

Licensing and General Purposes Committee (Special) AGENDA

DATE: Wednesday 25 January 2017

TIME: 7.30 pm

VENUE: Meeting Room 4,
Civic Buildings 5 & 6,
Harrow Civic Centre

MEMBERSHIP (Quorum 4)

Chair: Councillor Krishna Suresh

Councillors:

Mrs Chika Amadi
Kairul Kareema Marikar
Phillip O'Dell
Nitin Parekh
Varsha Parmar
David Perry
Adam Swersky

Kam Chana
Ramji Chauhan
John Hinkley
Amir Moshenson
Kanti Rabadia
Stephen Wright (VC)

James Bond

Reserve Members:

1. Sue Anderson
2. Michael Borio
3. Niraj Dattani
4. Margaret Davine
5. Glen Hearnden
6. Mitzi Green
7. Kiran Ramchandani
8. -

1. Lynda Seymour
2. Manjibhai Kara
3. Marilyn Ashton
4. Susan Hall
5. Ameet Jogia
6. Mrs Vina Mithani

1. Georgia Weston

Contact: Alison Atherton, Senior Professional - Democratic Services
Tel: 020 8424 1266 E-mail: alison.atherton@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. DEPUTATIONS

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

4. REVISED STATEMENT OF LICENSING POLICY UNDER THE LICENSING ACT 2003 (Pages 3 - 52)

Report of the Corporate Director of Community

AGENDA - PART II

Nil

**REPORT FOR: Licensing and General
Purposes Committee
(NON-EXECUTIVE)**

Date of Meeting:	25 January 2017
Subject:	Revised Statement of Licensing Policy under the Licensing Act 2003
Responsible Officer:	Tom McCourt – Corporate Director Community
Exempt:	No
Wards affected:	All Wards
Enclosures:	Appendix 1 - Draft Statement of Licensing Policy under the Licensing Act 2003 Appendix 2 - Consultation responses Appendix 3 – Equality Impact Assessment

Section 1 – Summary and Recommendations

The Council in its capacity as the licensing authority for Harrow under the Licensing Act 2003 is required to publish and keep under a review a Statement of Licensing Policy (SLP). A proposed revised SLP is attached at appendix 1 for consideration.

Recommendations:

1. The Committee is requested to consider the draft SLP and consultation responses.
2. Subject to any comments or amendments, recommend the SLP to full Council for approval.

Section 2 – Report

- 2.1 As the licensing authority for Harrow under the Licensing Act 2003 (the Act) the council is responsible for licensing
- (a) the sale and supply of alcohol;
 - (b) regulated entertainment such as live and recorded music, performances of theatre, dance, cinema and indoor sports;
 - (c) the sale of hot food and drink between 11 pm and 5 am.
- 2.2 Members of the Licensing and General Purposes Committee form the Licensing Panels that hear applications under the Act. The Council acts as the full licensing authority in order to adopt the Statement of Licensing Policy (SLP) set out at appendix 1.
- 2.3 Under section 5 of the Act, a licensing authority must prepare a SLP which effectively sets out the principles they propose to apply in exercising their functions under the Act. It cannot be inconsistent with the provisions of the Act.
- 2.4 In exercising its' duties under the Act the licensing authority must act in accordance with the general principles of public administration, and is under a duty to promote the statutory objectives of preventing crime and disorder; preventing public nuisance; protecting public safety; and protecting children from harm.
- 2.5 It is a requirement that the authority reviews its SLP at least every five years. The current SLP was approved by full Council on 3 December 2015.
- 2.6 Officers have been able to review the Policy in more detail since the beginning of 2016, with the aim of producing a clearer, more consistent and concise Policy.
- 2.7 In drawing up the SLP the licensing authority must have regard to statutory guidance issued by the Secretary of State, and should indicate if the SLP departs from that guidance.
- 2.8 This edition of the SLP contains the following key changes from the current version:
- (1) greater detail of the context within which the SLP has been adopted
 - (2) measures the licensing authority may want to be considered in licensed premises in order to promote the licensing objectives
 - (3) an acknowledgement of the other duties the licensing authority is under including the Crime and Disorder Act 1998 and the Regulators' Code
 - (4) detail about the approach to be taken in specific circumstances such as

when licensing premises that might be attractive to children; commentary around the times that shops and supermarkets can sell alcohol alongside other goods; and when the licensing authority has to classify films for public viewing

(5) the approach to be taken when dealing with petitions and template (or “round robin”) letters about licence applications

(6) clarifying which licensing decisions are delegated to officers including classifying otherwise unclassified films;

(7) clarifying which decisions are delegated to Licensing Panels and officers including determining objections to new Community and Ancillary Sales Notices (when they are introduced) and whether community premises should be required to appoint a Designated Premises Supervisor for alcohol sales

(8) setting out the licensing authority’s indicative approach to contraventions under the Licensing Act 2003

(9) setting out guidelines for licensing panels to consider aggravating and mitigating factors when determining applications to review licences

Applying the SLP

- 2.9 The licensing authority receives approximately thirty applications for new premises licences, ten applications to vary licences, twenty applications to make minor variations, and two applications to review licences a year. The SLP will have the most direct impact on those applicants – most of whom are businesses – when (a) preparing their Operating Schedules that form part of their applications; (b) when responsible authorities or residents want to make representations about an application; (c) when developing appropriate conditions to be included in a licence; or (d) when a Licensing Panel is considering relevant representations as to whether or not a licence ought to be granted or varied.
- 2.10 In the majority of the cases referred to in the above paragraph the consideration of the factors set out at paragraph 6.3 of the policy will support members in considering applications before them but subject to ensuring the link to, and promoting, the licensing objectives. Any conditions or decisions arising from those factors must be reasonable, proportionate and appropriate to the licensing objectives and may be subject to appeal to the magistrates’ court.
- 2.11 Officers have developed a separate set of model conditions to ensure consistency when conditions are attached to licences, which is referred to in paragraph 9.1 of the SLP. The document setting out the conditions is not part of the SLP itself, allowing officers to update and amend it in light of changing circumstances and experience.
- 2.11 It is likely that the considerations in section 8 will only apply to very specific types of applications. Only paragraph 8.9 (child protection and safeguarding) seeks to impose additional and proportionate conditions in relation to risk

assessments at events for those under 18 and child protection policies in places where a premises is open after 11 pm or may be attractive to children.

Main Options

- 2.12 The options are limited as the requirement for such a policy is set out in the legislation, although there is considerable discretion as to the content of the statement.
- 2.13 The options (for the Licensing and General Purposes Committee) are to recommend the SLP to full Council as drafted or with amendments, or to not approve it. The latter is not recommended as the proposed Policy aims to bring greater simplicity and clarity to all to whom it will apply.

Consultation

- 2.14 In assisting to formulate the SLP, copies of the draft SLP were circulated to the police and the Public Health team. The draft revised SLP was publicly consulted on between 16 September 2016 and 3 October 2019, (which was subsequently extended to 9 December 2016) on the website and by way of written consultation with:
- (a) the “responsible authorities” under the Act – the Police, Fire Service, Public Health, Trading Standards, Local Planning Authority, Local Childrens’ Safeguarding Board and Environmental Health
 - (b) all premises in the Borough licensed under the Act
 - (c) licensed premises’ representatives such as solicitors and licensing agents
 - (c) residents’ and tenants’ associations.

Amendments to the draft policy

- 2.15 The results of the consultation and officers’ response are set out at appendix 2.
- 2.16 Officers believe the comments from Public Health relating to alcohol consumption add more to the policy context and should be included in an edited form as a new paragraph 3.3, and an additional factor should be added to the public safety objective in paragraph 6.3 to take into account:
- “Identifiable high levels of alcohol consumption in the vicinity of the premises that might be increased by the grant of an authorisation”
- 2.17 Two respondents commented on the proposed condition relating to planning permission at paragraph 7.6 Officers consider these comments have merit and as a result propose wording about issuing an informative to the premises licence holder as to the need to obtain appropriate planning permission.

- 2.19 The above amendments are highlighted in bold in the respective parts of the draft SLP.

Legal Implications

- 3.1 Section 5 of the Licensing Act 2003 requires a licensing authority in respect of each five year period to determine its licensing policy with respect to the exercise of its licensing functions and to publish this before the beginning of the period.
- 3.5 As noted earlier in this report, section 5(3) of the Act lists those persons that must be consulted by a licensing authority in relation to a proposed SLP. Section 5(4) of the Act requires an authority to keep its SLP under review and to make such revisions to it, at such times, as it considers appropriate, again subject to the same consultation requirements. The authority must publish a statement of the revisions (to the policy) or the revised SLP itself if revisions are made and approved.
- 3.6 The proposed SLP set out at appendix 1 will apply to applications made after the date it is adopted by the licensing authority, subject to any amendments.

4 Equalities Impact

- 4.1 Under section 149 of the Equality Act 2010, the Council (as a public authority) has a duty to have 'due regard' to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act,
 - advance equality of opportunity between persons with a protected characteristic and those without
 - foster good relations between persons with protected characteristics and those without.
- 4.2 The 'protected characteristics' are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation.
- 4.3 An initial Equalities Impact Assessment (EqIA), carried out in line with the Corporate Equalities Policy, established that there were no adverse impacts on any of the protected groups arising out of the proposed policy and a full (EqIA) is not required.
- 4.4 The EqIA did show the SLP may have positive impacts in terms of age, by proposing specific measures to prevent under-age sales and child protection measures.

5 Financial Implications

- 5.1 The costs of undertaking the statutory duties as a licensing authority are met within the budget of Public Protection.

6 Risk Management

- 6.1 The authority is required to publish a SLP at least every five years and to keep it under review. Where this is not achieved, the authority could face challenge by persons dissatisfied with decisions made in accordance with the existing policy.

Council Priorities

The Council's vision:

Working Together to Make a Difference for Harrow

The Licensing Act 2003 is built around the four licensing objectives which are: the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

Each objective is of equal importance and in promoting these objectives, it will make a difference to the most vulnerable, communities, families and businesses.

Section 3 - Statutory Officer Clearance

Name: Jessie Mann	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 4 January 2017		

Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 13 January 2017		

Ward Councillors notified:	No
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Section 4 - Contact Details and Background Papers

Contact: Jeffrey Leib (Principal Licensing Officer) Ext 7667

Background Papers:

Equalities Impact Assessment (Sept 2016) – Statement of Licensing Policy

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Community Directorate

DRAFT

Statement of Licensing Policy

DRAFT

DRAFT

**Community Directorate
Harrow Council
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Harrow
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Contents

1	Introduction.....	4
2	Harrow Ambition.....	4
3	Context.....	4
4	Engagement.....	6
5	Partnership working.....	5
6	The licensing objectives.....	8
7	Other legislative responsibilities.....	11
8	Specific circumstances.....	13
9	Conditions and consultations.....	15
10	Representations.....	16
11	Administration, exercise and delegation of functions.....	17
12	Enforcement protocol.....	19
13	Monitoring and review.....	21
14	Amendments to this policy.....	21
	Appendix 1 – Licence review guidelines.....	22

1 Introduction

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

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

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

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

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

- matters within the control of the premises licence holder/club premises certificate holders
- the specific premises and the places used
- the direct impact of the activity taking place at the licensed premises on people in the vicinity of the premises.

2 Harrow Ambition 2020

2.1 The council's Corporate Plan 2016-2019, entitled "Harrow Ambition Plan 2020" sets out the council's vision of "Working together to make a difference for the vulnerable, communities, families and businesses". The council's strategy (priorities) to deliver its vision, between now and 2020 is to:

- build a Better Harrow
- be more Business-Like and Business Friendly
- protect the Most Vulnerable and Support Families

The council's vision and the corporate priorities have been taken into account when developing the policy, particularly to "Be more Business-Like and Business Friendly".

2.2 In applying this policy the licensing authority will seek to implement the council's corporate values:

- Be Courageous
- Do it Together and
- Make it Happen

3 Context

3.1 Harrow has recorded a reduction of 23.7% change in crimes since the 2011/12 baseline year and also has recorded reductions against six of the Mayor's Office for Policing and Crime's seven priority crimes of burglary; criminal damage; robbery; theft from motor vehicles; theft from person; theft of motor vehicles with only a slight increase in violence with injury offences (see <https://www.london.gov.uk/What-we-do/mayors-office-policing-and-crime-mopac/data-and-research/crime%20/crime-dashboard>).

3.2 This policy is based on Harrow generally being better than most other English local authorities in terms of the indicators reported in the Local Alcohol Area Profiles published by Public Health England (June 2015 update) (see <http://fingertips.phe.org.uk/profile/local-alcohol-profiles/data#page/0>).

3.3 **Harrow's Health and Wellbeing Strategy 2016-20 makes a commitment to 'Start well, Live well, Work well, Age well' and responsible alcohol consumption and sales are relevant to all these objectives. Healthier high streets are a key component to making Harrow a healthier and happier borough.**

3.4 The table below shows the number of licensed premises in the Borough as of April 2016:

<i>Premises type</i>	<i>Number</i>
On-sales of alcohol only (mainly restaurants)	278
On and off-sales of alcohol (mainly pubs and restaurants)	136
Off-sales of alcohol only	293
On-sales of alcohol only (pubs)	56
Regulated entertainment only (no alcohol)	21
Late night refreshment only	34
Cinemas	2
Proprietary clubs	3
Club premises certificates	42

3.5 Licensing is not a mechanism for the general control of anti-social behaviour by individuals beyond the direct control of the licensee of the premises concerned. However the licensing authority considers that licensing legislation plays a key role in

seeking to ensure premises are managed well in order to promote the licensing objectives. There are several options available to the licensing authority to assist with this control in areas where licensed premises are contributing or considered responsible for anti-social behaviour and where informal resolution has failed:

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

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

4 Engagement

4.1 Public engagement is an important element of the Licensing Act. Written representations about licence applications are welcome. Representations that are considered by the licensing authority's officers to be out of time; irrelevant (because they do not address the licensing objectives); vexatious (because they for example repeat matters that have been previously raised unsuccessfully by the same respondent); or frivolous (lacking in seriousness) may be rejected. (Please also see sections 5 and 6 of this policy).

4.2 The licensing authority aims to work with applicants and residents to help licensable activities contribute to the diverse and vibrant commercial and cultural life of the Borough without having an adverse impact on our residents or their amenity. The licensing authority strongly encourages pre-application discussions and will make representations as a licensing authority where it believes it would be appropriate to further the licensing objectives.

5 Partnership working

5.1 This policy relies on strong partnership working, and the licensing authority will work particularly with licence holders, residents, police, Trading Standards, Environmental

Health and Public Health in implementing it. The licensing authority strongly encourages and participates in schemes such as Pubwatch and Best Bar None.

- 5.2 The licensing authority will be mindful of the cost and regulatory burden that imposing conditions and other restrictions places on applicants and licensees. The licensing authority will work (with others where possible) to ensure conditions and restrictions are appropriate to only further the licensing objectives, are proportionate, clearly understandable and enforceable. To this end we have produced a separate non-binding pool of model conditions for reference that will be updated by the licensing authority's officers in the light of operational experience.
- 5.3 Where our discretion is engaged (because representations have been made about an application, the licensing authority will consider each application on its own individual merits including the impact of an application on the local area before making a determination.

6 The licensing objectives

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

Objective	Factors to consider
<i>Prevention of crime and disorder</i>	<ul style="list-style-type: none"> • degree of confidence in the management of the premises • location of premises • gang-related activity in the area • participation in local crime prevention schemes (such as Pubwatch or the Harrow Business Improvement District scheme) • commitment to reporting all crimes and anti-social behaviour associated with premises • crime prevention audit conducted by police/professional security organisation • staff training • responsible alcohol sales including provision of customer information and staff training • membership of the Brent and Harrow Trading Standards Responsible Trading Scheme • employment of licensed security staff and/or door supervisors

	<ul style="list-style-type: none"> • drug prevention and detection measures • search and detection of weapons • entry control measures (for example membership schemes, ticketing, electronic identity checking, queue controls etc) • suitable and sufficient security plan • effective wind-down and dispersal policies • use of CCTV • anti-theft provisions (eg time-locked safes, magnetic door locks, regular removal of cash from tills) • use of information to ban potential causes of alcohol-related crime and disorder, such as liaison with police about street drinkers, use of banning schemes • restrictions on sales of certain alcohol where appropriate (eg not selling high-strength alcohol where street drinkers may be prevalent) • position, display and promotion of alcohol • style, design and layout of the premises including provision for the safety of children • use of non-glass containers for alcohol where appropriate • measures to prevent or reduce anti-social behaviour arising from licensable activities • compliance with the Portman Group's Code of Practice on the naming, packaging and promotion of alcoholic drinks • trading hours • compliance with other business legislation with criminal penalties such as immigration offences; waste management; and smoking controls under the Health Act 2006
<p><i>Prevention of public nuisance</i></p>	<ul style="list-style-type: none"> • trading hours • noise reduction measures associated with licensable activities, particularly near to residential properties such as noise limiters, acoustic lobbies, double glazing, ventilation systems etc • noise mitigation measures associated with licensable activities, particularly near to residential properties • provision of litter bins and litter patrols • use of low-impact litter materials • measures to control smoking • extent of any external areas such as beer gardens, smoking areas and pavement cafes • effective wind-down and dispersal policies • noise from people arriving at or leaving from the premises and which is related to licensable activities • control of other nuisances relating to licensable activities such as light or odours • management of waste particularly preventing fly-tipping • arrangements in place for hiring licensed premises for private parties especially younger "anniversary birthday" parties

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

7 Other legislative responsibilities

7.1 Crime and disorder

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

7.2 Human Rights

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

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

7.3 Better regulation

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

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

7.4 Equalities

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

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

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

7.6 **Planning permission**

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

7.7 **Cultural strategies**

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

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

8 Specific circumstances

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

8.2 Good neighbour principle

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

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

8.3 Opening times and shops

In accordance with the Secretary of State's guidance, the presumption will be that shops shall be licensed to sell alcohol during the same times as other goods in that shop, unless it is appropriate not to in order to further the licensing objectives. In some cases it may be appropriate to restrict alcohol sales to certain times and conditions imposed to ensure alcohol are segregated from other goods on sale.

8.4 Restaurants and take-aways

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

8.5 External drinking areas

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

8.6 **Arrangements for films**

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

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

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

8.9 **Child protection and safeguarding**

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

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

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

8.12 **Adult entertainment**

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

9 Conditions and consultations

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

10 Representations

- 10.1 The Licensing Act places duties on persons and organisations to make relevant representations and often in a relatively short timescale. In this context a “relevant representation” has to positively link the issues to the premises (or person) in question and the issues must relate to the statutory objectives.
- 10.2 The licensing authority cannot accept representations that it considers frivolous or vexatious. Additionally, in the case of a review of a licence or certificate, repetitive representations are also invalid. Officers will also be aware of the possibility of review applications being submitted as a consequence of an unsuccessful or rejected representation.
- 10.3 Licensing authority officers will determine whether a representation is irrelevant, frivolous, vexatious or repetitive in accordance with the Licensing Act and Guidance. In cases of doubt the representation will be allowed to stand and to be considered by a Licensing Panel.
- 10.4 Where the licensing authority determines that a representation is invalid it will notify the person of the decision and the reason. Where time exists, the person will be invited to make a further valid representation.
- 10.5 When a representation is made which purports to be on behalf of a group, society or other association, the licensing authority will require reasonable proof to verify that a signatory is genuinely speaking on behalf of the members of that group. This could take the form of minutes to a meeting, a resolution passed or similar documentation. ‘Group’ has a wide meaning and can include a residents’ association or similar.
- 10.6 Petitions will be accepted by the licensing authority. The licensing authority’s approach will be to enquire how the petition was compiled, and whether each signatory signed in full knowledge of the facts of the application in order to assess how much weight to give the petition when determining the application. Names and addresses will be assessed to ensure they appear to be prima facie genuine, and that signatories have not also submitted their own representation independently of the petition.
- 10.7 In the absence of contrary evidence, the organiser(s) of the petition will be deemed to have been the person making the representation. Consequently they will be deemed to have the right to speak at and present evidence to any Licensing Panel and to exercise any right of appeal. They may invite other petitioners to speak and present evidence on their behalf but the other petitioners may not do so on their own behalf. The other petitioners will not be treated as parties to the hearing unless they have submitted their own independent and relevant representations.
- 10.8 The licensing authority will carefully scrutinise representations to ensure signatories have signed in full knowledge of the facts of the application. It is likely that more weight will be given to standard or ‘round robin’ letters than to petitions. Each signatory on a standard or ‘round robin’ letter will be deemed to be a party to the application with their own right to speak and present evidence to any Licensing Panel, and to exercise any right of appeal.

11 Administration, exercise and delegation of functions

11.1 The following table sets out the delegation of decisions and functions to Licensing and General Purposes Committee, the Licensing Panel (sub-committee) and to officers.

11.2 Delegations are without prejudice to officers referring an application to a Licensing Panel; or a Licensing Panel to the Licensing and General Purposes Committee, if considered appropriate in the circumstances of any particular case.

11.3 Officers have delegated authority to classify films in the absence of classifications by the British Board of Film Classification, or to refer films to a Licensing Panel in the case of doubt. Officers will liaise with the chair of the Licensing and General Purposes Committee as to the approach to be taken about films to be re-classified that have already been classified by the BBFC.

DECISION	FULL COMMITTEE	LICENSING PANEL	OFFICERS
Application for personal licence		If a police objection	If no objection is made
Application for premises licence/club premises certificate		If a relevant representation is made	If no relevant representation is made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club registration certificate		If a relevant representation is made	If no relevant representation is made
Application for minor variation to premises licence/club registration certificate			All cases
Application to vary designated personal licence holder		If a police representation	All other cases

DECISION	FULL COMMITTEE	LICENSING PANEL	OFFICERS
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for Interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises registration		All cases	
Decision on whether a representation is irrelevant, frivolous or vexatious			All cases
Making a representation as a responsible authority			All cases
Determination of an objection notice to a temporary event notice (and Community and Ancillary Sales Notices when introduced)		All cases	
Determination of objection to disapply requirement to have Designated Premises Supervisors in community premises		All cases	
Power to vary time limits under the Licensing Act 2003 (Hearings) Regulations 2005		All cases once a hearing has commenced	All cases before a hearing commences

12 Enforcement protocol

12.1 Licence reviews

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

12.2 Other enforcement powers

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

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

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

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

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

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

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

13 Monitoring and review

- 13.1 In drawing up this policy the licensing authority had regard to the Secretary of State's guidance to licensing authorities (March 2015). We consulted on this policy between 16 September 2016 and 9 December 2016. Comments were invited from the statutory consultees set out in the Licensing Act
- 13.2 This policy was adopted by the licensing authority on xx 2017. The licensing authority will keep it under regular review and in any case review it again before December 2022.
- 13.3 Any comments about this policy can be addressed to licensing@harrow.gov.uk.

14 Amendments to this policy

- 14.1 The licensing authority will incorporate legislative changes to this policy as necessary, and consult as required by the Licensing Act on making other amendments to the policy.

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APPENDIX 1

Licence review guidelines

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

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

APPENDIX 2

Respondent	Does the policy promote the licensing objectives of preventing crime and disorder, preventing public nuisance, public safety and child protection arising from licensed premises?	Officer response
Councillor	Yes	<i>No response required</i>
Individual	Yes	<i>No response required</i>
Local Children Safeguarding Board	Thank you for sending your draft policy. I am delighted to see your inclusion in 8.11 of requirements in relation to sexual exploitation and linking to the Operation Makesafe activity. I will bring this helpful development to the attention of the Safeguarding Board and its dedicated CSE Sub-committee.	<i>No response required</i>

Respondent	If there is anything missing from the policy, please explain what it is and where possible provide evidence for your answer	Officer response
Councillor	There too many off licences opening up across the borough. This has resulted in street drinking in some areas particularly Wealdstone High Street	<p>This is a general comment and the licensing authority is aware that the “need” for more licensed premises is not a valid consideration to refuse to grant a licence.</p> <p>There is no current evidence in terms of alcohol-related crime, disorder and nuisance to support the introduction of a Cumulative Impact Policy within the SLP to limit the grant of premises licences, although the licensing authority will keep this position under close review.</p> <p>There are eight off-licences within High Street, Wealdstone, three of which are</p>

		national retailers such as ASDA and Sainsbury's. The licensing authority's officers will consider whether to develop informal schemes such as "Off-Watch" during the next financial year with businesses in the area to identify and manage identifiable problems.
Individual	Yes	<i>No response required</i>

NAME	Any further comments	OFFICER RESPONSE
Councillor	There also needs some policy regarding betting offices with limiting the number of fixed betting machines	<i>This is outside the scope of the Licensing Act 2003 as it is dealt with under the Gambling Act 2005</i>
Individual	<p>Feedback to people who have made complaints - currently, one makes a complaint and it seems to disappear into a void.</p> <p>The policy isn't credible - we make complaints about noise and nothing happens.</p> <p>I'm not sure that the policy supports British Values: please include an assessment condition about community integration.</p>	<p><i>This is not relevant to the statement of licensing policy, and the respondent will be contacted about their specific issue raised about the council's response to complaints. Dealing with noise from a licensed premises can be a complex issue, particularly if it involves statutory noise nuisance which is dealt with under other legislation. Residents always have the right to ask for a licence to be reviewed, and the approach to dealing with complaints is set out in section 12. Community integration is not a required consideration as such for the Statement of Licensing Policy but it is addressed in the accompanying Equalities Impact Assessment which found no negative impacts arose from the SLP.</i></p>
Public Health	<p>Insert after paragraph 2.2:</p> <p>Above recommended levels of intake, alcohol use is associated with various diseases including hypertension, haemorrhagic stroke, liver disease, epilepsy, mental health disorders and various cancers, as well as accidents, injuries and assaults.¹⁻³ 2013 Health Survey for England data suggest that 23% of men and 16% of women in the UK drink at levels associated with this risk,⁴ and 2010 UK Global Burden of Disease data indicate that 4.2% of total disability-adjusted life years (a measure of the number of years lost due to ill-health, disability or early death), are attributable to alcohol use.⁵ Numbers of alcohol-related hospital admissions continue to increase, and alcohol is</p>	<p><i>Whilst public health is not a specific licensing objective in its own right it is recognised that it falls at least within the remit of the public safety objective. Public Health is a statutory consultee (responsible authority) under the Licensing Act 2003 and see http://www.nta.nhs.uk/uploads/phe-licensing-guidance-2014.pdf. Officers agree that this information in an edited form specific to Harrow provides a</i></p>

	<p>associated with thousands of UK deaths per year.⁴ Costs to the NHS were estimated at £3.3-£3.5 billion per year between 2006-07 and 2009-10.^{6,7} In 2012, the government estimated an annual cost to society of £21 billion.⁸ In Harrow, it is estimated that approximately 50,000 residents drink at harmful or hazardous levels (= levels of non-dependent alcohol use above recommended limits, associated with harm or risk of harm, respectively). Rates of alcohol use are lower in some ethnic groups, but otherwise hazardous and harmful use is an issue relevant to a wide range of population subgroups based on age, sex and deprivation level.^{4,9}</p> <p>Harrow's Health and Wellbeing Strategy 2016-20 makes a commitment to 'Start well, Live well, Work well, Age well' and responsible alcohol consumption and sales are relevant to all these objectives. Healthier high streets are a key component to making Harrow a healthier and happier borough.</p>	<p><i>further useful context to the SLP and is included at paragraph 3.3.</i></p>
Public Health	<p>Add to the table on page 9 under "Public safety": "Identifiable high levels of alcohol consumption in the vicinity of the premises that might be increased by the grant of an authorisation"</p>	<p>This will allow other data available in the future that points to high levels of harm around a premises or that points to drinking at a premises or in an area (such as police data, or ambulance/hospital data) to be able to be considered and so would be included within the SLP.</p>
Licensing agent 1	<ol style="list-style-type: none"> 1. On 19th September 2016 LBH sent a letter explaining it is reviewing its policy. It gave just two weeks for consultation responses. 2. The letter set out 15 main changes. These included a proposal that where a licensee does not have prior planning permission, the authority would consider imposing a condition that the licence cannot be used in full until planning permission has been obtained. 3. The draft policy itself runs to 22 pages. There is a web consultation portal which basically allows general comments without asking about any particular changes. 	

	<p>4. The existing policy runs, with appendices, to 75 pages. In paragraph 1.12 it actually says that the policy is to cover the period 3rd December 2015 to 2nd December 2020. To all intents and purposes the draft policy is a new policy.</p> <p>5. On 20th September 2016, Compliance Direct wrote to the Council complaining about the change in policy regarding planning permission. The paragraph in question, which is in fact para 7.6 and not 2.6 as stated by LBH, reads:</p> <p style="padding-left: 40px;">“Planning and licensing are distinct regimes and will be properly separated to avoid duplication and inefficiency. Where planning permission has not yet been granted and there appears likely to be a clear conflict between licensing and planning permissions (eg a difference in permitted hours) a condition may be imposed prohibiting the use of the licence in full until appropriate planning permission has been obtained.”</p> <p>6. Compliance Direct Ltd stated that it considered the proposal to be for a disproportionate, standardised condition, that obtaining planning permission was not a licensing objective and in any case trying to control planning legislation by licensing conditions would be ultra vires.</p> <p>7. LBH’s reply to that was that there is a recognition that planning is a separate regime, but that the planning authority was a responsible authority and that if it made a representation about breach of a planning condition then a licence condition might be appropriate to restrain a criminal breach of a planning condition.</p> <p>8. With all due respect to the writer of the reply, this represents faulty analysis.</p> <p>9. The function of the Licensing Sub-Committee is to establish in licensing</p>	<p><u>Planning permission</u> The proposal to replace a condition with an informative to the premises licence holder has merit and officers recommend that this be included instead within paragraph 7.6 of the draft policy.</p>
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terms what steps are appropriate for the promotion of the licensing objectives. These might be the same as, greater than or less than steps which have been or might yet be imposed on a planning permission. If the licensing conditions are more stringent than steps required by planning, then the licence conditions will be the main control on the operation. If they are less stringent, then it will fall to the applicant to procure a revision of the planning control on the operation before the licence can be fully utilised.

10. If the licensee operates in breach of planning control, **this is not a crime**. It would only become a crime if (which is not a given) the planning authority deems it appropriate to serve an enforcement notice and the notice remains unappealed or any appeal against that enforcement notice fails. Even at that point, the planning system is perfectly adequate to enforce the control. It certainly does not need the system of licensing to duplicate the control.
11. All of this is tolerably clear on the face of the section 182 Guidance, whose provisions have either been **ignored or misunderstood**:
12. First, paragraph 1.16 provides that licence conditions should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.
13. Second, paragraphs 13.57 and 13.58 provide as follows:
 - “Planning and building control
 - 13.57 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
 - 13.58 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use

of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.”

13. The idea of licensing being used to enforce the planning regime is therefore **not supported by national guidance. Nor is it necessary.**
14. We also note that LBH have used an analogy of premises licences being used to restrain statutory nuisance. The analogy is not a true one. Licences are not used to replace the statutory nuisance regime under the Environmental Protection Act 1990 but to promote the licensing objective of the prevention of public nuisance. A closer analogy would be a licence condition requiring a licensee to comply with the terms of an abatement notice. Even that is not exact, because breach of such a notice is an offence. But in any case nobody would consider such a licence condition to be sensible or necessary.
16. In our view, therefore, the proposal is completely misguided and should not be carried forward into the new proposed policy.
17. What might properly be done is for a licensing authority granting a licence to cover it with a letter carrying an informative that the licence does not grant any consent required any other regime, so as to place the recipient on notice that the regulatory requirements are separate.
18. So far as the time permitted for the consultation is concerned, LBH have justified this on the basis that the Cabinet Office guidelines have no statutory binding force, and do not recommend a 12 week consultation in any event. The reason actually given for the two week consultation period was that any longer and it would not be possible for the policy to be introduced from 1st January 2017.

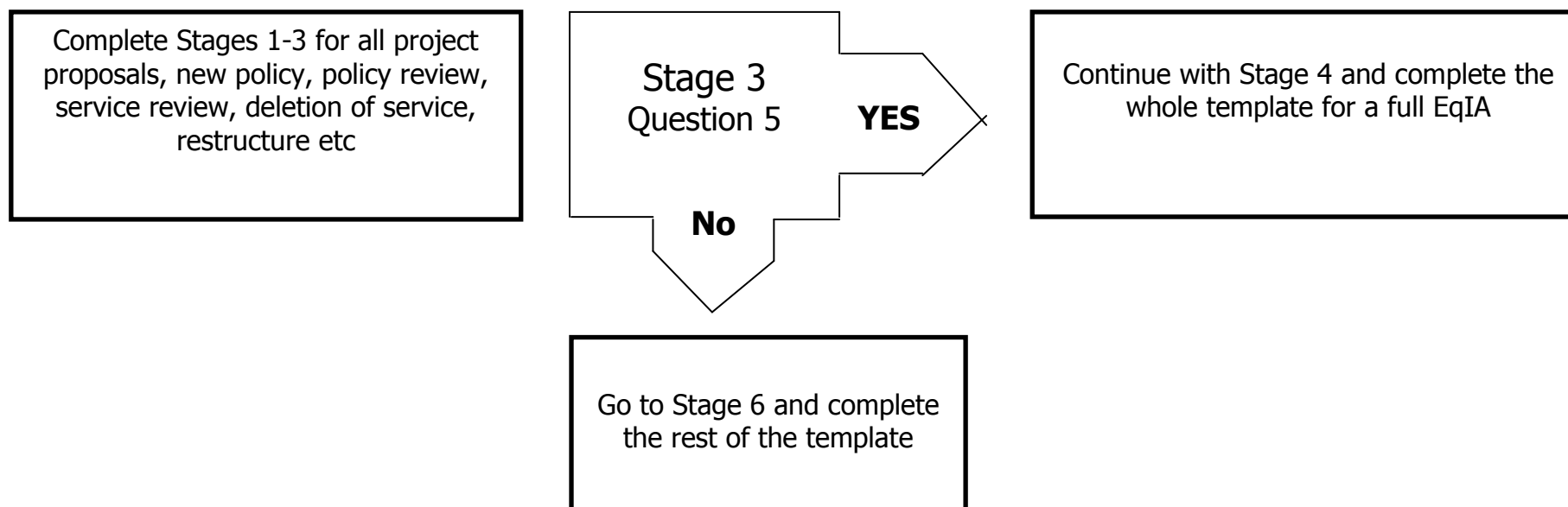
	<p>19. However, the principles governing a lawful consultation are now well understood. A lawful consultation must (a) take place at a time when proposals are still at a formative stage, (b) give reasons for any proposal so as to permit intelligent consideration and response, (c) give adequate time for consideration and response and (d) give the product of the consultation conscientious consideration: see <u>R v Brent London Borough Council, Ex p Gunning</u> (1985) 84 LGR 168.</p> <p>20. What is at stake here is the wholesale revision of a licensing policy, including a new set of guidelines for compliance with the licensing objective and a new enforcement protocol. It is absolutely obvious, in our view, that two weeks is a wholly insufficient time to permit proper consideration, and so the third principle is clearly breached. We do not in frankness think that there could be very much debate about that.</p> <p>21. Furthermore, we consider it to be an inadequate reason for an unlawfully short consultation period that the policy has to be adopted by x date. If that was the case, then the consultation should have been planned to start earlier to enable a proper period for consultation.</p> <p>22. Finally, LBH's statement that it is "not appropriate" that the new policy would not be adopted until 1st May 2017 is not a rational reason to afford less time than is necessary for consultation. The existing policy was only adopted 9 months ago and is valid on its face until 2020.</p> <p>It is in all parties' interest, that a reasonable period is provided for consultation replies and the Planning condition is removed from the final draft.</p>	<p><u>Consultation period</u> <i>The initial consultation period ran from 16 September 2016 to 9 October 2016 but in light of this comment the consultation was extended until 9 December 2016.</i></p>
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<p>Licensing agent 2</p>	<p>Paragraph 9.2 – Please clarify what does non-binding comment mean when used in the context of on the veracity of the evidence presented to sub-committee?</p> <p>Paragraph 2.6 -. This proposal in part appears to go against generally accepted good practice. It is known that planning should not influence whether an application for a premises licence can be submitted to the licensing authority and vice versa. If planning has not been granted for a proposal then it is up to the planning legislation and council planning enforcement offices to deal with any breach of planning. Taking these comments into account our professional view is that the licensing authority should not seek to impose a condition that is likely to be ultra virus as it attempts to extend the licensing act to restrict the use of a premises licence on matters of planning which are outside the scope of the act. In the home office guidance Para 10.10 states. Licensing Authorities should ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objective. It is suggested that any planning issues could be placed as an informative on a premises licence that is granted but does not have planning in place.</p> <p>Paragraph 10.7 - Please clarify if a petition would have to be a “relevant representation” as defined by the Act?</p> <p>Paragraph 10.8 - Same comment as 10.7 above.</p> <p>Section 11 – Please clarify how the officer dealing with a licensing application will be demarcated and separated from the officer who may make a representation against an application. At present the wording of the draft policy in this section does not appear to follow the licensing act legislation or</p>	<p><i>It is for a Licensing Panel alone to determine an application, based on the evidence before it, for the promotion of the licensing objectives. In any event this paragraph has been removed.</i></p> <p><i>See above comments relating to paragraph 7.6</i></p> <p><i>A petition would still have to qualify as a relevant representation in order to be considered.</i></p> <p><i>As above.</i></p> <p><i>The authority has withdrawn this proposal and will ensure the separation of responsibilities is applied.</i></p>
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	<p>Home Office guidance March 2015.</p> <p>Section 13 - Guidelines to ensure consistency on review. It is understood that each premises is an individual as is each case and should be determined on its own merits. Can the licensing authority clarify will guidelines be provided as advice to members or a requirement to follow this advice?</p>	<p><i>Each application would be considered on its own merits and the guidelines will be published to provide a degree of consistency when considering each application at the Panel's discretion.</i></p>
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Equality Impact Assessment Template

The Council has revised and simplified its Equality Impact Assessment process (EqIA). There is now just one Template. Lead Officers will need to complete **Stages 1-3** to determine whether a full EqIA is required and the need to complete the whole template.



- In order to complete this assessment, it is important that you have read the Corporate Guidelines on EqIAs and preferably completed the EqIA E-learning Module.
- You are also encouraged to refer to the EqIA Template with Guidance Notes to assist you in completing this template.
- SIGN OFF: All EqIAs need to be signed off by your Directorate Equality Task Groups.
- Legal will NOT accept any report without a fully completed, Quality Assured and signed off EqIA.
- The EqIA Guidance, Template and sign off process is available on the Hub under Equality and Diversity

Equality Impact Assessment (EqIA) Template

Type of Decision: Tick ✓	<input type="checkbox"/>	Cabinet	<input type="checkbox"/>	Portfolio Holder	<input type="checkbox"/>	Other (explain)	<input type="checkbox"/>	Full Council
Date decision to be taken:	23 February 2017 (Full Council)							
Value of savings to be made (if applicable):	Not applicable							
Title of Project:	Review of Statement of Licensing Policy							
Directorate / Service responsible:	Public Protection							
Name and job title of Lead Officer:	Jeffrey Leib							
Name & contact details of the other persons involved in the assessment:								
Date of assessment (including review dates):	23.09.16							

Stage 1: Overview

<p>44</p> <p>1. What are you trying to do?</p> <p>(Explain your proposals here e.g. introduction of a new service or policy, policy review, changing criteria, reduction / removal of service, restructure, deletion of posts etc)</p>	<p>The council is required to have a Statement of Licensing Policy under the Licensing Act 2003 setting out its approach to licensing alcohol, certain forms of public entertainment and also the sale of hot food and drink (between 11 pm and 5 am). The current policy has been revised and publicly consulted on for consideration and adoption by full Council on 1 December 2016. The policy has to be consistent with the Act and accompanying regulations as well as statutory guidance published by the Secretary of State.</p> <p>The council cannot control who applies for licences or who raises objections to them. Application forms are set by statute and there is limited scope for gathering information from them relating to the protected characteristics.</p> <p>Whilst most premises-based licences are applied for by corporate bodies, officers have anecdotal evidence that personal licences are applied for by people from all backgrounds.</p> <p>Officers have the ability to influence some licence applications by recommending the inclusion of additional conditions where they meet certain tests such as appropriateness, clarity and proportionality. Those conditions are generic and commonly adopted throughout the licensed trade nationally, such as requirements for</p>
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staff training; record-keeping; opening hours; and provision of CCTV and therefore unlikely to have a disproportionate negative impact on equalities.

Councillors have a limited discretion to refuse applications (on grounds relating to the prevention of crime, disorder or public nuisance; public safety; or child protection) and so no disproportionate negative impact on equalities has been identified.

2. Who are the main groups / Protected Characteristics that may be affected by your proposals? (✓ all that apply)	Residents / Service Users	✓	Partners		Stakeholders	
	Staff		Age	✓	Disability	
	Gender Reassignment		Marriage and Civil Partnership		Pregnancy and Maternity	
	Race		Religion or Belief		Sex	
	Sexual Orientation		Other			

3. Is the responsibility shared with another directorate, authority or organisation? If so:

- Who are the partners?
- Who has the overall responsibility?
- How have they been involved in the assessment?

The council as licensing authority has overall responsibility for delivery of the policy through the Community Directorate. The practical application of it is shared through the responsible authorities named in the Licensing Act (the police, fire service, Local Childrens’ Safeguarding Board, Trading Standards, Environmental Health, the Local Planning Authority and Public Health).

Stage 2: Evidence & Data Analysis

4. What evidence is available to assess the potential impact of your proposals? This can include census data, borough profile, profile of service users, workforce profiles, results from consultations and the involvement tracker, customer satisfaction surveys, focus groups, research interviews, staff surveys, press reports, letters from residents and complaints etc. Where possible include data on the nine Protected Characteristics.

(Where you have gaps (data is not available/being collated for any Protected Characteristic), you should include this as an action to address in your Improvement Action Plan at Stage 6)

Protected Characteristic	Evidence	Analysis & Impact
Age (including carers of young/older people)	No-one can apply for a licence if they are under 18. Except in very limited circumstances it is an offence to sell, buy or supply alcohol to under 18s or for unaccompanied children to be on licensed premises.	The policy proposes specific measures to prevent under-age sales and child protection measures as a positive measure.
Disability (including carers of disabled people)	There are no restrictions on who can apply for or object to licences being granted.	
Gender Reassignment	There are no restrictions on who can apply for or object to licences being granted.	
Marriage / Civil Partnership	There are no restrictions on who can apply for or object to licences being granted.	
Pregnancy and Maternity	There are no restrictions on who can apply for or object to licences being granted.	
Race	There are no restrictions on who can apply for or object to licences being granted.	
Religion and Belief	There are no restrictions on who can apply for or object to licences being granted.	
Sex / Gender	There are no restrictions on who can apply for or object to licences being granted.	

Sexual Orientation	There are no restrictions on who can apply for or object to licences being granted.
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Stage 3: Assessing Potential Disproportionate Impact

5. Based on the evidence you have considered so far, is there a risk that your proposals could potentially have a disproportionate adverse impact on any of the Protected Characteristics?

	Age (including carers)	Disability (including carers)	Gender Reassignment	Marriage and Civil Partnership	Pregnancy and Maternity	Race	Religion and Belief	Sex	Sexual Orientation
Yes									
No	X	X	X	X	X	X	X	X	X

YES - If there is a risk of disproportionate adverse Impact on any **ONE** of the Protected Characteristics, complete a FULL EqIA.

- **Best Practice:** You may want to consider setting up a Working Group (including colleagues, partners, stakeholders, voluntary community sector organisations, service users and Unions) to develop the rest of the EqIA
 - It will be useful to also collate further evidence (additional data, consultation with the relevant communities, stakeholder groups and service users directly affected by your proposals) to further assess the potential disproportionate impact identified and how this can be mitigated.
- 47
- **NO** - If you have ticked 'No' to all of the above, then go to **Stage 6**
 - Although the assessment may not have identified potential disproportionate impact, you may have identified actions which can be taken to advance equality of opportunity to make your proposals more inclusive. These actions should form your Improvement Action Plan at Stage 6

Stage 4: Further Consultation / Additional Evidence

6. What further consultation have you undertaken on your proposals as a result of your analysis at **Stage 3**?

Who was consulted? What consultation methods were used?	What do the results show about the impact on different groups / Protected Characteristics?	What actions have you taken to address the findings of the consultation? E.g. revising your proposals

Stage 5: Assessing Impact

7. What does your evidence tell you about the impact on the different Protected Characteristics? Consider whether the evidence shows potential for differential impact, if so state whether this is a positive or an adverse impact? If adverse, is it a minor or major impact?

Protected Characteristic	Positive Impact ✓	Adverse Impact		Explain what this impact is, how likely it is to happen and the extent of impact if it was to occur. Note – Positive impact can also be used to demonstrate how your proposals meet the aims of the PSED Stage 7	What measures can you take to mitigate the impact or advance equality of opportunity? E.g. further consultation, research, implement equality monitoring etc (Also Include these in the Improvement Action Plan at Stage 6)
		Minor ✓	Major ✓		
Age (including carers of young/older people)					
49 Disability (including carers of disabled people)					
Gender Reassignment					
Marriage and Civil Partnership					

Pregnancy and Maternity					
Race					
Religion or Belief					
Sex					
50 Sexual orientation					
8. Cumulative Impact – Considering what else is happening within the Council and Harrow as a whole, could your proposals have a cumulative impact on a particular Protected Characteristic? If yes, which Protected Characteristics could be affected and what is the potential impact?	Yes		No		
9. Any Other Impact – Considering what else is happening within the	Yes		No		

Council and Harrow as a whole (for example national/local policy, austerity, welfare reform, unemployment levels, community tensions, levels of crime) could your proposals have an impact on individuals/service users socio economic, health or an impact on community cohesion?

If yes, what is the potential impact and how likely is it to happen?

Stage 6 – Improvement Action Plan

List below any actions you plan to take as a result of this Impact Assessment. These should include:

- Proposals to mitigate any adverse impact identified
- Positive action to advance equality of opportunity
- Monitoring the impact of the proposals/changes once they have been implemented
- Any monitoring measures which need to be introduced to ensure effective monitoring of your proposals? How often will you do this?

Area of potential adverse impact e.g. Race, Disability	Proposal to mitigate adverse impact	How will you know this has been achieved? E.g. Performance Measure / Target	Lead Officer/Team	Target Date
None identified				

Stage 7: Public Sector Equality Duty

10. How do your proposals meet the Public Sector Equality Duty (PSED) to:

1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
2. Advance equality of opportunity between people from different groups
3. Foster good relations between people from different groups

Paragraph 3.5 states that nothing in the policy shall over-ride the right of any person to make a valid application for or make a valid representation about a licence application.

Paragraphs 7.4 and 7.5 of the policy reinforce the council’s commitment to promoting equalities where possible through

the licensing regime.

Stage 8: Recommendation

11. Which of the following statements best describes the outcome of your EqIA (✓ tick one box only)

Outcome 1 – No change required: the EqIA has not identified any potential for unlawful conduct or disproportionate impact and all opportunities to advance equality of opportunity are being addressed.	✓
Outcome 2 – Minor Impact: Minor adjustments to remove / mitigate adverse impact or advance equality of opportunity have been identified by the EqIA and these are included in the Action Plan to be addressed.	
Outcome 3 – Major Impact: Continue with proposals despite having identified potential for adverse impact or missed opportunities to advance equality of opportunity. In this case, the justification needs to be included in the EqIA and should be in line with the PSED to have 'due regard'. In some cases, compelling reasons will be needed. You should also consider whether there are sufficient plans to reduce the adverse impact and/or plans to monitor the impact. (Explain this in Q12 below)	

12. If your EqIA is assessed as **outcome 3** explain your justification with full reasoning to continue with your proposals.

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Stage 9 - Organisational sign Off

13. Which group or committee considered, reviewed and agreed the EqIA and the Improvement Action Plan?			
Signed: (Lead officer completing EqIA)	Jeffrey Leib	Signed: (Chair of DETG)	Dave Corby
Date:	28.09.16	Date:	12.01.17
Date EqIA presented at Cabinet Briefing (if required)		Signature of DETG Chair (following Cabinet Briefing if relevant)	