the Council will expect Operating Schedules to satisfactorily address these issues. Applicants are advised to seek advice from the Council's Environmental Health and Pollution Control Officers before preparing plans, Operating Schedules, making alterations to premises, etc.

8. Prevention of Harm to Children:

ACCESS TO LICENSED PREMISES

- 8.1 A wide range of premises fall within the scope of the Act and children can be expected to visit many of these for food or entertainment. The Act introduces limits on access to premises licensed for the sale of alcohol by persons under the age of 16 years, but this aside, children should have access to any licensed premises. It is recognised in certain situations that limitations may have to be considered where it appears necessary to protect children from harm.
- 8.2 The Act details a number of offences designed to protect children in licensed premises and the Council will work closely with the police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. The Council will consult with the Children and Family Services of Harrow Social Services on any application that indicates there may be concerns over access for children.
- 8.3 The Council will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:
- Premises associated with convictions for serving alcohol to minors or with a reputation for underage drinking;
 - Where the exclusive or primary purpose of the services provided are the supply of alcohol for consumption on the premises;
 - Premises with a known association with drug taking or dealing;
 - Premises where there is a strong element of gambling;
 - Where an entertainment of an adult or sexual nature is commonly provided at the premises.

- 8.4 The Council will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:
- Limitations on the hours when children may be present.
 - Limitations on ages below 18 years.
 - Limitations or exclusion when certain activities are taking place.
 - Requirements for an accompanying adult.
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 8.5 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.

ACCESS TO CINEMAS

- 8.6 Films cover a wide range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups. It is expected that licensees of premises giving film exhibitions will include in their operating schedules arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification (BBFC) or the licensing authority.
- 8.7 If the applicant does not include such controls on the operating schedule, the Council will impose conditions requiring licensees to restrict children from viewing age-restricted films classified according to the recommendations of the BBFC or the licensing authority.

CHILDREN AND PUBLIC ENTERTAINMENT

- 8.8 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions, and additional arrangements are required to safeguard them while at the premises.
- 8.9 Where a regulated entertainment is specially presented for children, the Council will require the following arrangements in order to control their access and egress and to ensure their safety:
- An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to a minimum of one member of staff per 50 children or part thereof.
 - No child unless accompanied by an adult to be permitted in the front row of any balcony.
 - No standing to be permitted in any part of the auditorium during the performance.
- 8.10 The Council will consider attaching Conditions to licences and permissions to prevent harm to children, and these may include Conditions drawn from the Model Pool of Conditions.

9. Public Safety and General Conditions:

- 9.1 A wide range of premises fall within the scope of the Act, including, cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways. Each type of premises presents a mixture of risks, many common to most premises and others are unique to specific activities. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.
- 9.2 The Council will expect Operating Schedules to satisfactorily address these issues and applicants are advised to seek early advice from the Council's Environmental Health Officers and the London Fire and Emergency Planning Authority (Fire Authority) before preparing their plans, Operating Schedules, commencing refurbishment work, etc.

- 9.3 The Council will consider attaching Conditions to licences and permissions to promote safety, and these may include Conditions drawn from the Model Pool of Conditions.
- 9.4 Standard Conditions are in certain instances required by the Act. Additionally in appropriate cases conditions will be attached to licences or certificates, tailored as necessary to the individual style and characteristics of the particular premises and event.
- 9.5 The purpose of a safe capacity limit is to ensure the safety of all persons on the premises at the time and to ensure a safe means of escape in the event of fire. The Council will set occupancy limits in consultation with the Fire Authority and Building Control Officers for the following types of premises:
- Nightclubs and other premises providing regulated entertainment.
 - Cinemas
 - Theatres

Premises that have safe capacity limits imposed under fire safety legislation will not have a safe capacity limit imposed under the premises licence, or club registration certificate, unless the Fire Authority recommends a change.

- 9.6 Subject to the existence of other legislative controls, the Council as licensing authority will wish to:
- Ensure that all licensed premises or temporary events have adequate and effective means of escape in case of fire and that all fire safety measures have been implemented.
 - Ensure, as appropriate, licensed premises or temporary events are provided with fire alarms, emergency lighting and fire fighting equipment suitable to the assessed risks and adequately maintained.
 - Ensure that the number of people present can safely be evacuated in the case of emergency.
 - Ensure staff training adequate to deal with emergencies and that the Operating Schedule expressly state what training is to be undertaken, its frequency and what records are kept to demonstrate this has taken place.
 - Ensure that safety measures are clearly stated in the Operating Schedule, applicants might usefully make reference is made to relevant risk assessments.
- 9.7 Where considered appropriate, and necessary for the promotion of the Licensing Objectives, the Council will consider attaching Conditions drawn from the relevant Model Pools of Conditions set out in Appendix C.
- 9.8 Nightclub type premises can be a focus for the trade in and consumption of illegal drugs. The Council as licensing authority will continue to encourage measures such as “Safer Clubbing” and existing work through the Drug Action Team and the Crime and Disorder Reduction Partnership, as a strategic approach to addressing drug problems.
- 9.9 The Council will issue general guidance on the maintenance of the licensing objectives and on general public safety, to persons organising events under a temporary event notice. General guidance will also include reference to relevant offences.

10. Integrating Strategies and Avoiding Duplication:

- 10.1 There are many stakeholders in the leisure industry, covering a wide range of disciplines. Many are involved, directly or indirectly, in the promotion of the licensing objectives, particularly those relating to the prevention of crime and disorder and public nuisance. Many of their strategies deal in part with the licensing function, and the Council will set up multi-disciplinary working groups to ensure proper integration of local crime prevention, planning, transport, tourism and cultural strategies. Such groups may also usefully identify and make recommendations for changes to licensing policy.
- 10.2 Arrangements will be made, where appropriate, for the Licensing Committees to receive reports on the following matters to ensure these are reflected in their decisions:
- the needs of the local tourist economy and cultural strategy for the Borough, and,
 - the employment situation in the Borough and where appropriate the need for investment and employment.
- 10.3 It is recognised that there should be a clear separation of the planning and licensing regimes and licensing applications should not be a re-run of the planning application. The Council recognises the need to avoid so far as possible duplication with this and other regulatory regimes.
- 10.4 The Council will ensure that regular reports are sent from the Licensing Committee to the Planning Committee advising them of the situation regarding licensed premises in the Borough, including the general impact of alcohol related crime and disorder to assist them in their decision-making.
- 10.5 However, some regulations do not cover the unique circumstances of some licensable activities and the Council will consider attaching conditions to premises licences and club premises certificates where these are necessary for the promotion of the licensing objectives and are not already provided for in other legislation.

11. Enforcement; Protocols with Enforcement Agencies:

- 11.1 Once licensed, it is essential premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Licensing Act. The Council will make arrangements to monitor premises and take appropriate, proportionate enforcement action.
- 11.2 The Council will work closely with the Police to establish protocols to ensure an 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 higher-risk premises. Similar working arrangements are envisaged with the Fire Authority and other similar enforcement agencies in areas of mutual interest.

12. Live Music, Dancing and Theatre:

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

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

13. Administration, Exercise and Delegation Of Functions:

13.1 The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

13.2 Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made, has been delegated to Council Officers. All such matters dealt with by Officers will be reported for information and comment only to the next Committee meeting.

13.3 The following Table sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers.

13.4 This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Committee; or a Sub-Committee to a Committee, if considered appropriate in the circumstances of any particular case.

Appendix B

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	OFFICERS
Application for personal licence		If a representation is made	If no representation is made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises Certificate		If a representation is made	If no representation is made
Application for provisional statement		If a representation is made	If no representation is made
Application to vary premises licence/club registration Certificate		If a representation is made	If no representation is made
Application to vary designated personal licence holder		If a police representation	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police representation	All other cases
Application for Interim Authorities		If a police representation	All other cases
Application to review premises licence/club premises Registration		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			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 representation to a temporary event notice		All cases	

Appendix C

Pool of Licence Conditions drawn from the annexes to the Statutory Guidance to Authorities (see list below).

Annex D – Conditions relating to the prevention of crime and disorder.

Annex E – Conditions relating to Public Safety (including fire safety).

Annex F – Theatres and Cinemas (Promotion of Public Safety).

Annex G – Conditions relating to the prevention of public nuisance.

Annex H – Model Pool of Conditions relating to the protection of children from harm.

These documents are currently in draft and are not attached to this Report.

Appendix D

London Borough of Harrow

Licensing Policy – Licensing Act 2003

Consultation Response Sheet

The Council is seeking your input as part of the consultation on the Licensing Policy. Please use this form to reply as it:

- Addresses each of the policy areas and key policies;
- Assists the Council in collating the responses.

Please state whether you support or do not support the policy statements, and equally importantly your reasons for your position. Space is provided to comment on particular policies and more generally on each section. There is further space at the end of the document. The Council welcomes additional research and data that would assist in the formulation of this Policy, please contact the Licensing Section at the address below or on licensing@harrow.gov.uk with details of the research and how this may contribute.

In consulting on the Policy the Council has to consider the impact of the Policy on the Borough as a whole. But if you run a business in the Borough that may be affected by the Policy, please give details of the possible effects on your individual circumstances.

Responses are required by the (date to be confirmed) and should be sent to:

Chief Environmental Health Officer
Licensing Consultation
Freepost HA 4343
Harrow Council
P O Box 18
Civic Centre, Station Road
Harrow
Middlesex, HA1 2UT

Responses will be considered to be public documents and will be retained for a period for viewing at the above office. If you wish to see the consultation responses, please telephone 020-8424-1379, prior to visiting, to enable the documents to be available. The Council's usual copying charges will apply.

Additionally on the Council's web site there are Adobe Acrobat version of the form that can be printed. For further information see the web site at:

We need your details as part of the consultation:

Name

Organisation

Address

Daytime Telephone Number

E mail address

Comment Form:

The numbering of the following sections reflects the numbering in the draft Policy.

1. Introduction

General Comments on Introduction

2. Main Principles

General Comments on Main Principles

3. Crime And Disorder

General Comments on Crime and Disorder

4. Applications

The Act has specific requirements for applications and the scope for the modification of procedures is limited. However, comments on Section 4 are welcomed and the selected policies in the section.

4.3 Applications that are incomplete will be returned to the applicant with an explanation for the return.

Comments on 4.3:

4.6 Applications for the initial grant of a licence will only be considered (or in the case of a renewal, granted), if:

- 1. The proposed licensable activity does not contravene planning legislation; and**
- 2. The hours sought are within the limits authorised by any planning permission.**

Comments on 4.6:

General Comments on Applicants Section:

5. Representations

The system of representations is equivalent to the existing system for objections, however the ability to make representations to applications under the Act is more restricted than in previous legislation. The intention of Parliament is to apply a lighter bureaucratic touch to applications for licences and their variation. As a result only the Police have the right to make representations to all the applications under the Act.

During the transitional period from (to be confirmed) to (to be confirmed), existing licences and licensees are assimilated or converted into the new system. During this period the Police are the only who can make representations to the conversion of an existing licence. Representations can be made to the variation of an existing licence both by Responsible Authorities and by Interested Parties. The Responsible Authorities are the police, fire authority, inspectors of the local authority and other statutory agencies. Interested Parties are persons and businesses in the vicinity, or bodies representing them.

Applications for new licences start from (to be confirmed) when the new licensing system is in full force, Responsible Authorities and Interested Parties can make representations to these applications.

In any case representations have to relate to the Licensing Objectives and cannot be accepted by the Council if they are irrelevant, frivolous, vexatious, or in the case of a licence review, repetitive. To meet the tight timescales for the processing of licences the only practical option is for officers to have delegated powers to determine whether a representation meets the statutory requirements.

5.3 Council officers will determine whether a representation is irrelevant, frivolous, vexatious, or repetitive in accordance with the Licensing Act and Guidance. This is subject to the power to refer a decision to the appropriate meeting of Elected Members where the particular circumstances require such an approach.

Comments on 5.3:

Vicinity is an important consideration as it determines whether a person or business can make representations against an application. It is not defined in the Act or Guidance. Problems may arise from the patrons of licensed premises at any distance from the premises in question, but Guidance to authorities considers nuisance and disorder away from the premises to be a public order issue rather than a Licensing matter.

5.6 In determining whether ‘interested parties’ are in the vicinity of an applicant’s premises the Council will consider whether the individual’s residence or business is likely to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside. It is recognised that where there is a cumulative impact or effect of a premises on an area, other considerations may be relevant to the consideration of the vicinity of a premises.

Comments on 5.6

Please consider the proposal, would a guidance distance be helpful? What would the figure might be?. Data or evidence to support your views would assist the evaluation of the points you make.

General Comments on Representations Section:

6. Cumulative Impact or Effect

It is not the role of the Licensing Authority to determine the commercial need for additional licensed premises. Nevertheless ever increasing numbers of premises, particularly those offering the late night sale of alcohol will at some stage impact on local residents. Such policies have to avoid being charged with being monopolistic, but with due regard to the likely impact of new premises there is scope for controls by the licensing authority.

6.2 In circumstances where areas appear to be under stress and giving rise in the locality to concerns over nuisance, crime and disorder from large groups of persons gathering and circulating away from licensed premises, the Council will consider the adoption of a special policy to refuse new licences.

Comments on 6.2:

General comments on Cumulative Impact and Effect Section:

7. Licensing Hours and Nuisance

For many people reading this consultation this section will be a key concern. Many businesses are seeking a greater flexibility in hours both of opening and in extending the current 2am limit for the sale of alcohol. On the other side of the fence are local residents and their representatives, who actively campaign against such initiatives. Finding ways to reconcile these competing positions will be fundamental to the eventual success of the new legislation.

The intention of Parliament behind the provisions within the Act is one of freedoms with attendant responsibilities. Business cannot expect those freedoms without investment. Investment not only in the conventional areas of buildings, staff, training, etc, but also in managing the impacts of their activities on the local community. These impacts can be addressed; there are examples of joint working between all stakeholders in Manchester and Shepherd's Bush to name but two, that have effectively reduced disorder, crime and nuisance, while at the same time increased the safety for patrons of late night premises.

7.8 The Council will deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given to imposing conditions in respect of issues such as noise control measures, security staff, use of external gardens, CCTV, travel planning, etc, where premises effect, or are likely to effect residential areas.

Comments on 7.8:

7.9 As a general guide to applicants the Council would expect pub type premises (characterised by the predominant consumption of alcohol, 'vertical drinking', etc) applying for the 'on' sale of alcohol beyond 11pm, to have stricter conditions. Other types of premises seeking to apply for licences after midnight either to sell alcohol for consumption on the premises, or for entertainments, are expected to have stricter conditions applied. Typically these latter premises are restaurants and cafes.

Comments on 7.9:

General Comments on Licensing Hours and Nuisance Section

Additional questions for consultees:

Would a continued general finish hour for premises be a practical measure?

What is the support within business for a general finish hour?

At what time would a general finish hour might be, and for what activities?

8. Prevention of Harm to Children

The protection of children from harm will be a necessary balance between a more 'Continental' approach to controls over premises outlined in a Time for Change, the initial white paper published in 2000 and reasonable measures to protect up and coming generations.

8.3 The Council will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:

- **Premises associated with convictions for serving alcohol to minors or with a reputation for underage drinking;**
- **Where the exclusive or primary purpose of the services provided are the supply of alcohol for consumption on the premises;**
- **Premises with a known association with drug taking or dealing;**
- **Premises where there is a strong element of gambling;**
- **Where an entertainment of an adult or sexual nature is commonly provided at the premises.**

Comments on 8.3:

8.7 If the applicant does not include such controls on the operating schedule, the Council will impose conditions requiring licensees to restrict children from viewing age-restricted films classified according to the recommendations of the BBFC or the licensing authority.

Comments on 8.7:

8.9 Where a regulated entertainment is specially presented for children, the Council will require the following arrangements in order to control their access and egress and to ensure their safety:

- **An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to a minimum of one member of staff per 50 children or part thereof.**
- **No child unless accompanied by an adult to be permitted in the front row of any balcony.**

- ***No standing to be permitted in any part of the auditorium during the performance.***

Comments on 8.9:

8.10 The Council will consider attaching Conditions to licences and permissions to prevent harm to children, and these may include Conditions drawn from the Model Pool of Conditions.

Comments on 8.10:

General Comments on Prevention of Harm to Children Section:

9. Public Safety and General Conditions

Public safety remains one of the Licensing Objectives within the Act and conditions provide an important measure of control. Albeit there are potential costs to business, conditions are an effective way of minimising those costs by targeting controls where they are required and proportionate to the risks.

9.3 The Council will consider attaching Conditions to licences and permissions to promote safety, and these may include Conditions drawn from the Model Pool of Conditions.

Comments on 9.3:

9.7 *Where considered appropriate, and necessary for the promotion of the Licensing Objectives, the Council will consider attaching Conditions drawn from the relevant Model Pools of Conditions set out in Appendix C.*

General Comments on Public Safety and General Conditions Section:
Please comment in particular on paragraphs 9.5 and 9.6.

10. Integrating Strategies and Avoiding Duplication

General Comments on Integrating Strategies and Avoiding Duplication Section:

11. Enforcement

General Comments on Enforcement Section:

12. Live Music, Dancing and Theatre

General Comments on Live Music, Dancing and Theatre Section:

13. Administration, Exercise and Delegation Of Functions

General Comments on Administration, Exercise and Delegation Of Functions Section:

General Comments on the Policy or the achievement of the Licensing Objectives:

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