

Licensing and General Purposes Committee

AGENDA

DATE: Monday 26 November 2012

TIME: 7.30 pm

VENUE: Committee Rooms 1 & 2,
Harrow Civic Centre

MEMBERSHIP (Quorum 4)

Chairman: Councillor Mano Dharmarajah

Councillors:

Mrinal Choudhury	Ramji Chauhan
Kairul Kareema Marikar	Susan Hall
Ajay Maru (VC)	Manji Kara
Phillip O'Dell	Amir Moshenson
Varsha Parmar	John Nickolay
William Stoodley	Anthony Seymour
Krishna Suresh	

Reserve Members:

- | | |
|-------------------|---------------------|
| 1. Mrs Rekha Shah | 1. Mrs Camilla Bath |
| 2. Ben Wealthy | 2. Stephen Wright |
| 3. Raj Ray | 3. Kam Chana |
| 4. Ann Gate | 4. Stephen Greek |
| 5. Sue Anderson | 5. Lynda Seymour |
| 6. Krishna James | 6. Yogesh Teli |
| 7. Bill Phillips | 7. Chris Mote |
| 8. Sachin Shah | |

Contact: Manize Talukdar, Democratic & Electoral Services Officer
Tel: 020 8424 1323 E-mail: manize.talukdar@harrow.gov.uk

AGENDA - PART I

1. ATTENDANCE BY RESERVE MEMBERS

To note the attendance at this meeting of any duly appointed Reserve Members.

Reserve Members may attend meetings:-

- (i) to take the place of an ordinary Member for whom they are a reserve;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) the meeting notes at the start of the meeting at the item 'Reserves' that the Reserve Member is or will be attending as a reserve;
- (iv) if a Reserve Member whose intention to attend has been noted arrives after the commencement of the meeting, then that Reserve Member can only act as a Member from the start of the next item of business on the agenda after his/her arrival.

2. DECLARATIONS OF INTEREST

To receive declarations of disclosable pecuniary or non pecuniary interests, arising from business to be transacted at this meeting, from:

- (a) all Members of the Committee;
- (b) all other Members present.

3. MINUTES (Pages 1 - 4)

That the minutes of the meeting held on 6 September 2012 be taken as read and signed as a correct record.

4. PUBLIC QUESTIONS

To receive questions (if any) from local residents/organisations under the provisions of Committee Procedure Rule 17 (Part 4B of the Constitution).

5. 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).

6. DEPUTATIONS

To receive deputations (if any) under the provisions of Committee Procedure Rule 16 (Part 4B) of the Constitution.

7. MEMBERSHIP OF THE PENSION FUND INVESTMENT PANEL (Pages 5 - 6)

To agree the proposed changes to the membership of the Pension Fund Investment Panel.

8. FLEXIBLE RETIREMENT POLICY (Pages 7 - 12)

Report of the Assistant Chief Executive.

9. INFORMATION REPORT: CHANGES TO LICENSING ACT 2003 VIA THE POLICE REFORM & SOCIAL RESPONSIBILITY ACT 2011 AND THE LIVE MUSIC BILL (Pages 13 - 22)

Report of the Corporate Director, Environment and Enterprise.

10. PROPOSED 'VIRTUAL LICENSING PANEL' PROCEDURE (Pages 23 - 28)

Report of the Corporate Director, Environment and Enterprise.

AGENDA - PART II - NIL

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LICENSING AND GENERAL PURPOSES COMMITTEE MINUTES

6 SEPTEMBER 2012

Chairman: * Councillor Mano Dharmarajah

Councillors:

* Husain Akhtar	* Amir Moshenson
* Sue Anderson (5)	* John Nickolay
* Ramji Chauhan	* Varsha Parmar
* Mrinal Choudhury	* Bill Phillips (7)
* Susan Hall	* Anthony Seymour
* Manji Kara	* William Stoodley
* Kairul Kareema Marikar	Krishna Suresh

* Denotes Member present
(5) and (7) Denote category of Reserve Members

79. Attendance by Reserve Members

RESOLVED: To note the attendance of the following duly constituted Reserve Members:

Ordinary Member

Councillor Ajay Maru
Councillor Phillip O'Dell

Reserve Member

Councillor Bill Phillips
Councillor Sue Anderson

80. Declarations of Interest

RESOLVED: To note that the following interests were declared:

Agenda Item 7 – Commercial Safety Service Plan 2012/13

Councillor Sue Anderson declared a disclosable pecuniary interest in that she was employed by the NHS in public health. She would remain in the room

whilst the matter was considered and voted upon but if public health was discussed at which point she would leave the room.

81. Minutes

RESOLVED: That the minutes of the meeting held on 10 July 2012 be taken as read and signed as a correct record.

82. Public Questions

RESOLVED: To note that no public questions were received.

83. Petitions

RESOLVED: To note that no petitions had been received.

84. Deputations

RESOLVED: To note that no deputations were received at the meeting under the provisions of Committee Procedure Rule 16.

RESOLVED ITEMS

85. Commercial Safety Service Plan 2012/13

The Committee received a report of the Divisional Director of Environmental Services which advised that by virtue of the Food Safety Act 1999, the Health and Safety Act 1974 and associated statutory guidance, the Council, as statutory enforcement authority, had a duty to budget, plan and deliver the inspection and enforcement of food safety and health and safety services within the borough. The Commercial Safety Service Plan satisfied these requirements. In accordance with the Constitution, the Health and Safety elements had to be considered and approved by the Licensing and General Purposes Committee.

The officer outlined the content of the report and advised that the Plan had been considered by Cabinet in relation to its food safety aspects. There was a further report due to be considered by Cabinet on 13 September 2012 that proposed the restructure of the Environmental Services Division. In addition, further work on the public health function that was to transfer from the Primary Care Trust was underway. In summarising, the officer advised that there had been significant progress in terms of commercial safety, he was proud of the partnership working with the Home Group and that Harrow was also a Home Authority.

Members expressed their concern at the reduction of staff in the Council's Food Safety and Health and Safety team and therefore meeting statutory obligations. The officer reassured Members that although the team was small it was effective and advised that there was a focus on high risk inspections. It had been decided to hold the current level of vacancies partly due to budgets and also because of the Directorate work with Prism. Whilst the Food

Standards Agency (FSA) had assessed the Council to be understaffed in this area, Harrow was exceeding their requirements. The staffing level had to be balanced with the Council's financial position in mind.

In terms of staffing, the officer reported that the problem with recruiting staff to the grade of Senior Professional had eased and that health and safety was the area that had experienced the most difficulty. Another Member stated that he would have expected Cabinet to have raised the issue in terms of staffing levels and that he was concerned that it might not be possible to implement the plan in full without additional resource. The officer responded that whilst it was a heavy workload, the inspection programme was managed by risk and in excess of 90% of high risk categories were inspected annually. He was confident that risk was being managed reasonably well and, following the major restructure that was underway, he expected that front line enforcement services would be staffed at a higher level. In addition, the service had participated in the Council's Xcite programme and as a result had employed two interns on an agency basis.

In response to a Member's question as to how the team checked food stalls for large events such as Under One Sky and Pinner Fair, the officer advised that there was involvement of his team at an early stage in the planning of such events. There had been no issues with these events but there had been with a one-off party serviced by an out of borough caterer.

In terms of food and hygiene in care homes, the officer advised that his understanding was that this would be the responsibility of the Care Quality Commission (CQC) as his team only dealt with commercial food premises. He undertook to provide the Member with a written response.

The officer reported, in response to a Member's comments about the attribution of costs to individual areas, that historically Community Safety Services had been accounted for in a cost centre but that this would probably change with the Public Realm Integrated Service Model (PRISM). He acknowledged the Member's comment that it did not provide a service by service split in terms of costs.

The officer advised that the main issues related to the food aspect of the service and that only 78 premises had been inspected with a view to prosecution in the previous year. This was mainly due to the approach taken by officers through the use of low level documentation at an early stage. He confirmed that he was comfortable with the figures.

In response to a Member's question, the officer advised that the administration system was being streamlined and that there was a move to enable staff in the service to work mobile or flexibly. His officers currently had to undertake administration work and this was a detriment to the service. PRISM would introduce a GIS driven real time IT system and he expected that within 12 months his team would be in the same position as the Refuse service in terms of real time information.

The officer reported that education was an aspect of the service and that officers did look at the way premises handled their food waste as this could be

an indication of issues. Harrow had a large number of service roads that were not public highway which may result in problems arising. The team did issue fixed penalty notices for litter in conjunction with the police.

Members thanked the officer for his attendance and responses. Whilst concern was expressed at the level of staffing Members stated their support for the team and the work it did.

RESOLVED: That the Commercial Safety Service Plan for 2012/13, in relation to the health and safety aspects, be approved.

(Note: The meeting, having commenced at 7.30 pm, closed at 8.45 pm).

(Signed) COUNCILLOR MANO DHARMARAJAH
Chairman

LICENSING AND GENERAL PURPOSES PANELS – 2012/13

(Membership in order of political group nominations)

(5) PENSION FUND INVESTMENTS PANEL (4)

	(2)	(2)	
I. Members	Keith Ferry (CH) Mano Dharmarajah	Tony Ferrari Richard Romain *	Deleted: Mano Dharmarajah Deleted: Bill Stephenson
II. Reserve Members	1. Asad Omar 2. Bill Stephenson	1. Stephen Wright 2. Kam Chana	Deleted: Keith Ferry Deleted: Asad Omar

Harrow UNISON Co-optee (Non-voting): Steve Compton

GMB Co-optee (Non-voting): Vacancy

Co-optee (Non-voting): Howard Bluston

(CH) = Chair
(VC) = Vice-Chair
* Denotes Group Members for consultation on Delegated Action and/or administrative matters.

PENSION FUND INVESTMENTS PANEL

The Pension Fund Investments Panel has the following powers and duties:

- (a) To administer all matters concerning the Council's pension investments in accordance with the law and Council policy;
- (b) To establish a strategy for the disposition of the pension investment portfolio;
- (c) To determine the managers' delegation of powers of management of the fund.

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REPORT FOR: Licensing & General Purposes Committee

Date of Meeting: 26 November 2012

Subject: Flexible Retirement Policy

Responsible Officer: Tom Whiting – Assistant Chief Executive

Exempt: No

Enclosures: None

Section 1 – Summary and Recommendations

Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008 makes it a requirement for each employing authority to review from time to time its policy in relation to the exercise of its discretionary functions under flexible retirement.

Recommendations:

The Committee is requested to review the application of Harrow Council's Flexible Retirement Policy and approve the proposed policy as detailed below.

1. All requests for flexible retirement will be considered.
2. Approval will only be granted if it is in the Council's best interest to do so and where the service can demonstrate operational efficiencies.
3. There will have to be a sufficient reduction in the employee's grade or hours to ensure that the pension fund is reimbursed for any shortfalls.
4. The waiving of any early retirement actuarial reduction (either in part or in full) will only be considered in exceptional circumstances.
5. Flexible retirements must be approved by a Director and agreed by;
 - a. the Officer Sub-Group and Members of the Early Retirement Sub-Committee where there is a strain on the pension fund; or
 - b. the Divisional Director of HRD & Shared Services where there is no strain on the pension fund.

Section 2 – Report

2.1 Background

- 2.2 Since the 2002 Green Paper (Simplicity, Security and Choice) the Government has considered flexible retirement key to meeting the challenges of an ageing population by providing choices and opportunities for older people to plan how they want to retire.
- 2.3 It was recognised that increasing the incentives to work longer would give individuals the opportunity to plan for a longer working life and save towards a more financially secure retirement whilst at the same time reduce the growing skills shortage through the retention of skilled older workers.
- 2.4 Consequently, from 6 April 2006 Her Majesty's Revenue and Customs (HMRC) introduced new rules to allow increased flexibility with saving for retirement and drawing retirement benefits.
- 2.5 These new rules brought about the amendment of the Local Government Pension Scheme (LGPS) Regulations to permit the immediate payment of pension benefits, at the employer's consent, where a scheme member from age 50 (now age 55) reduces his/her hours or grade even though the scheme member has not retired from employment and continues to build up benefits in the scheme.

2.6 Benefits of Flexible Retirement

- 2.7 The HMRC changes has been viewed as a positive step towards enabling people to work longer whilst at the same time effect a smoother transition from work to retirement by removing the 'cliff edge' that previously existed.
- 2.8 Employers can retain key experienced employees who would otherwise leave in order to draw their pension and take up employment elsewhere.
- 2.9 Flexible retirement enables the gradual transfer of skills from experienced employees to new recruits and offers employers an alternative way of reducing numbers of full time equivalent staff without using the traditional, more costly, redundancy/efficiency routes.

2.10 Flexible Retirement Policy

- 2.11 As part of the amendment to the LGPS Regulations, employers were required to prepare, publish and keep under review a policy statement on flexible retirement.
- 2.12 Under Harrow's current policy the following conditions apply:-

- a) All requests for flexible retirement will be considered;

- b) Approval will only be granted if it is in Harrow Council's best interest to do so and where the service area can demonstrate operational efficiencies;
- c) The flexible retirement reduction in hours/grade delivers a 10% saving of on-cost salary (pro rata if applicable) in the first year. This is to be identified as part of the business case;
- d) Where an actuarial reduction applies and this does not fully cover the cost of placing the pension into payment, there will have to be a sufficient reduction in the employee's grade or hours to ensure that the pension fund is reimbursed for any shortfalls;
- e) The waiving of any early retirement actuarial reduction (either in part or in full) will not be considered;
- f) Flexible retirements must be approved by a Director, and agreed by;
 - I. the Officer Sub-Group and members of the Early Retirement Sub-Committee where there is a financial strain on the pension fund; or
 - II. the Divisional Director HRD & Shared Services where there is no financial strain on the pension fund.

2.13 All flexible retirements and the financial impacts are reported to the Committee on an annual basis.

2.14 The number of flexible retirement cases since the introduction of Harrow's policy is shown below. In comparison with other London Boroughs this figure is relatively low (10-15% below average).

Year	Number of Flexible Retirements	Number with a strain on the Pension Fund
2007	6	1
2008	12	3
2009	9	3
2010	12	2
2011	8	0
2012	9	0

2.15 Review of Flexible Retirement Policy

- 2.16 As alluded to above, the LGPS Regulations make it a requirement to review its policy on flexible retirement from time to time.
- 2.17 The Council's policy on flexible retirement was last reviewed at the LGPC meeting held on 1 March 2010 where it was decided that no changes to the policy would be made at that time.
- 2.18 However, in recognition of the changing financial climate and to support the Council's agenda in meeting its MTFs target, it is proposed that the flexible retirement policy should be simplified (as set out in the recommendations above) and positively promoted across the organisation.
- 2.19 It is felt that the key consideration should be the recovery of any strain on the pension fund and the promotion of what can be used as a valuable tool at this time.
- 2.20 The proposed amendment principally removes the requirement to deliver a 10% on-cost salary saving in the first year as this has been viewed as an unnecessary overcomplicated barrier to the process. However, the requirement to reimburse the pension fund of any shortfall remains.
- 2.21 The above recommendation is consistent with the approach of other London Boroughs (e.g. Business case requirement, Senior Officer approval and the waiving of any actuarial reduction in exceptional circumstances).

2.22 LGPS Miscellaneous Regulations 2012

- 2.23 To increase the uptake of flexible retirement, a recent amendment to the regulations now permits the employee to choose whether to receive all, part or none of their **post 31 March 2008** accrued benefits (i.e. benefits built up under the 2008 scheme which changed the accrual rate from 80ths to 60ths with no automatic payment of a lump sum). This change will appeal to employees who will suffer a large percentage reduction on their post 2008 benefits if taken earlier than their normal retirement date.
- 2.24 The above amendment will be communicated to staff in the coming weeks.

2.25 Financial Implications

- 2.26 The requirement to reimburse the pension fund from any shortfall is still retained in the recommendation so there is no material financial impact.
- 2.27 The simplification of the policy will further promote flexible retirement and could avoid potential redundancy/efficiency costs.

2.28 Risk Management Implications

2.29 Risk included on Directorate risk register? No

2.30 Separate risk register in place? No

2.31 There are no potential risks associated with the recommended policy.

2.32 Equalities implications

2.33 Was an Equality Impact Assessment carried out? No

2.34 There is no detrimental impact on any of the protected characteristics.

2.35 Corporate Priorities

2.36 N/A

Section 3 - Statutory Officer Clearance

Name: Steve Tingle	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 13 November 2012		
Name: Hugh Peart	<input checked="" type="checkbox"/>	Monitoring Officer
Date: 9 November 2012		

Section 4 - Contact Details and Background Papers

Contact: Linda D'Souza, Service Manager – Shared Services, Tel: 020 8424 1426, Email: Linda.D'Souza@harrow.gov.uk

Background Papers:

Report for the Licensing & General Purposes Committee – 1 March 2010, 8 June 2008.

If appropriate, does the report include the following considerations?

1.	Consultation	YES
2.	Corporate Priorities	N/A

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**REPORT FOR: Licensing and General
Purposes Committee**

Date of Meeting: 26 November 2012

Subject: **INFORMATION REPORT** – Changes to Licensing Act 2003 via the Police Reform and Social Responsibility Act 2011 and the Live Music Bill

Responsible Officer: Caroline Bruce
Corporate Director, Environment and Enterprise

Exempt: No

Enclosures: None

Section 1 – Summary

This Report sets out the proposed changes to the Licensing Act 2003 due to the commencement of the Police Reform and Social Responsibility Act 2011 and the Live Music Bill (royal assent pending)

FOR INFORMATION

Section 2 – Report

2.1 Background

2.11 **The Police Reform and Social Responsibility bill** included the following provisions:

- making the police service more accountable to local people by replacing police authorities with directly elected police and crime commissioners to be introduced from May 2012
- **overhauling the Licensing Act to give more powers to local authorities and police to tackle any premises that are causing problems, doubling the maximum fine for persistent underage sales and permitting local authorities to charge more for late-night licences to contribute towards the cost of policing the late-night economy**
- introducing a system of temporary bans for new psychoactive substances, so-called 'legal highs', whilst the health issues are considered by independent experts, to ensure our legislative process can respond quickly to emerging harmful substances
- restoring the right to non-violent protest around Parliament whilst ensuring that Parliament Square remains accessible to all by repealing sections 132-138 of the Serious Organised Crime and Police Act (SOCPA) 2005 and prohibiting encampments and other disruptive activity on Parliament Square
- amending the process for issuing private arrest warrants for universal jurisdiction offences to ensure that they are issued only where there is a reasonable prospect of successful prosecution

2.12 The purpose of the **Live Music Bill** is to amend the Licensing Act 2003 with respect to the performance of live music. The Bill would exempt certain types of venue, and of performance, from existing licensing requirements for the performance of live music.

As a result, it would increase the number of places and performances not subject to such licenses, in order to widen access and to encourage the performance of live music.

Key areas

- Venues authorised to supply alcohol with a capacity of less than 200 people, at which music would be performed between the hours of 8am and midnight, would no longer require a license for the performance of live music.
- Up to two performers would be able to perform live unamplified, or minimally amplified, music without the need for a license.

- Hospitals, hospital accommodation, schools and colleges would be able to host live music performances without the need for a licence.

This Report aims to provide details of the proposed changes.

2.13 The Police Reform and Social Responsibility Act 2011 (yet to be commenced)

The following areas under the Licensing Act 2003 will be modified or changed;

1. Licensing authorities as responsible authorities
2. Primary Care Trusts and Local Health Boards as responsible authorities
3. Abolition of interested parties
4. “Appropriate” replaces “necessary”
5. Late night levy
6. Early morning restriction orders
7. Temporary event notices
8. Greater penalties for persistent sale of alcohol to children
9. Fees
10. Licensing policy: shelf life
11. Alcohol Disorder Zones

2.13.1.1 Licensing authorities as responsible authorities

Licensing authorities will be able to make representations on applications

They will also be able to bring review applications and make representations on applications for review by others

2.13.2 Primary Care Trusts and Local Health Boards as responsible authorities

Primary Care Trusts and Local Health Boards become responsible authorities

- Trusts / boards will be able to make representations on applications
- They will also be able to bring review applications and make representations on applications for review by others
- Trusts / Boards can make a real contribution regarding:
 - Quantum and location of alcohol-related ambulance call outs.
 - Quantum and location of incidents resulting in A&E treatment.

- Alcohol-related harm to children.
- Cumulative impact

2.13.3 **Abolition of interested parties**

- Previously, a local person could object or apply for a review only if they lived or worked in the vicinity (or represented someone who did)
- Now, anyone will be able to object
- This will give town centre users a greater stake in its development and control

There is potential for a much wider category of objectors and review applicants, e.g.

- People who use the town centre but who do not live or work there
- Tourist organisations
- Transport police
- Civic societies / amenity groups
- Campaigners
- Trade rivals

2.13.4 “ **Appropriate**” replaces “**necessary**”

- The test for intervention in licensing has been “necessary”.
- Now it is going to be “appropriate”.
- This will apply to:
 - Applications, variations and reviews re. premises licences and club premises certificates
 - Temporary event notices
 - Personal licences

Implications:

- The Bill calls this “reducing the evidential burden”
- The theory is that the authority will have the right to intervene at a lower threshold of need
- James Brokenshire MP told the Bill Committee that it was introduced because authorities were currently taking a “defensive” (i.e. cautious) approach to intervention. A step is only “necessary” when no lesser step would suffice. A wider discretion is now intended “to enable communities to assert themselves properly”.

2.13.5 **Late night levy**

- Licensing authority may decide to impose a late night levy.
- Licensing authority must take into account:

(a) the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6 am, and

(b) having regard to those costs, the desirability of raising revenue to be applied in accordance with the statute.

- Regulations may specify other matters to be taken into account.

The levy applies to the whole area of the authority. It cannot be imposed on part of the area only.

- When authority decides to introduce levy, it must at the same time decide:
 - the date on which the late night levy requirement is first to apply;
 - the late night supply period;
 - the permitted exemption categories (if any) that are to apply in

Regulations will provide for

- ability of licensees / certificate holders to apply to vary their authorisations without charge so that they are no longer “relevant late night authorisations.”

The late night supply period which is:

- Determined by the licensing authority for the levy year but
- Which is between the hours of midnight and 6 a.m. The window must be the same on every day.

Who pays?

- The holder of a “relevant late night authorisation”.
- This is a premises licence or club premises certificate which authorises the supply of alcohol at a time or times during the late night supply period on one or more days in the related payment year.
- It is a question of what the licence permits, not whether the licence is utilised
- One day is enough. E.g. a seasonal variation permitting post-midnight supply on Bank Holidays would be enough to incur the levy.

- It does not, however, apply to TENS, so some premises can be expected to take up their full TEN entitlement to sidestep the levy.
- The levy does not apply to entertainment or late night refreshment providers.

To be set by or calculated in accordance with Regulations, but

in December 2010 the Home Office suggested levy according to rateable value:

- A £299
- B £768
- C £1259
- D £1365
- E £1,493
- D x 2 (primarily or exclusively alcohol) £2,730
- E x 3 (primarily or exclusively alcohol) £4,440
- Authority must pay at least 70% of the net levy to the police

2.13.6 **Early morning restriction orders**

- If the licensing authority considers it appropriate for the promotion of the licensing objectives
- I.e. there is a very wide discretion

What is an EMRO

- Licensing authority may select:
 - a period between midnight and 6 a.m.
 - different periods for different days of the week or year
- Licensing authority may also:
 - apply the Order to particular parts of its area
 - Limit the period for which it is to have effect (e.g. every Bank Holiday weekend and Christmas week).
- Licences and certificates are ineffective to permit supply of alcohol during those period(s)

2.13.7 **Temporary event notices**

The change

- Environmental health authority can object, in addition to the police
- Objections can relate to any licensing objective
- Conditions can be added
- Late notices can be given
- Increase in number and duration of events per premises
- Longer objection period

Power to add conditions

Conditions may be added if:

- There has been an objection.
- Authority considers it “appropriate for the promotion of the licensing objectives”
- Conditions are on a premises licence or club premises certificate for all or part of the premises
- Conditions would not be inconsistent with the carrying out of the licensable activities under the TEN.

Two types of notice

-“standard TENS”

-“late TENS”

- Standard TENS are given at least 10 working days before the event to the licensing authority and (if not electronic) to police/EH.
- Late TENS are given 5-9 working days before the event to the authority and (if not electronic) to the police/EH.
- Where notices are given electronically, authority must forward to police/EH by the next working day.

Objection to late notice

- Where there is an objection to a late TEN the authority must serve a counter-notice at least 24 hours before the event.
- I.e. the applicant who serves a late TEN takes a risk, in that police / EH may veto the event.
- There is no appeal against the veto

Limits on notices

- Government does not want late TENS to become the norm
- The limits will be:
 - Personal licensees: 50 standard or 10 late
 - Non-personal licensees: 5 standard or 2 late.

Longer TENS

- Maximum event period increased from 4 to 7 days
- Maximum per premises per year increased from 15 to 21 days

Longer period for objection

Police and EH will have 3 working days to object to notice

2.13.8 **Greater penalties for persistent sale of alcohol to children**

- Fine for persistent sale of alcohol to children increased from £10,000 to £20,000.
- Closure notices for persistently selling alcohol to children increased from 2 days to 2-14 days

2.13.9 **Fees**

The authority must suspend the licence for non-payment of annual fee for premises licence and club premises certificate

Fees and full cost recovery

- Secretary of State may make regulations empowering authorities to set their own fees, and may also set a national cap
- In setting their fees, authorities will have to seek to secure that the income from fees of that kind will equate, as nearly as possible, to the aggregate of—
 - the licensing authority's costs referable to the discharge of the function to which the fee relates (e.g. premises licence applications) [DIRECT COSTS]
 - a reasonable share of the licensing authority's general costs
- Government will issue guidance on fee-setting

2.13.10 **Licensing policy: shelf life**

- Policies beginning in January 2011 will now have a shelf life of 5 years.
- Authority may review its policy during that period. A review does not affect the shelf life.
- It may also replace its policy during that period. If it does so, the new policy will have a shelf life of 5 years from that date.

Section 3 – Further Information

It is expected some parts of the Police Reform and Social Responsibility Act 2011 will be commenced by April 2012. However the sections dealing with Late night Levy and the full cost recovery may not commence until late 2012 or even 2013. As and when these sections are commenced Officer will more details via the Council's reporting structures.

Section 4 – Financial Implications

This Report is for information only and at the time of writing the Report there were not enough information available to make an assessment as to the Financial Implications. Once the Regulations are published another report will be presented to all relevant committees with a full financial and resource implications.

Section 5 - Equalities implications

An Impact assessment will be carried out before any adoption of any parts of the legislation or changes to the fee structure.

Section 6 – Corporate Priorities

Please identify which corporate priority the report incorporates and how:

- Keeping neighbourhoods clean, green and safe.

- Supporting our town centre, our local shopping centres and businesses.

Name: Jennifer Hydari Divisional Director Finance and Procurement	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 23 Feb 2012		

Section 7 - Contact Details and Background Papers

Contact: P Sivashankar, Service Manager, Licensing, Housing & Support Services, Tel: 020 8736 6237, Email: shankar@harrow.gov.uk

Background Papers: Relevant Acts/Bills, Presentation By Kolvin QC

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**REPORT FOR: Licensing & Gene
Purposes Committee**

Date of Meeting:	26 November 2012
Subject:	Proposed 'Virtual Licensing Panel' Procedure
Responsible Officer:	Caroline Bruce Corporate Director, Environment and Enterprise
Exempt:	No
Enclosures:	Appendix A - Report of the 12 March 2012 S106A of Licensing Act 2003

Section 1 – Summary and Recommendations

This Report sets out the changes to the Licensing Act 2003 made by the Police Reform and Social Responsibility Act 2011 in relation to temporary event notices and seeks approval of a 'virtual licensing panel' procedure to save time and money in certain circumstances as detailed in this report.

Recommendations:

The Committee is asked to note the contents of this report and approve the 'virtual licensing panel' procedure in relation to section 106A of the Licensing Act 2003 relating to imposition of conditions on standard temporary event notices in cases where the objection(s) seek the imposition of conditions and all parties agree that a hearing is unnecessary.

Section 2 – Report

Background

The Licensing Act 2003 sets out the procedure for permitted temporary activities. The procedures were amended by the Police Reform and Social Responsibility Act 2011 (PRSR 2011) and these changes were reported to the Committee on 12 March 2012, report attached for information purposes.

Current situation

Prior to the changes by the PRSR 2011, the only responsible authority that could object to a temporary event notice (TEN) was the police on the basis of the prevention of crime and disorder licensing objective. Following the change, the Environmental Health Authority can also object, and both of these responsible authorities can now object on the basis of any of the licensing objectives. When an objection notice is received, the licensing authority has to hold a hearing to consider it (unless all parties and the authority agree that a hearing is unnecessary) and decide whether or not to issue a counter notice (which would mean that the event could not go ahead).

Section 106A of the Licensing Act 2003, as inserted by the PRSR 2011, gives a relevant Licensing Authority the power to impose one or more conditions on a standard temporary event notice if the police or environmental health have given an objection notice (which has not been withdrawn) in respect of the standard TEN and the licensing authority has decided not to give a counter notice to the TEN.

Under section 106A(2) of Licensing Act 2003, the licensing authority may impose one or more conditions on the standard TEN if:

- (a) the authority considers it appropriate for the promotion of the licensing objectives to do so,
- (b) the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the TEN, and
- (c) the conditions would not be inconsistent with the carrying out of the licensable activities under the TEN.

There are likely to be numerous circumstances when the police (and/or environmental health) object to standard temporary event notices for events at licensed premises where the premises licence has conditions that they want applied to the TEN too. There may also be a number of occasions where the premises user (i.e. person giving the TEN) agrees to the conditions being imposed, and in this situation, currently it would be necessary to convene a licensing sub-committee (licensing panel) hearing for that purpose.

It is proposed that under 'virtual licensing panel' procedure, rather than having to convene a licensing panel in order to impose the agreed conditions, this can be done electronically by email to three members the Licensing & General Purposes Committee (who are not ward councillors for the ward in which the premises is located and subject to any declaration of interests).

The 'virtual licensing panel', as licensing authority, will be asked to agree 1. that a hearing is unnecessary, 2. that it does not wish to issue a counter notice, and 3. that it considers it appropriate for the promotion of the licensing objectives to impose the conditions on the TEN. Officers can then notify the decision to the parties and issue the statement of conditions. This procedure will save time and money of convening a sub-committee meeting in circumstances where the premises user (person wanting to use a TEN) and the objector(s) are in agreement about adding conditions from the premises

licence on to the TEN. If the 'virtual licensing panel' does not agree to any of 1,2, or 3 above, then a hearing will be held.

Main options

1. Agree the 'virtual licensing panel' procedure as detailed above to save time and costs in circumstances where the imposition of conditions on a standard TEN is agreed by all parties.
2. Do not agree the 'virtual licensing panel' procedure for the above circumstances, in which case, a licensing sub-committee meeting will be convened.

Legal Implications

Legal implications appear in the body of this report. In addition, it is to be noted that under the Licensing Act 2003, discharge of licensing functions by a licensing authority are referred to its licensing committee (L&GP in Harrow's case) and this Committee can arrange for the discharge of any functions exercisable by it to a sub committee.

Financial Implications

Approving the 'virtual licensing panel' procedure will save the authority time and money as hearings will not have to be convened in the restricted circumstances noted.

Risk Management Implications

If the 'virtual licensing panel' procedure for the above circumstances is not approved, then as is done currently, licensing panel hearings will have to be convened, often at short notice, as the proposed event may be very soon. There is a risk that it may not be possible to arrange for a three member panel in time.

Equalities implications

None

Corporate Priorities

- Keeping neighbourhoods clean, green and safe
- United and involved communities: a Council that listens and leads
- Supporting our Town Centre, our local shopping centres and businesses

Section 3 - Statutory Officer Clearance

Name: Steve Tingle	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 14 November 2012		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 14 November 2012		

Section 4 - Contact Details and Background Papers

Contact:

P Sivashankar, Service Manager, Licensing, Housing & Support Services,
Tel: 020 8736 6237, Email: shankar@harrow.gov.uk

Background Papers:

Licensing Act 2003 as amended by Police Reform and Social responsibility Act 2011

Statutory Guidance issued under s182 of the Licensing Act 2003, 31 Oct 2012 version.

If appropriate, does the report include the following considerations?

1.	Consultation	N/A
2.	Corporate Priorities	YES

113 Temporary event notices: conditions

(1)The Licensing Act 2003 is amended as set out in subsections (2) to (5).

(2)In section 98(1) (meaning of “permitted temporary activity”), for paragraph (a) substitute—

“(a)it is carried out in accordance with—

(i)a notice given in accordance with section 100, and

(ii)any conditions imposed under section 106A, and”.

(3)After section 106 insert—

“106A Conditions on standard temporary event notice following objection

(1)This section applies where—

(a)a relevant person has given an objection notice under section 104(2) in respect of a standard temporary event notice,

(b)the objection notice has not been withdrawn, and

(c)the relevant licensing authority has decided under section 105 not to give a counter notice under that section.

(2)The relevant licensing authority may impose one or more conditions on the standard temporary event notice if—

(a)the authority considers it appropriate for the promotion of the licensing objectives to do so,

(b)the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and

(c)the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

(3)Where the authority decides to impose one or more conditions under subsection (2)—

(a)the authority must give the premises user notice of the decision,

(b)the notice must be accompanied by a separate statement (the “statement of conditions”) which sets out the conditions that have been imposed on the temporary event notice, and

(c)a copy of the notice and statement of conditions must be given to each relevant party.

(4)The notice and statement of conditions under subsection (3) must—

(a)be in the prescribed form,

(b)be given to the premises user in the prescribed manner, and

(c)be given no later than 24 hours before the beginning of the event period specified in the temporary event notice.

(5)Where the premises are situated in the area of more than one licensing authority, the functions conferred on the relevant licensing authority by subsection (2) must be exercised by those authorities jointly.