



LICENSING ACT 2003

# LICENSING POLICY 2015

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# London Borough of Harrow

## Licensing Policy – Licensing Act 2003

### 1. Introduction

1.1 Harrow Council is the Licensing Authority under the Licensing Act 2003 ('the Act.'). It is responsible for premises licences, club premises certificates, temporary events notices and personal licences in the Borough in respect of licensable activities:

- The sale and/or supply of alcohol.
- The provision of regulated entertainment.
- Late night refreshment.

1.2 Regulated entertainment requires a licence when it is performed in front of an audience and includes the following:

Performance of a play  
Exhibition of a film  
Indoor sporting event  
Boxing or wrestling entertainment (indoors and outdoors)  
Performance of live music subject to exemptions as defined under the Live Music Act 2012  
Playing of recorded music (excluding incidental music).  
Performance of dance  
Entertainment of a similar description to the performance of live music, the playing of recorded music and the performance of dance

1.3 The Live Music Act came into force on the 1<sup>st</sup> October 2012 and deregulates live music subject to the following criteria:

When it is unamplified and takes place between 8am and 11pm  
When it is amplified and takes place in the presence of an audience of 500 persons or less and is provided between 8am and 11pm  
If the premises are licensed for the sale of alcohol for consumption on the premises, it must be open for that sale at the time during which live music is provided under this exemption.  
The premises where live music is taking place must be defined as a workplace under the Workplace (Health, Safety & Welfare) Regulations 1992

The Live Music Act further deregulates the provision of facilities for dancing and making music, and anything of a similar description.

1.4 This policy shall apply in respect of new consents, renewals, transfers and variations to the following:

Premises Licences  
Club Premises Certificates

Sections of this policy also deal with Personal Licences and Temporary Event Notices.

- 1.5 The Act makes provision for this policy to be the subject of full consultation and the Council will review this policy at least every five years and consult on any proposed revisions.
- 1.6 The Act sets out four main licensing objectives which the Licensing Authority has a duty to promote in determining applications:
  - The prevention of crime and disorder.
  - Public safety.
  - The prevention of public nuisance.
  - The protection of children from harm.

Each of the objectives is considered to be of equal importance.

- 1.7 This policy and the council's functions as the licensing authority seek to achieve control of premises, qualifying clubs and temporary events within the terms of the act. Terms and conditions will focus on achieving the licensing objectives with reference to:
  - Matters within the control of individual licensees
  - The specific premises and the places used
  - The vicinity of those premises and places
  - The direct impact of the activity taking place at the licensed premises on persons who live, work and carry out normal activity in area concerned.
- 1.8 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 council, none the less, considers that licensing legislation plays a key role, in controlling and regulating crime and also ensuring that the licensing objectives are promoted through licensed premises that are well managed. There are several options available to the licensing authority that may assist with this control in areas where licensed premises are contributing or considered responsible for the anti-social behaviour.
  - The power of the police, other responsible authorities, member of the licensing authority, or a local resident or business to seek a review of the licence or certificate in question.
  - The prosecution 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.
  - Early Morning Alcohol Restriction Order (EMRO)
  - Late Night Levy
  - Cumulative Impact Zones

The Council also recognises that there are a number of other mechanisms available for addressing issues of unruly behaviour (i.e. drunk and disorderly) that can occur away from the licensed premises including:

- Planning Controls
- Measures to create a safe and clean environment in partnership with local businesses and other departments of the Council
- Powers of the Council to designate parts of the Borough as places where alcohol may not be consumed publicly
- Police enforcement of the normal law concerning disorder and anti-social behaviour including issuing fixed penalty notices
- The confiscation of alcohol from adults and children in designated areas and police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder; the likelihood of disorder or excessive noise emanating from the premises

The Council also recognises that it has a duty to protect the amenity of areas where people live and work. Accordingly, where relevant representations are made in response to an application (e.g. opposing an application for extended licensing hours or opposing an application on the grounds of cumulative impact) the Council will hold a hearing to weigh up the competing interests and determine the application. (Unless it is agreed by all parties that it is not necessary). Premises situated in or close by residential areas are likely to be subject to stricter noise controls than those that are not. The Licensing Authority may on review of a premises licence add conditions relating to the live music as if the live music were regulated entertainment. Each case must be considered on its own merits.

- 1.9 This policy will set out the general approach the Licensing Authority will take when it considers applications for licences. It will not undermine the right of any individual to apply for a variety of permissions and to have any such application considered on its individual merits. Nor will it override the right of any other person to make representations on an application or seek a review of a licence where provision has been made to do so in the Act. However, the Licensing Authority will disregard any representations which are regarded as irrelevant, frivolous and/or vexatious.

This policy has been prepared to assist the Licensing Authority in reaching a decision on applications, setting out those matters that will normally be taken into account. However each case will be decided on its merits.

- 1.10 This policy also seeks to provide clarity for applicants, objectors, residents and other occupiers of property.
- 1.11 These Objectives and the Statutory Guidance are the basis for this policy. In the context of licensing, our society has to strike a balance between those activities that profit one portion of that society and those that may have a detrimental effect on another. All views will be taken into account when determining licensing policy.
- 1.12 This licensing policy covers the period from 3<sup>rd</sup> December 2015 until 2 December 2020. It will be kept under review and, following consultation, revised or amended at any point in that period that the Council see fit.

## **2. Main Principles**

- 2.1 'Licensing' in this policy means the administrative functions behind the issue of Personal Licences, Premises Licences, Club Premises Certificates to qualifying clubs and temporary events within the terms of the Act, especially in relation to s.5. Further explanation of licensing functions can be found in Annexes B to G
- 2.2 The Act provides flexibility for operators to provide licensable activities that suit the individual nature of a venue. The application form and accompanying Operating Schedule for a premise enable a business to reflect its individual needs, setting down when and how the activities will take place. While this Licensing Policy assists with the interpretation of the Objectives, applicants must carefully consider the potential impact of their licensable activities and seek advice where appropriate. They should conduct a thorough risk assessment with regard to the Licensing Objectives when preparing their application. The matters put forward on an Operating Schedule normally become conditions on any licence or certificate granted, hence applicants should carefully consider what is in the application and must be willing and able to comply with the Operating Schedule.
- 2.3 Where there are no representations to an application the Licensing Authority must grant the licence or certificate with only those conditions that are consistent with the Operating Schedule and any mandatory conditions in the Act. In the case of an event organised under a Temporary Event Notice, a counter notice can only be served following appropriate representations made by the Police or Environmental Health.
- 2.4 When determining unresolved representations the Licensing Authority will primarily focus on the impact of the activities taking place at licensed premises on persons living, working or engaged in normal activity in the area concerned.
- 2.5 Conditions on licences and certificates might only arise from the following sources:
- The Operating Schedule.
  - The mandatory conditions within the Act.
  - At a hearing by the Licensing Authority to determine unresolved representations.

2.6 Conditions attached to Premises Licences and Certificates will as far as possible, relate local necessity; for example, the provision of CCTV. A key concept of the Act is the tailoring of conditions to the individual style of premises and events. A standardised group of conditions should therefore be avoided, and may be unlawful where they cannot be shown to be appropriate to promote the licensing objectives. This is not to say that the wordings of conditions themselves cannot be identical when applied to different premises, since there are bound to be regular requirements. Examples could be conforming to ACPO principles, and other professional standards.

2.7 There are a number of available mechanisms for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- Planning controls.
- Positive measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments.
- Designation of parts of the Borough as places where alcohol may not be consumed publicly.
- Regular liaison with Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk; confiscation of alcohol from adults and children in designated areas and the instant temporary closure of licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises.
- The power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate.
- The prosecution of any Personal Licence Holder or member of staff at such premises who is selling alcohol to people who are drunk, or under age
- Early Morning Restriction Order (EMRO)
- Late Night Levy
- Cumulative Impact Zone

2.8 Early Morning Alcohol Restriction Order (EMRO)

An EMRO is a tool that can prevent licensed premises in a certain area from supplying alcohol during specific times between the hours of midnight and 6am as directed in the Order.

If the Licensing Authority identifies a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it may propose an EMRO. A proposed EMRO is subject to consultation and hearing and must be made only if the Licensing Authority consider it appropriate in the promotion of the licensing objectives.

Should an EMRO be made it must specify.

The day (and periods on those days) on which the EMRO will apply  
The area to which the EMRO would apply  
The period for which the EMRO would apply (if it is a finite period)  
The date from which the proposed EMRO would apply

An EMRO overrides all authorisations to supply alcohol under the 2003 Act including temporary event notices. It is immaterial whether an authorisation was granted before or after the EMRO was made.

#### Exemptions

Licensing hours order made under section 172 of the 2003 Act  
Between midnight and 6am on the 1<sup>st</sup> January every year  
The supply of alcohol to residents staying overnight at premises for consumption in their room only.

EMROs in force will be published within the Statement of Licensing Policy

- 2.9 The council addresses many of these issues in partnership with the Police and other agencies within the Partnership framework. The council acknowledges that some aspects of the law may be difficult to understand, and therefore always advises early consultation when applications are being made. Specific business advice cannot be given nor application forms filled in on behalf of applicants, but assistance can be provided in understanding the legislation. The Council acknowledge the speed at which legislation can change and will, as far as possible, undertake education by way of mail shot, group e-mails and seminars.

### **3 Premises Licence**

#### **3.1 Application**

Any person aged over 18 years, a business or partnership may apply for a Premises Licence. The application must be accompanied by:

- The required fee
- An operating schedule
- A scale plan of the premises to which the application relates in the prescribed form
- If the premises involves the supply of alcohol, a form of consent from the individual who is to be specified as the Designated Premises Supervisor and
- Application to be advertised in the manner prescribed by the Regulations issued under the Licensing Act 2003.

#### **3.2 Operating Schedule**

An Operating Schedule should include information to enable the Council or any other person to assess the steps taken by the applicant to promote the Licensing Objectives. For example it will include a



description of the style and character of the business to be conducted on the premises.

For premises where alcohol is to be sold for consumption on the premises it would be valuable to know the proposed capacity, extent of seating available for customers, the type of activities available on the premises whether licensable under the 2003 Act or not. If there is to be dancing on the premises the Operating Schedule should describe the type of dancing. If this will include striptease or lap dancing it should be noted that as well as the performance of dance on the premises licence further permission under Schedule 3 of the London Government (Miscellaneous Provisions) Act 1982 will be required.

Other examples of information required in the Operating Schedule are:

- Relevant licensable activities to be conducted on the premises
- Times/days of the week including holiday periods or different times of the year, the activities are to take place
- Any other times the premises are open to the public
- Where the licence is required for a limited period, specify that period
- If the activities include the supply of alcohol, the name and address of the Designated Premises Supervisor
- If alcohol is to be supplied, if it is to be consumed on/off the premises or both
- The steps the applicant proposes to promote the Licensing Objectives e.g. leaving licensed premises quietly and advise on public transport available for customers leaving the premises
- In preparing its Operating Schedule the applicant will be expected to undertake a thorough risk assessment with regard to each of the Licensing Objectives

### **3.3 Wholesale of Alcohol**

The wholesale of alcohol to the public is a licensable activity under the 2003 Act. Therefore there will be a need for a Premises Licence and a Designated Premises Supervisor who holds a Personal Licence where such transactions take place.

### **3.4 Internet and Mail Order Sales**

A Premises Licence will be required for the warehouse/storage facility of the alcohol, however the call centre where the order was placed would not be licensable.

### **3.5 Regulated Entertainment**

This will require a Premises Licence.

### **3.6 Late Night Refreshment**

The provision of hot food and/or hot drink for consumption either on or off the premises is licensable under the 2003 Act from the hours of 11.00pm until 05.00am.

### **3.7 Some premises are exempt from this licensing requirement:**

- Clubs serving hot food and hot drink only to their members
- Hotels or comparable premises serving hot food and hot drink only to those who will be staying at the hotel that night
- Premises serving hot food and hot drink only to their own employees
  
- Premises serving hot food and hot drink only to guests of those falling in the categories outlined above.

### **3.8 Restaurants and Cafes**

Which sell hot food or drink between the hours of 11.00pm to 05.00am will need a Premises Licence. Consideration should be given to the suitability of sleeping accommodation if provided and should not generally be within the plans pertaining to the licence. Restaurants and Cafes will also need a Premises Licence if they sell alcohol at any time during the day or night.

### **3.9 Casinos and Bingo Clubs**

Where activities which are licensable under the Act are carried out in Casinos or Bingo Clubs the conditions imposed will apply alongside those conditions imposed under the Gambling Act 2005.

### **3.10 Garages**

Normally the sale of alcohol from a garage will be prohibited, however where it is shown that the main activity of the premises is not that of a garage each case will be judged on the individual circumstances of the application and account taken of the current planning consent for those premises.

### **3.11 Vehicles and Moveable Structures**

The sale of alcohol or the carrying out of other licensable activities from vehicles/moveable structures may only be carried out from a premises or site which holds a Premises Licence. It should also be noted that the provision of any entertainment or entertainment facilities on premises consisting of or forming part of any vehicle while it is in motion and not permanently or

temporarily parked is not to be regarded as a regulated entertainment for the purposes of the 2003 Act. For example, a band performing on a moving float in a parade would not require a Premises Licence if the performance only takes place while the vehicle is in motion.

## **4 Club Premises Certificate**

### **4.1 Application**

In order for Qualifying Clubs to supply alcohol and provide other licensable activities on club premises, a Club Premises Certificate is required and there is no requirement to specify a Designated Premises Supervisor.

Club Premises Certificates will be issued to qualifying clubs formally Registered Members Clubs. To be eligible for a Club Premises Certificate the club/organisation members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of the organisation or supply to members and their guests. Qualifying conditions are specified in section 61 of the Act and the Council must be satisfied that these conditions have been met, including evidence to support

4.2 that the club is non-profit making and that there is a minimum of 48 hours delay between applications and acceptance of new members.

4.3 The club must be established and conducted in 'good faith' (this involves consideration of details such as club finances).

4.4 Any member of a club over 18 years of age may apply for a Club Premises Certificate and applications must be accompanied by:

- Completed application form
- The required fee
- An operating schedule
- A scale plan of the premises to which the application relates in the prescribed form
- A copy of the club rules
- A copy of notice to be advertised in the prescribed form

### **Operating Schedule**

The Licensing Authority will require the club to produce an Operating Schedule which should include the following:

- The qualifying club activities to which the application relates

- The proposed hours of these activities and any other times during which it is proposed that the premises are to be open to the public
- Where the relevant Qualifying Club activities include the supply of alcohol, whether the supplies are for consumption on and/or off the premises.
- Information to enable the Council or any other person to assess the steps taken by the applicant to promote the Licensing Objectives (for example, the arrangements for door security to promote the prevention of crime and disorder).
  - Where a club intends to admit the general public to a Regulated Entertainment event then a Premises Licence or a Temporary Events Notice is required. Where alcohol is sold and there is a Premises Licence, then there will also be a requirement to obtain a Personal Licence. These Temporary Event Notices are subject to certain restrictions i.e. 12 occasions per year, must not aggregate more than twenty one days, and must have less than 500 people attending including staff.
  - If an applicant wishes to vary a Club Premises Certificate, the Licensing Authority requires the application to be processed in the same manner as for a Premises Licence.
  - The Licensing Authority will require the Club Secretary's contact details to be readily available in the event of an emergency.

## 5 Personal Licences

5.1 The Licensing Authority will grant a Personal Licence providing the following criteria is met:

- a. The applicant is over 18
- b. The required fee is paid
- c. The applicant possesses a licensing qualification\*
- d. The applicant has not forfeited a Personal Licence in the previous five years beginning with the day the application was made
- e. The applicant has not been convicted of any relevant offence, or foreign offence as defined in the Act
- f. The Police have not given an objection notice about the grant of a Personal Licence following notification of any unspent relevant offence or foreign offence
- g. The application has been submitted correctly

\*NB This was not required by existing holders of Justices' Licences during transition

- 5.2 In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence or foreign offence, all applicants will be required to produce a current Criminal Record Bureau Certificate. This certificate must be no more than one calendar month old and should be copied to the police along with the application. The Council will consult with the police regarding any relevant offence or foreign offence as listed in schedule 4 of the Licensing Act 2003 and schedule C of the Guidance disclosed by the applicant.

A relevant offence or a foreign offence will be disregarded if it is spent for the purposes of the Rehabilitation of Offenders Act 1974.

- 5.3 Where the police have issued an objection notice the refusal of the application will be the normal course unless there are, in the opinion of the Licensing Authority, exceptional and compelling circumstances that justify granting the application.
- 5.4 If a representation is made by the police to an application the matter will be referred to the Licensing Committee.
- 5.5 The Licensing Authority will liaise closely with the police when an applicant is found to have an unspent conviction for a relevant offence as defined in the Act. Where an applicant for a Personal Licence has an unspent criminal conviction for a relevant offence, the police and Council may interview the applicant should the police be minded to object to the grant of the licence.
- 5.6 An applicant for a personal licence has a duty to notify the Licensing Authority of any new relevant offences during the application process.
- 5.7 In accordance with the Guidance the licence holder is under a duty to notify any convictions for relevant offences to the Licensing Authority. This also includes foreign offences.

The Court has an obligation to notify the relevant Licensing Authority of any Conviction and of any decision to order that a personal licence be suspended or Declared forfeit.

- 5.8 The Council will require, where the licensable activities of a licensed premises include the sale of alcohol, one Personal Licence holder to be the Designated Premises Supervisor. The main purpose being to ensure that there is always one specified individual who can be readily identified at the premises. Thus it will be clear who is responsible for the day-to-day running of the business.

- 5.9 Where the Designated Premises Supervisor is not available at the premises for whatever reason, the Licensing Authority will expect an individual to be nominated as a point of contact who will have details of where the Designated Premises Supervisor can be contacted.
- 5.10 The Premises Licence will specify the name of the Designated Premises Supervisor. It is the responsibility of the Premises Licence holder to notify the Licensing Authority immediately of any change of Designated Premises Supervisor.
- 5.11 Where a Personal Licence holder is convicted by a court for a relevant offence, the court will advise the Licensing Authority accordingly. On receipt of such notification, the Licensing Authority will contact the holder within 14 days requesting the return of the licence so that the necessary action can be taken. Licensees are advised to let the Council know of any relevant convictions.

## **6 Provisional Statement**

- 6.1 Applicants may need to apply for a Provisional Statement where premises are being constructed or extended or substantially changed structurally.
- 6.2 A person may apply to the Licensing Authority for a provisional statement if-
- a) he is interested in the premises; and
  - b) where he is an individual, he is aged 18 or over; and where:
    - Copies of approved planning consents and copies of building regulation applications are provided as may be required by statutory regulations.
    - Clear plans of the proposals exist including provision for disabled people.
    - An Operating Schedule is capable of being completed.
    - Measures have been taken to promote the Licensing Objectives.
    - The proposed hours of opening have been decided.
    - Views be sought from the police.
- 6.3 The licence will not become effective until the Licensing Authority stipulates the effective start date.
- 6.4 Applications for a Provisional Statement shall be dealt with in the same way as a Premises Licence.
- 6.5 The applicant will be required to state the days and hours during which they wish to be authorised to carry on licensable activities. The licence will be determined on such terms unless, following the making of relevant representations, the Licensing Authority considers it appropriate to reject the application or vary those terms for the purposes of the Licensing Objectives.

## **7. Licensing Objective 1: Prevention of Crime and Disorder**

- 7.1 Licensed premises that serve alcohol and refreshments, especially those offering late night/early morning entertainment, can be a source of crime and disorder problems through the actions of their patrons and staff. Good management at premises makes an important contribution to reducing the impact on the local community. An example of good practice by management is active participation in local Pub and Drug Watch schemes.
- 7.2 The Council will work with the Police to encourage licensees to work in partnership with local Pub and Drug Watch schemes as a way of supporting licensees to actively prevent crime and disorder issues and to inform crime reduction strategies. Schemes will encourage the sharing of information, effective communication and will seek to address matters such as under-age sales, problems associated with drunkenness, prevention of illegal drug use, and violent and anti-social behaviour. Where there is no scheme in place applicants are strongly encouraged to contact the police licensing officer to obtain further information and advice on setting up a scheme.
- 7.3 When addressing the crime and disorder objective, applicants should initially identify any issues likely to adversely affect the objective and then the steps to deal with them. Such measures on the Operating Schedule might include the following:
- (a) What measures will be taken by the licensee to promote drugs awareness and what provision has been made for facilities to store seized drugs. In the interests of public safety, nightclub owners and dance event promoters are encouraged to follow guidance in the Safer Clubbing Guide to ensure the health and safety of anyone attending dance events. Particular attention will be paid to the measures taken to record the seizure and storage of controlled drugs, weapons and similar material.
  - (b) What measures will be taken by the licensee to prevent alcohol abuse such as drinking games and continuous drink promotions, such as the adoption of advice by the British Beer and Pub Association and the Portman Group. This is to avoid potential crime and disorder incidents linked to binge drinking.
  - (c) What features are currently in place or planned for physical security at the premises, for example, CCTV. Advice is available from the local Crime Prevention Design Advisor on the layout and specification of CCTV systems.
  - (d) How licensees propose to work in partnership with the Licensing Authority, Police and other traders in establishing a possible agreement on co-ordinating operating hours to prevent large numbers

of people moving between premises. For example, disco nights, promotion nights and special events that could attract large numbers of people. Such co-ordination could be achieved through a local Pub Watch Scheme.

- (e) What arrangements will be put in place in respect of the adoption and use of a recognised or appropriate age-monitoring scheme.
- (f) What active management measures will be taken for the prevention of violence or public disorder. For example, where appropriate, employment of registered door staff to effectively control potential flashpoints such as the management of persons awaiting entry to premises and flashpoints within the premises itself.
- (g) What arrangements have been made for the safety of staff and other persons (including performers, contractors, agency staff and other persons in the premises for work purposes) in premises open between 11pm and 5am, or in premises where there is history of violence from customers or the public. One example of such a premises would be a shop selling alcohol for consumption off the premises (an “off-licence”).
- (h) What arrangements have been made for seating in pubs, bars, nightclubs and late night refreshment premises. Research has shown that the amount of seating can be relevant to the prevention of crime and disorder.

- 7.4 When considering controls at premises applicants are recommended to seek early advice from the Council’s licensing staff and the Police.
- 7.5 Where conditions have not been adhered to in the past, the Licensing Authority will expect applicants to have considered and taken action to rectify those issues. If there is continued abuse of the regulations, action will be taken in accordance with the Enforcement Policy.
- 7.6 In the interests of the Licensing Objectives, the Licensing Authority advise that where alcohol is consumed in designated outside areas, appropriate risk assessments are undertaken to minimise risks. Such measures may include the serving of drinks in plastic vessels, regular cleaning of litter, control of noise levels, etc.
- 7.7 Wherever possible, applicants are expected to be aware of local groups known to incite violence or hatred, or partake in extremist activities, in order to prevent the likelihood of meetings resulting in crime or disorder. Licensees will be expected to take into consideration the potential impact on privacy or religious freedom and the ethnic and cultural composition of the local area



when accommodating these meetings. The Council recognises the need to promote the elimination of unlawful discrimination and to promote equality of opportunity. Therefore, the Council recommends licensees seek guidance from the Home Office website [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

- 7.8 When determining unresolved representations to an application and where appropriate in individual circumstances to comply with the Licensing Objectives, the Licensing Authority may consider attaching specific conditions related to the licensed activities and conditions as outlined in Annex C – Conditions relating to the prevention of crime and disorder.

## **8. Licensing Objective 2: Public Safety**

- 8.1 Members of the public visiting licensed premises expect that their physical safety and health will be protected. Licensees must be able to demonstrate that they have considered and put into effect measures to protect the safety of the members of the public. Applicants are advised to seek early advice from the Council's Licensing Officers, Environmental Health Officers and the London Fire and Emergency Planning Authority (Fire Authority) before preparing their plans, Operating Schedules, establishing new premises, commencing refurbishment work, etc.

- 8.2 A wide range of premises fall within the scope of the Act including cinemas, halls, theatres, nightclubs, public houses, cafés, restaurants and fast food outlets/takeaways. In addition open-air events such as concerts, or other events in parks, marquees and stadia, may also fall under licensing requirements. Each type of premises presents a mixture of risks, some common to the bulk of premises while others are unique to specific activities. It is essential that premises are constructed or adapted and operated to acknowledge and safeguard occupants against these risks. When addressing the public safety objective, applicants should initially identify any issues likely to adversely affect the objective and then the steps to deal with them. Such measures on the Operating Schedule might include those in Annex D – Conditions relating to Public Safety (including fire safety) and Annex E – Theatres and Cinemas (Promotion of Public Safety).

When determining unresolved representations to an application and where appropriate in individual circumstances to comply with the Licensing Objectives, the Licensing Authority will consider attaching conditions to licences and certificates to promote safety, and these may include conditions drawn from Annex D or Annex E.

- 8.3 The principal purpose of a safe capacity limit is to ensure the safety of all persons on the premises at the time and to ensure a safe means of escape in the event of fire. Capacity limits can also assist in preventing crime or disorder, as overcrowded premises can increase the risks of disorder as crowds become frustrated and hostile. Following relevant representations the

Licensing Authority will consider the need for occupancy limits for an individual premises in consultation with the Fire Authority, Health and Safety Officers, and Building Control Officers, as appropriate, where there is a concern for public safety. Premises that have safe capacity limits imposed under fire safety legislation will not have a safe capacity limit imposed for the same activities under the premises licence, or club registration certificate, unless recommended by the Fire Authority.

8.4 Subject to the existence of controls under other legislation and the need to determine representations, the Council as Licensing Authority will wish to:

- Ensure that all licensed premises or temporary events have adequate and effective means of escape in case of fire and that all fire safety measures have been implemented.
- Ensure, as appropriate, licensed premises or temporary events are provided with fire alarms, emergency lighting and fire fighting equipment suitable to the assessed risks and adequately maintained.
- Ensure that the number of people present can safely be evacuated in the case of emergency.
- Ensure adequate staff training to deal with emergencies and that the Operating Schedule expressly states what training is to be undertaken, its frequency and what records are kept to demonstrate this has taken place.
- Ensure that safety measures are clearly stated in the Operating Schedule. Applicants might usefully make reference to relevant risk assessments.
- Nightclub type premises can be a focus for the trade in and consumption of illegal drugs. The Council as licensing authority will continue to encourage measures such as “Safer Clubbing” (available at [www.drugs.gov.uk](http://www.drugs.gov.uk)) and existing work through the Drug Action Team and the Crime and Disorder Reduction Partnership, as a strategic approach to addressing drug problems.

## **9 Licensing Objective 3: The Prevention of Public Nuisance**

9.1 The Licensing Authority is committed to preventing public nuisance in the Borough by working in close partnership with Police and licensees, as well as coordinating action across the Council’s services. The term ‘public nuisance’ is not limited to existing legal definitions of the term and the Licensing Authority intends to interpret the term in its widest sense, including issues

affecting the amenity of the area such as noise, light, odour, litter and anti-social behaviour.

9.2 In the Operating Schedule, applicants should indicate how they intend to carry out the licensable activities in a way that will not cause public nuisance. Where premises are located near to noise-sensitive areas, for example, nursing homes, hospitals or places of worship, the Operating Schedule should specify the steps to be taken to ensure there is no loss of amenity to persons in these premises when licensable activities are taking place.

9.3 When addressing the public nuisance objective, applicants should initially identify any issues likely to adversely affect the objective and then the steps needed to deal with them. Such measures on the Operating Schedule might include the following:

- Measures taken or proposed that will reduce noise and vibration escaping from the premises. This would include music and human voices whether or not amplified. Additionally measures to control noise from vehicles and plant, such as ventilation and refrigeration equipment.
- Measures taken or proposed that will minimise disturbance by persons arriving or departing from the premises, also the delivery of goods and services to the premises.
- Measures taken to control light to ensure that it does not stray outside the boundary of the premises such as to give rise to problems in the locality.
- For late night premises, provision for access to taxis and private vehicle hire services. For example, lists of taxi companies displayed by a public telephone.
- Measures taken to encourage patrons to arrive and disperse quickly and quietly from the immediate vicinity of the premises.
- Measures taken to ensure the removal of persons ejected from the premises and their dispersal from the immediate vicinity.
- The Licensing Authority may on review of a licence add conditions relating to the live music as if the live music were regulated entertainment. Each case must be considered on its own merits.

- 9.4 In appropriate circumstances to control access to and egress from the premises during events and prevent public nuisance, the Licensing Authority will consider attaching a condition to licences requiring the use of Door Supervisors, Stewards, Security or other staff. Such staff need to be licensed by the Security Industry Authority.
- 9.5 At large events or events likely to create a particular noise or disturbance, following relevant representations, the Licensing Authority may request or require an organiser to conduct regular monitoring to determine the degree of disturbance to any nearby residential premises. Where such a condition is applied, the applicant will maintain a log of such monitoring indicating the time, any incidents and what remedial action was taken.
- 9.6 Applicants seeking licences for the sale or supply of alcohol should consider the measures to be taken to prevent individuals from consuming excess alcohol and to manage individuals who have consumed excess alcohol. The Licensing Authority would expect the holders of Premises Licences to promote the training of staff in alcohol abuse awareness as part of responsible trading within the Licensed trade.
- 9.7 When determining unresolved representations to an application and where appropriate in individual circumstances to comply with the Licensing Objective, the Licensing Authority may consider attaching specific conditions related to the licensed activities and conditions as outlined in Annex F – Conditions relating to the prevention of public nuisance. The authority expects stricter conditions to be applied to control noise nuisance in areas that have denser residential accommodation.

## **10 Licensing Objective 4: The Protection of Children from Harm**

- 10.1 The definition of 'Protection of Children from Harm' is written in the Act, and includes the protection of children from moral, psychological and physical harm. A wide range of premises fall within the scope of the Act and children can be expected to visit many of these for food or entertainment. The Act introduces some limits on access by persons under the age of 16 years to premises licensed for the sale of alcohol, but this aside, children should have access to licensed premises. It is recognised in certain situations that limitations may have to be considered where it appears appropriate to protect children from harm.
- 10.2 When addressing the protection of children, applicants should initially identify any issues likely to adversely affect the objective and then the steps needed

to deal with them. Such steps as are required to deal with these identified concerns should be included on the Operating Schedule. Applicants should consider the arrangements in place to prevent the sale of any alcohol to children, such as an age-monitoring scheme. The Licensing Authority promote the following as part of a proof of age scheme:

- Passport;
- Photo Card driving licence issued in the European Union;
- Proof of Age Standards Scheme Card (PASS);
- Citizen Card supported by the Home Office;
- Official ID card issued by HM Forces or by a European Union country bearing a photo and date of birth of holder

10.3 The Act details a number of control measures intended to protect children in licensed premises and the Licensing Authority will work closely with the police and through Trading Standards Officers, to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. The Licensing Authority will consult with the Local Safeguarding Children Board on any application where there are concerns over access for children. Licensees are encouraged to inform the appropriate agencies when it comes to their knowledge that children have tried to purchase alcohol illegally.

10.4 Licensees retain the right to permit or not to permit children into their premises at any time; where appropriate, applicants should state in the Operating Schedule

- Whether or not they will admit children to the licensed premises.
- Whether or not children will be admitted to all parts of the premises.
- Where children are to be admitted, the steps that will be taken to protect children from harm, e.g. designated areas for children and families, age (below 18) and hour limitations, or full exclusion of people under 18 in accordance with this objective.

10.5 The Licensing Authority considers that certain premises are likely to give rise to particular concern in respect of children. Where the discretion of the Authority is engaged through representations the circumstances of the case and the need for conditions limiting the access of children will be considered. The following are examples of premises that will raise concern:

- Where adult entertainment or services of a sexual nature is commonly provided at the premises.
- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors.

- Premises where there is a strong element of gambling.
- 'Off-sales' premises that allow children under the age of 12, entry after 9pm without an accompanying adult.

10.7 When determining representations the Licensing Authority will consider measures including any of the following options when dealing with a licence or certificate application where limiting the access of children is considered appropriate to prevent harm to children:

- Limitations on the hours when children may be present.
- Limitations on ages below 18 years.
- Limitations or exclusion when certain activities are taking place.
- Requirements for an accompanying adult.
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

10.8 In relation to the exhibition of films, programmes or videos, included would be the protection of children from exposure to strong language, horror, violence and sexual content. In appropriate cases, the Licensing Authority will expect the licensee to provide evidence of how they intend to prevent these occurrences. It is expected that licensees of cinemas and places where films are shown will include in their operating schedules arrangements for restricting children from viewing age-restricted films, classified according to the recommendations of the British Board of Film Classification (BBFC) or the requirements of the Licensing Authority.

10.9 In relation to cinemas and places where films are shown applicants, when considering the need for control measures, should consider how entry to the premises will be controlled as part of an age-monitoring strategy and to demonstrate these measures in their Operating Schedule.

10.10 With regard to film classifications and the Protection of Children from Harm Licensing Objective, the Licensing Authority reserves the right to classify, or reclassify any film. Any classification by the Authority will be notified to relevant premises in the Borough and a notice placed on the Council's website.

10.11 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. In appropriate cases, 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. In appropriate circumstances, where children are supervised, the Licensing Authority will expect the Operating Schedule to demonstrate that these supervisors have been appropriately cleared of relevant offences through the Criminal Records Bureau.

10.12 Where events are taking place that are solely provided for children, for example an under 18's disco, any licence or Temporary Event Notice must contain a risk assessment to prevent consumption of alcohol at or near the event.

10.13 Subject to the existence of controls under other legislation and the need to determine relevant representations, where a regulated entertainment is specially presented for children the Council as Licensing Authority will consider the following in order to control access and egress and to ensure the safety of children:

- An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to a minimum of one member of staff per 50 children or part thereof.
- No child unless accompanied by an adult to be permitted in the front row of any balcony.
- No standing to be permitted in any raised seating (balcony, raked seating, etc.) during the performance.

10.14 Where appropriate, and particularly with regard to large public events, an applicant should consider robust procedures for lost and found children.

10.15 The Licensing Authority would encourage licensees to demonstrate in their Operating Schedule that they implement guidance from the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks to prevent children from being enticed into purchasing inappropriate products.

10.16 When determining unresolved representations to an application and where appropriate in individual circumstances to comply with the Licensing Objective, the Licensing Authority may consider attaching specific conditions related to the licensed activities and conditions as outlined in Annex G – Conditions relating to the protection of children from harm.

## 11. Licensed Hours

- 11.1 A primary aim of the Licensing Act is to move away from fixed permitted hours for the sale of alcohol, but allied to these freedoms for the licensed trade are the responsibilities established by the Licensing Objectives.
- 11.2 If its discretion is triggered, the Licensing Authority will consider conditions to licences and certificates to uphold one or more of the four licensing objectives, and these may include conditions drawn from the annexes to this Policy. Stricter conditions to control noise will be expected in areas that have denser residential accommodation, but this should not limit opening hours without regard to the individual merits of any particular application.
- 11.3 In the light of relevant representations, the Licensing Authority will deal with the issue of licensing hours having due regard to the individual merits of each application. Consideration will be given to conditions in respect of issues such as noise control measures, door staff, use of external or noise sensitive areas, CCTV, travel planning, etc., where premises affect, or are likely to affect residential areas.
- 11.4 As a general guide to applicants where indicated by their individual assessments, the Licensing Authority would expect pub and nightclub type premises (characterised by the predominant consumption of alcohol, 'vertical drinking', etc.) applying for the 'on' sale of alcohol beyond 11pm, to consider stricter conditions. Other types of premises seeking to apply for licences or certificates after midnight, either to sell alcohol for consumption on the premises, or for entertainments, are also expected to consider stricter conditions. These latter premises include restaurants and cafés.
- 11.5 Where the only licensable activity is the sale of alcohol for consumption off the premises the Licensing Authority will generally consider licensing premises at any times they are open for shopping. Typically these premises are shops, stores and supermarkets. However, it may be considered that there are very good reasons for restricting hours, or imposing stricter conditions where, for example, the Police make representations in respect of shops known to be the focus for disorder, or disturbance.
- 11.6 Licensed premises, especially those operating late at night and in the early hours of the morning, can have a significant impact on people living, working or sleeping in the vicinity of the premises. The concerns include noise



nuisance, light pollution, the potential for disorder and noxious smells. Due regard will be taken of the impact these may have and the Licensing Authority will expect Operating Schedules to satisfactorily address these issues.

Applicants are advised to seek advice from the Council's Planning, Environmental Health and Pollution Control Officers before preparing plans, Operating Schedules, making alterations to premises, etc.

## **12. Applications**

- 12.1 It is recognised that some ambiguity exists in the legislation surrounding applications for Premises Licences. The council officers will be the final arbiter on whether an application is deemed as being 'new' or a 'variation' and will process the application accordingly.
- 12.2 It is also accepted that the legislation does not specify that plans have to necessarily be prepared for a 'variation' application. It is the view of this Licensing Authority that plans are an essential element of any Premises Licence and that an accurate representation of the premises is required. Any variation of the layout will therefore require an up to date plan to be submitted with the application.
- 12.3 The Act imposes duties on applicants to provide the Licensing Authority with information in the form of an application, with specified supporting documents and a fee, in order to process an application. To assist the Licensing Authority applicants should check that the application pack is fully completed before sending it to the Licensing Authority and the responsible authorities. The Operating Schedule is essential so that the Licensing Authority and other persons can form a proper view as to what measures may be appropriate to meet the four Licensing Objectives. If an application is received electronically, it is the duty of the licensing authority to forward the application to the responsible authorities.
- 12.4 Applicants for the initial grant or variation of a licence or certificate are to describe in detail how they propose to meet the requirements of the four Licensing Objectives and relevant aspects of this Licensing Policy in the Operating Schedule which accompanies the application. Operating Schedules should be precise and clear about the measures proposed to promote each of the licensing objectives.
- 12.5 The Licensing Authority has produced annexes to this Policy describing conditions that may be applied in appropriate circumstances. If representations are raised with the Licensing Authority that the Licensing

Objectives cannot be met unless additional specific conditions are attached, then the Licensing Authority may consider attaching additional conditions. In any event where measures to promote the Licensing Objectives are included in the Operating Schedule, conditions consistent with the Schedule will be attached to the licence or certificate, subject to the need for the Licensing Authority to amend, reword or revise the measure.

12.6 Applications that are incomplete will be returned with an explanation for the return. Such reasons are many and may include non-payment of the fee, absence of appropriate documentation and non-compliance with the legislation. The council are entitled to expect that reasonable steps have been taken to address the Licensing Objectives, and applications will be returned when minimum requirements have not been met such as:

- No entries in the Operating Schedule at all.
- Entries that replicate other legislation
- Entries that cannot be readily converted into credible enforceable conditions.
- Failure to address the issues.

12.7 Examples of the above are many, and can include such diverse matters as a premises closing after the last times for public transport. This Authority expects some effort to have been made by the relevant premises to provide information on how patrons can safely journey home, such as a dedicated telephone to a licensed Hackney Carriage company or a list of licensed companies, etc.

12.8 The objective is to prevent unnecessary work on the part of the Licensing team, Responsible Authorities and Other Persons, and the applicants themselves. Poorly constructed applications will be highly likely to attract representations, causing additional expense and needless delay in the process. It is in the applicant's best interest to present a well thought out application that addresses relevant topics, and can be processed with the minimum of fuss.

12.9 As a matter of course, the suggested Operating Schedule will be scrutinised by the Licensing Authority when applications are received, and such conditions that will appear on any future licence in Annex 2 will be extracted. The applicant and/or their solicitor or agent will be notified of these proposed conditions so that any discrepancies can be addressed during the consultation period. Applications submitted by professional agencies must conform to a reasonable standard, and must express steps in clear and readily translatable terms.

- 12.10 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.
- 12.11 Planning, building control and licensing are distinct regimes and will be properly separated to avoid duplication and inefficiency. Applications for premises licenses for permanent commercial premises should normally be made from businesses with planning consent for the property concerned.
- 12.12 In order to avoid any duplication or inefficiency between the licensing and planning processes the Licensing Authority would prefer and strongly advice that prior to the submission of a licensing application the appropriate planning permission be granted in respect of the premises concerned and that any operating hours sought do not exceed those, if any, authorised by the planning application. Depending upon the particular circumstances changes to the hours of opening for a public house, restaurant, off licence or other licensed premises may be a matter that requires planning permission. The adopted Unitary Development Plan contains policy STC 9 'Restaurants, A3 Uses and Take-Away Hot Food Shops'. This policy sets out the criteria the Council will use to consider planning applications for these uses and sets out factors that will normally be applied in relation to opening hours. Operators of licensed premises are advised to contact the Council's Planning Service for further advice as to whether planning permission would be required to vary the hours of use and the planning implications of such a change.
- 12.13 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 Council will have 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.
- 12.14 The Equality Act 2010 aims to tackle potential discrimination against persons with protected characteristics.
- 12.15 Harrow Council has published its race Equal Opportunities Policy in which it sets out how it aims to address race equality issues in the Borough. In line

with Equality legislation an Equalities Impact Assessment has been undertaken on this Licensing Policy.

12.16 The Council recognises that people belonging to an equalities group may experience social exclusion for a number of reasons including access to information and negative or discriminatory attitudes of service providers. In response, Harrow Council's Equal Opportunities Policy has made it clear that the Council is committed to taking action to reduce the inequalities that people suffer. In line with this, the Council deems Harrow's diversity to be one of its strengths and therefore is committed to creating a more inclusive community. The Council will aim to ensure that its Statement of Licensing Policy and associated practices do not discriminate against any group within the community and will pursue any opportunity to promote equality of opportunity and good community relations. To this end the Council 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 to ensure the Council's 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 and once the assessment has taken place, take the appropriate action to prevent direct and indirect discrimination which may have been the result of the policy statement.

#### 12.17 **The Government's Alcohol Strategy**

The Government published its Alcohol Strategy in 2012. In this it outlined how the Licensing Act can be used to address some of the Social Health and Crime and Disorder issues raised by the misuse of alcohol, when considering applications for Premises or Personal Licences. This strategy will be taken into account specifically with regard to the sale of alcohol to under 18's and the impact of lack of effective steps to tackle anti-social behaviour. The Licensing Authority will ensure that all Operating Schedules agreed with Licensees are suitable and sufficient to address these issues.

## **12.18 Safer Clubbing – Guidance for Licensing Authorities, Club Managers and Promoters**

For premises which may have problems with drugs, crime and disorder and/or are open late the Licensing Authority will refer to the guidance given and will expect applicants in their Operating Schedules to use the strategies outlined in the Home Office Drug Strategy booklet – Safer Clubbing.

- 12.19 Potential applicants are requested to seek early advice from the Licensing Authority and other authorities such as the Police and Fire Authority, concerning the licensing requirements for premises, or for activities they are planning. Large or unusual events often need particular consideration; the Licensing Authority will expect authorities to be consulted at the earliest planning stage for such an event, and not less than six months prior to the performance. This will minimise uncertainty and provide time to finalise the Operating Schedule with the organisers well before a formal application is submitted.
- 12.20 Where a licence or certificate is in force but an event outside of the normal Operating Schedule is proposed, the licensee is encouraged to notify the Licensing Authority at least 3 months prior to the event in order that the Authority is able to complete any consultation required and offer any appropriate advice.
- 12.21 It must be stressed that the role of the Licensing Authority is to simply process applications fairly. It is a strictly neutral role and will apply the principles in the Act properly with due regard to all parties. The decision to grant or refuse a Premises Licence is not made by the Licensing Team, and any application will stand or fall on its own merits.
- 12.22 Applications for the transfer of a Premises Licence will be closely scrutinised. It will be expected that the signatures of all parties will be attached which will assist the process. In the case of a Premises Licence holder being unavailable for whatever reason, the Licensing Section will expect details of the steps that have been taken to locate the absent licensee. If there is not an adequate explanation, then a 'new' application will be required.

### ***Specific premises***

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

12.14 It is recognised that there are premises where alcohol sales are only a part of the operation, such as a general grocery type of shop. It is also recognised that there may be a difference in the last permitted hours for alcohol sales and the closing time of the premises, during which time goods other than alcohol may be legitimately sold. It will be expected that during the time when alcohol sales cease and the shop has yet to close, there is some effort to demonstrate that alcohol is not for sale. Such measures may include the use of a shutter, signage, roping off the alcohol area, or similar.

## 13 Representations

- 13.1 The Licensing Act places duties on persons and organisations to make “relevant representations” and often in a relatively short timescale. In this context a “relevant representation” has to positively link the issues to the premises (or person) in question and the issues must relate to the Licensing Objectives. The intention of Parliament is to apply a lighter bureaucratic touch to applications for licences and their variation; however, in the case of poorly performing premises, one of the sanctions is the power of review.
- 13.2 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.
- 13.3 Council officers will determine whether a representation is irrelevant, frivolous, vexatious or repetitive in accordance with the Licensing Act and Guidance. This is subject to the power to refer a decision to the appropriate meeting of Elected Members where the particular circumstances require such an approach.
- 13.4 Where the Licensing Authority determines that a representation is invalid it will notify the person of the decision and the reason.
- 13.5 The ability to make representations is restricted to ‘other persons and ‘responsible authorities’ as defined in the Act. Other persons include persons and businesses or the bodies representing them, and elected members of the relevant licensing authority for an area in which the premises is situated. Responsible authorities are usually public bodies including the Police, Fire Authority, Planning, Environmental Health, and health and safety authorities.
- 13.6 When a representation is made which purports to be on behalf of a group, society or other association, the council will require such proof as is reasonably appropriate 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.
- 13.7 Elected members are subject to the Local Authorities (Model Code of Conduct) Order 2007, which restricts their involvement in matters, and participation in meetings to discuss matters, in which they have a ‘prejudicial

interest'. In cases where an elected member makes a representation as an interested party, they will be considered to have a 'prejudicial interest' in the Licensing Authority's decision on a resulting review and in the local authority's representation to any appeal on this decision.

## **14 Reviews by Responsible Authorities and Other Persons**

- 14.1 It is a requirement for posters to be prominently displayed to advertise the fact that a party has applied for a review of licensed premises. Experience has shown that posters on hoardings, railings lamp-posts and the like are prone to be damaged, therefore failing in the primary requirement of advertisement. The council therefore reserves the right to ensure that the community is properly consulted on this important issue by taking such steps as seem appropriate in the circumstances.

## **15 Cumulative Impact or Effect**

- 15.1 In its licensing role, the Council is not empowered to determine the need or commercial demand for another pub, restaurant or hotel. These are issues for relevant planning controls and the market to determine. Nevertheless, the cumulative impact of licensed premises in a locality, where there is an impact on the promotion of the Licensing Objectives, is a licensing matter.
- 15.2 In circumstances where areas appear to be under stress and giving rise in the locality to concerns over nuisance, crime or disorder, the Licensing Authority will consider the adoption of a special policy to refuse new licences.
- 15.3 In applying this policy the Licensing Authority will consider any application made. It will be for the applicant to detail the special circumstances that justify departure from the policy.
- 15.4 The Licensing Authority will take the following steps when considering whether to adopt a special policy:
- The initial identification of concern about crime, disorder, or public nuisance.
  - Where it can be demonstrated that nuisance, crime or disorder is arising as a result of customers of licensed premises, identifying the area from which problems are arising and the boundaries of that area.
  - Consultation with all defined parties.



- Adopting a policy about future licence or club premises certificate applications from that area.
- Publication of the special policy.

15.5 To apply the special policy, the Licensing Authority will consider representations based on the impact on the licensing objectives of the relevant application. While any applicant is to address the issues relevant to the special policy in the application and operating schedule, the onus is on the objectors to provide evidence to back up any assertion that the nature of the application would produce the cumulative impact claimed. Account is to be taken of the differing impacts of premises with different styles and characteristics. It is recognised that there is a diverse range of premises that sell alcohol, serve food and provide entertainment. These cover a wide range of contrasting styles and characteristics, hence the Licensing Authority will have regard to those differences and the differing impacts on the local community. It therefore also recognises that, within this policy, it may be able to approve licences or certificates that are unlikely to add significantly to the impact, and will consider the circumstances of each individual application.

15.6 The Licensing Authority will not use such policies solely:

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

15.7 The Licensing Authority will review any special policies regularly to see whether they have had the effect intended, and whether they are still needed. The success and application of such policies have to be considered alongside the effect of other of the policies, and in particular, those Licensing Objectives relating to Public Nuisance and to Crime and Disorder.

## **16 Integrating Strategies and Avoiding Duplication**

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

this policy to replicate the contents of others, and reference must be made to those groups for specific initiatives.

## **17 Enforcement, Protocols with Enforcement Agencies**

- 17.1 It is essential premises are maintained and operated to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Licensing Act. The Licensing Authority will make arrangements to monitor premises and take appropriate, proportionate enforcement action in accordance with the Enforcement Policy. This includes unlicensed premises undertaking licensable activity and premises where a Temporary Event Notice is in force. The Council has adopted a formal Enforcement Policy, setting out the aims and objectives with effective regulation.
- 17.2 The Council will work closely with the Police to establish protocols to ensure an efficient deployment of Police and Council Officers engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that resources are targeted at problem and higher-risk premises. Similar working arrangements are envisaged with other similar enforcement agencies in areas of mutual interest.
- 17.3 The Council has adopted an Enforcement Policy, and all enforcement action will be taken with this policy in mind.

## **18. Cultural Strategies**

- 18.1 In its role of implementing local authority cultural strategies, the Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community, particularly for children. When considering applications for such events and any conditions on licences or certificates, the Council will carefully balance the cultural needs with the necessity of promoting the licensing objectives and the protection of the vulnerable.
- 18.2 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.

## **19. Complaints against Licensed Premises**

- 19.1 Complaints relating to licensable activities carried out at licensed premises will be referred to the Council's Licensing Section, and enforcement will be undertaken in accordance with the Enforcement Policy.
- 19.2 Where practicable the Licensing Authority will expect mediation between applicants, licensees, relevant statutory agencies and occupiers of nearby premises, local residents groups, community or interested groups where significant issues have arisen relating to an application. The Licensing Authority, where possible, would expect mediation through:
- Identification of potential issues for other relevant statutory agencies particularly regarding the safety and amenity of local residents.
  - Negotiation of potential conditions to reflect the resolutions achieved through mediation methods.
- 19.3 Where mediation is not practicable or fails and a formal representation has been raised, the Licensing Authority will arrange for a hearing to review the licence or certificate, or to determine the application.
- 19.4 If mediation methods are used it will not override the right of any interested party to ask that the Licensing Authority consider their valid representations, or for any licence or certificate holder to decline to participate in a mediation meeting.
- 19.5 The Licensing Authority will disregard any representations that are irrelevant, frivolous and/or vexatious.
- 19.6 A senior Police Officer may, under section 161 of the Licensing Act 2003 close premises in the interest of Public Safety for up to 24 hours on the grounds of likely or imminent disorder on or in the vicinity of the premises. Premises may also be closed if a public nuisance is being caused by noise from the premises.
- 19.7 Additionally, a review of the licence or certificate will take place within 28 days of any action by the Police to close down the premises for up to 24 hours, or longer if so granted by the Magistrates Court on grounds of disorder or public nuisance –Section 11.4of the Statutory Guidance and Section 167 of Licensing Act 2003.

- 19.8 Complaints against licensed premises will be investigated promptly, having regard to feasibility. It must be noted that council officials 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 prosecution will be determined by the Attorney General's guidelines (and associated regulations) and will not be driven by the wishes of any individual or group.

## **20 Smoke free premises**

- 20.1 The provision of the Health Act 2006 and associated Statutory Instruments clearly show that it is the intention of Government to promote health for all, through the use of these measures. This not only includes the staff and patrons of licensed premises, but regard will also be given to others who may come in contact with the effects of smoking, such as passers by and local residents.
- 20.2 With this in mind, the Council has adopted the viewpoint that there will be a general presumption that licensed premises will be completely free of smoking, and that this will be rigorously enforced by the management of the premises. Should there be breaches of the regulations, enforcement action will be taken in the first place against the management for permitting or failing to stop such activity.
- 20.3 Following on from this stance, it will be for the management of any licensed premises to clearly demonstrate a defined need when licensing applications are being made that would allow smoking on premises, including applications to use 'smoking shelters' or similar. Use of general terms and the request to lift conditions of a licence, such as clearing an outside area by a specific time, will lead to rejection.

## **21 Standard and Late Temporary Event Notices (TENs)**

- 21.1 The council acknowledges that the TEN system is a quick and straightforward method that allows an event to take place without recourse to complicated licensing procedures. The standards laid out in the legislation and associated guidance will be used, including a full description of the event. General terms such as 'party' or 'function' will lead to rejection.
- 21.2 The Act provides for certain occasions when regulated entertainment, the sale of alcohol and late night refreshment at small scale events (for less than 500

people at a time and lasting no longer than 168 hours) do not need a licence but do need to provide advance notice to the Police, Environmental Health and the Licensing Authority. The Police and/or Environmental Health can object to a Temporary Event Notice if they consider that the event is likely to undermine one or more of the Licensing objectives.

21.3 A Temporary Event Notice may be sufficient for certain events. Temporary Event Notices are subject to various conditions and limitations which concern the following:

- The duration is limited for a period of up to 168 hours
- They can only involve the presence of less than 500 people at any one time, including staff.
- The same premises can be used for up to 12 occasions in a calendar year, but the aggregate number of days must not exceed 21
- A Personal Licence holder is limited to 50 per year.
- A person not holding a Personal Licence is limited to 5 per year

21.4 If the above conditions are not fulfilled, a temporary event at which licensable activities are to take place would require a Premises Licence.

21.5 The law states that for a standard Temporary Event Notice, at least ten working days' notice must be given to the Police, Environmental Health and the Licensing Authority prior to the day of the event. This does not include the day the Notice is received by the Licensing Team or the actual day of the event. The less time that is given may increase the likelihood of an objection. The licensing Authority recommends that at least 28 days' notice be given to hold such events to allow consideration of the notice and full guidance to be given to the organisers to run the event in a proper manner and to pass on any relevant information. The organisers, depending upon the nature of the event may find it useful to refer to "Guide to Health, Safety & Welfare at Pop Concerts and Similar Events", This 28 day period would also allow time for any subsequent counter notice to be appealed to Court. The minimum 10 working day notice makes this impossible as the Courts require 5 working days notice for such appeal.

21.6 In the event of a relevant representation. The Licensing Authority will hold a hearing not less than 24 hours before the event is due to take place.

21.7 It should be noted that events concerning more than 499 people a Premises Licence will be required for a limited period. Where the sale of alcohol is

involved here must be a designated premises supervisor specified on the application who must be a Personal Licence holder.

21.8 Much larger crowds may be attracted to large scale temporary events and the risks to public safety and to crime and disorder as well as public nuisance may be considerable. The licensing Authority should be given early notice of such major events to discuss Operating Schedules with the organiser prior to a formal application being submitted. In order that public safety, crime and disorder as well as public nuisance matters are fully addressed organisers should refer to the following documents:-

- The Event Safety Guide – a guide to health, safety and welfare at music and similar events (HSE 1999) ('The Purple Book') ISBN 07176 24536
- Managing Crowds Safety (HSE2000) ISBN 07176 1834X
- Steps to Risk Assessment, Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety of Sports Grounds (The Stationary Office, 197) ('The Green Guide') ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnivals, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through [www.streetartnetwork.org/pages/publications](http://www.streetartnetwork.org/pages/publications)

21.9 The police reform and Social responsibility Act has amended the Licensing Act 2003 to allow for Late Temporary Event Notices. Late notices can be given up to five working days before the event.

- Late notices are intended to be used by premises users who are required for reasons outside of their control, to for example, change the venue at short notice.
- Should an objection be received to a late notice there is no scope for a hearing and the event will not go ahead.

21.10 It is the view of this Authority that although solicitors and agents may complete the forms on behalf of their clients, Temporary Events Notices will not be accepted without a written notice from the person responsible for the proposed event. This is to ensure the person responsible on the day is aware of the tasks involved.

## **22 Designated Premises Supervisors**

- 22.1 Although the Act places no specific duty on the DPS other than being in day to day charge of premises, it would be expected that the individual will be available more frequently than not. If inspections reveal that a DPS is regularly absent from the premises they are presumed to control, consultation will take place with all Responsible Authorities for their consideration and for them to judge whether a review of the licence is appropriate. This is especially pertinent when an individual who does not hold a Personal Licence is left in charge of a premise offering alcohol.

## **23 Names of Premises**

- 23.1 It is recognised that no specific requirement exists for individuals or companies inform the council of a change in name of their premises. It must be stressed that although it is not compulsory, this is strongly advised to save administrative confusion. Any unnecessary difficulty caused by such a change will remain the responsibility of the individual or company concerned.

## **24 Advertising campaigns/help groups**

- 24.1 Public confidence in the effective management of licensed premises is paramount. For this purpose, the council reserves the right to undertake occasional reminders to the public of their rights in regard to licensed premises, and also to encourage groups or organisations to offer advice and guidance on relevant issues. Examples could be groups dealing in drug and alcohol abuse or 'stop smoking' groups. These could be encouraged on a general basis or by active involvement at the point of sale.

## **25. Administration, Exercise and Delegation of Functions**

- 25.1 The Council is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee delegates certain decisions and functions and has a Sub-Committee to deal with aspects of its responsibilities.
- 25.2 The following Table at Annex A sets out the delegation of decisions and functions to Licensing and General Purposes Committee, the Sub-Committee and to Officers. All matters dealt with by Officers will be reported for information and comment only to the next Committee meeting.
- 25.3 Delegations are without prejudice to Officers referring an application to a Sub-Committee or Committee; or a Sub-Committee to a Committee, if considered appropriate in the circumstances of any particular case.



## Responsible Authorities S13 (4) of the Licensing Act 2003

### Contact Details

<p><b>METROPOLITAN POLICE</b></p> <p>Police (Licensing Officer)</p> <p>Metropolitan Police</p> <p>Unit 1 Central Depot</p> <p>Forward Drive</p> <p>HA3 8NT</p> <p>Tel: 07825 272 536</p>	<p><b>FIRE AUTHORITY</b></p> <p>London Fire Brigade</p> <p>Licensing – Harrow Team</p> <p>169 Union Street</p> <p>Southwark</p> <p>London</p> <p>SE1 0LL</p> <p>e-mail: <a href="mailto:FSRNorth@london-fire.gov.uk">FSRNorth@london-fire.gov.uk</a></p>
<p><b>ENFORCING AUTHORITY UNDER THE HEALTH AND SAFETY AT WORK ACT 1974</b></p> <p>Community Safety Services (Health &amp; Safety)</p> <p>Harrow Council</p> <p>Civic Centre</p> <p>PO Box 18</p> <p>Station Road</p> <p>Harrow</p> <p>HA1 2UT</p> <p>E-mail: <a href="mailto:environmental.health@harrow.gov.uk">environmental.health@harrow.gov.uk</a></p>	<p><b>LOCAL PLANNING AUTHORITY</b></p> <p>Planning &amp; Development</p> <p>Civic Centre</p> <p>PO Box 37</p> <p>Station Road</p> <p>Harrow, HA1 2UY</p> <p>e-mail: <a href="mailto:duty.planner@harrow.gov.uk">duty.planner@harrow.gov.uk</a></p> <p>e-mail: <a href="mailto:Planning.Applications@harrow.gov.uk">Planning.Applications@harrow.gov.uk</a></p> <p>e-mail: <a href="mailto:Property.Enquiries@harrow.gov.uk">Property.Enquiries@harrow.gov.uk</a></p>

<p><b>AREA CHILD PROTECTION SERVICES</b></p> <p>Local Safeguarding Children Board Harrow Council</p> <p>Station Road</p> <p>Harrow HA1 2UT</p> <p>Tel: 020 8424 1341</p>	<p><b>TRADING STANDARDS</b></p> <p>Service Manager,</p> <p>Harrow Consumer and Business Protection</p> <p>Brent and Harrow Trading Standards</p> <p>Fifth Floor</p> <p>Brent Civic Centre</p> <p>Engineers Way</p> <p>Wembley</p> <p>HA9 0FJ</p> <p>e-mail: <a href="mailto:trading.standards@brent.gov.uk">trading.standards@brent.gov.uk</a></p>
<p><b>PREVENTING RISK OF POLLUTION</b></p> <p><b>RISK TO PUBLIC HEALTH</b></p> <p>Environmental Services Manager</p> <p>Environmental Health</p> <p>Harrow Council</p> <p>Civic Centre</p> <p>PO Box 18</p> <p>Station Road</p> <p>Harrow, HA1 2UT</p> <p>e-mail: <a href="mailto:TechnicalServices@harrow.gov.uk">TechnicalServices@harrow.gov.uk</a></p>	<p><b>THE HEALTH AUTHORITY</b></p> <p>NHS Harrow CCG</p> <p>4<sup>th</sup> Floor</p> <p>59-65 Lowlands Road</p> <p>Harrow on the Hill</p> <p>HA1 3AW</p> <p>Tel: 020 8422 6644</p>

**HEALTH AND SAFETY EXECUTIVE**

**(PUBLIC BODIES ONLY)**

Health and Safety Executive

Rose Court

2 Southwark Bridge

London

SE1 9HS

Tel: 020 7556 2267

**The Licensing Authority**

The Licensing Manager

Licensing Department

Harrow Council

Civic Centre

PO Box 18

Station Road

Harrow, HA1 2UT

e-mail: [licensing@harrow.gov.uk](mailto:licensing@harrow.gov.uk)

## Annex A

### TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	OFFICERS
Application for personal licence		If a police objection	If no objection is made
Application for personal licence, with unspent convictions		All cases	
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
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			

complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application.			All cases
Determination of a police representation to a temporary event notice		All cases	

## **Annex B**

### **Proposals for Conditions that support the issue of licences or certificates by the Authority.**

Conditions should be appropriate to promote the four licensing objectives and should emerge initially from a risk assessment that should be carried out by a prospective licence or certificate holder. This assessment should be carried out before making an application for a premises licence or club premises certificate. This should be translated into the steps of the operating schedule of the application. The hours for licensable activities and hours open to public should also be stated. The annexes below give guidance on how conditions may be worded when they are extracted from the risk assessment.

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

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

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

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

Annex G – Conditions relating to the protection of children from harm.

### **Proposed Conditions**

#### **General**

The Licensing Authority recognises that it is important to balance any conditions attached to a licence or certificate so as not to be disproportionate or overly burdensome but to achieve the licensing objectives. Therefore, where conditions are appropriate they will be tailored to the individual style and characteristics of the particular premises or event concerned. Where relevant representations have been made, the Licensing Authority will consider attaching appropriate conditions for the promotion of the licensing objectives.

The following conditions should not be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible options for controls at specific premises or related to specific activities. Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a means of promoting the licensing objectives. When incorporated into the licence or certificate as a condition, they become

enforceable under the law and the breach of a condition could give rise to prosecution. This list cannot be construed as being definite, and must be capable of flexibility to meet specific circumstances. Individual premises will require a varied approach to their conditions, and those conditions given in the Model Pool will be used as guidance. The council reserves the right to make suitable alterations dependent on circumstances and would expect Responsible Authorities to demonstrate similar flexibility in their approach.

Once licensed it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the 2003 Act. The Licensing Authority will make arrangements to monitor premises and take appropriate enforcement action to ensure this.

The Licensing Authority will work closely with the Metropolitan Police and other responsible authorities to establish protocols to ensure an efficient deployment of Police and other officers engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that high-risk activities receive the highest priority.

## **Annex C – The prevention of Crime and Disorder**

When addressing the crime and disorder objective, applicants should initially identify any issues likely to adversely affect the objective and then the steps to deal with them. Such measures on the Operating Schedule might include the following:

- (i) Details of registered Door Supervisors and other appropriately trained staff to be provided, including the number, their location whilst working at the premises, and the times they will be on duty. All Door Supervisors are to be licensed by the Security Industry Authority.
- (ii) The fitting of CCTV equipment, its location and specification.
- (iii) Where applicable to the use of the premises such measures as an 'over 25' policy, or provision of adequate search facilities, or 'no entry or re-entry' after a certain hour. .
- (iv) Measures proposed to prevent possession, supply, or consumption of illegal drugs and possession of weapons, for example by adequate search arrangements and/or spot checks by door supervisors.
- (v) Measures to be implemented to promote sensible drinking and prevent binge drinking.
- (vi) Details of the management of any promotional events such as "happy hour" or special offers, which may include their duration, times, location within premises and whether any additional measures such as increased security is to be utilised during these events to minimise crime and disorder.
- (vii) The location of lighting inside/outside the premises.
- (viii) Measures aimed at discouraging anti-social behaviour.
- (ix) Whether or not the premises will be serving alcohol in glass or plastic containers. If serving alcohol in glass containers, identify what measures will be implemented to ensure patrons cannot take glass container outside the premises.
- (x) Whether the premises belongs to a local Pub or Club Watch scheme.
- (xi) Measures to discourage crime, for example the fitting of alarms, the positioning of cigarette or other vending machines in full view of staff, and the fitting of gaming machines with an approved security device/metal boot or emptied at night.

The Police Crime Prevention Advisor is able to visit premises and advise if requested. Applicants assessing the risks associated with this objective can obtain detailed guidance from the Police. The Licensing Authority recommends that crime prevention advice is obtained and implemented.



## **Possible conditions relating to the prevention of crime and disorder**

### **1. Door supervisors**

- 1.1 An accurate and up-to-date log book shall be maintained in a format prescribed by the Licensing Authority, providing details of door supervisors employed in respect of the premises, which shall comprise two distinct parts:
  - (i) A part recording the name, address, telephone number and registration number of each door supervisor employed in respect of the premises (whether employed directly or through an agency) and the name, address and telephone number of the agency providing the supervisor where the supervisor is not employed directly.
  - (ii) A part recording the name and registration number of each door supervisor, dates and times of commencement and finishing of work, signature of the door supervisor in respect of both, and details of any incident in which the door supervisor is involved, including the calling of the police and any police action taken.
- 1.2 All door supervisors, at all times when they are on duty, shall wear an identity badge, conspicuously displayed, and carry proof of registration.
- 1.3 There shall be a minimum of ..... door supervisors on duty at the premises at all times during opening hours.
- 1.4 There shall be a minimum of one door supervisor for every 100 persons or part thereof at functions attended by adults.
- 1.5 Where the audience includes minors there shall be either:
  - (i) a minimum of two door supervisors for every 100 persons or part thereof;  
or
  - (ii) at least one door supervisor per exit, whichever is the greater.
- 1.6 At least one female door supervisor shall be employed and available where appropriate.

### **3. Bottle bans, plastic containers and toughened glass**

- 3.1 No glass bottles containing beverages of any kind, whether open or sealed, shall be given to customers for consumption on the premises, whether at the bar or by staff service away from the bar.

- 3.2 Bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.
- 3.3 No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.
- 3.4 Drinking vessels shall only be made from shatterproof material eg plastic or toughened glass.

**4. CCTV**

- 4.1 CCTV cameras shall be installed at the following locations: xxxxxxxxxxxx.
- 4.2 Equipment shall be installed, operated and maintained in good working order and in accordance with the recommendations of the Police or Crime Prevention Officer.

**5. Open containers not to be taken from the premises**

- 5.1 Customers shall be prevented from taking alcoholic or other drinks from the premises in open containers.

**6. Restriction on drinking areas**

- 6.1 Alcoholic drinks may only be consumed in the following location(s): ..... at the following times .....

**7. Proof of age**

- 7.1 A valid proof of age card or other age identification shall be required to be produced by any person appearing to those selling or supplying alcohol to be under 18 (or 16 in the case of the consumption of beer, wine and cider in the company of an adult during a table meal) and who is attempting to buy alcohol.

**8. Crimeprevention notices**

- 8.1 Notices shall be prominently displayed and prevented from damage and deterioration advising customers as follows: .....

**9. DrinksPromotions**

- 9.1 Licencees are to encouraged comply with the British Beer and Pub Association's 'Guidelines on On-Trade Promotions' to reduce the potential for crime and disorder.

## **10. Signage**

10.1 Signs shall be prominently displayed and prevented from damage or deterioration:

(a) advising normal hours of permitted licensable activities; and/or

(b) prohibiting access to children from the following locations .... at the following times .....

## **11. High Volume Vertical Drinking**

11.1 A ratio of ..... tables and ..... chairs per ..... customers shall be maintained.

## **12. Striptease, Table Dancing, Pole Dancing and entertainments of the like kind**

12.1 The Licensing Authority has had standard conditions for premises that provide striptease and similar entertainments. These encompass all four of the licensing objectives contained in the Licensing Act 2003. The Licensing Authority wishes to ensure that public order is preserved, that the commission of other offences is deterred, and to ensure that such entertainments are merely part of a dance to music. In addition, the Licensing Authority wishes to ensure that publicity for such entertainments do not cause offence to other members of the community. The Licensing Authority, subject to representations in any particular case, may seek conditions which control the following:

- Advertising.
- Adoption of relevant Police guidelines relating to Codes of Conduct for the premises and performers.
- No touching and a “three feet rule”.
- No physical participation by the audience.
- CCTV, which should be agreed with the Police, kept for at least 28 days and made available to both the Police and authorised officers from the Council.
- Time restrictions when close to schools, playgroups or other educational establishments, such as museums and places of worship.
- Appropriate levels of stewarding and registered door supervisors, as agreed with the Police.

## **Annex D – The maintenance of Public Safety**

When addressing the public safety objective, applicants should initially identify any issues likely to adversely affect the objective and then the steps to deal with them. Such measures on the Operating Schedule might include the following:

- (i) The maximum capacity figure for the premises and a statement demonstrating the premises' ability to accommodate the predicted number of patrons safely.
- (ii) Safe use of special effects/equipment's (lasers, smoke machines, strobe lights etc.) which may affect public safety.
- (iii) Measures to be implemented to promote sensible drinking and prevent binge drinking, for instance by the display of health warnings, legal warnings and the like.
- (iv) Measures proposed to prevent possession, supply or consumption of illegal drugs and possession of weapons, for instance by adequate search arrangements and/or spot checks by door supervisors.
- (v) The availability of drinking water.
- (vi) The location of any toughened glass to be installed at the premises.
- (vii) The availability of up to date public transport and car parking information at the premises.
- (viii) The details of any proof of age scheme to be implemented.
- (ix) A detailed plan that identifies all existing and proposed fire safety features, including smoke detectors, sprinkler systems, and the like. All fire safety measures are to comply with relevant standards.

### **Possible conditions relating to public safety (including fire safety)**

#### **13. Disabled People**

- 13.1 Adequate arrangements shall exist to enable the safe evacuation of disabled people in the event of an emergency; and disabled people on the premises shall be made aware of those arrangements.

#### **14. Capacity**

- 14.1 The number of persons admitted to the premises on any one occasion shall not exceed the maximum capacity of xx (such number to be inclusive of staff and performers working at the premises) and overcrowding in any part of the premises so as to interfere with the safety or comfort of the public shall not be permitted.

- 14.2 The maximum occupancy of the building at any one time shall be restricted in respect of the ground floor to xx persons and in respect of the first floor to xx persons (such numbers to be inclusive of staff and performers working at the premises) and overcrowding in any part of the premises so as to interfere with the safety or comfort of the public shall not be permitted.
- 14.3 A suitable method of determining the number of persons on the premises at any one time shall be employed to ensure that the maximum permitted number is not exceeded.
- 14.4 The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and shall inform any authorised person on request.
- 14.5 A notice, in a format prescribed by the Licensing Authority, shall be displayed in a prominent position at the entrance to the premises so as to be visible and easily understood, indicating the maximum number of persons permitted on the premises at any one time. Where there are specified numbers for particular parts of the premises, notices in a format prescribed by the Licensing Authority shall be displayed at the entrance to those parts, indicating the maximum number of persons that may be present there at any one time.

## **15. First Aid**

- 15.1 An adequate and appropriate supply of first aid equipment and materials shall be available on the premises at all times.
- 15.2 At least one suitably trained first-aider who shall be responsible for first aid shall be on duty when the public are present. If more than one suitably trained first-aider is present on the premises, each person's responsibilities shall be clearly identified.
- 15.3 A suitable rest room shall be available free of charge at all times which contains the following:
- (a) a quiet and cool atmosphere;
  - (b) adequate seating;
  - (c) continuous free access to cold drinking water; and
  - (d) an adequate and appropriate supply of suitable first aid materials.

## **16. Lighting and Electrical Installations**

### **16.1 Fixed Installations**

- (a) All electrical wiring, fittings and appliances shall be constructed and maintained in a safe and satisfactory condition to the satisfaction of the

Licensing Authority.

- (b) In the absence of adequate daylight, the lighting in any area accessible to the public shall be fully in operation when they are present.
- (c) Where electric lighting is supplied for stairs, ramps or passages outside the premises and is operated by a switch adjacent to an exit door, it need not be continuously supplied but it must be constantly available for use.
- (d) A system of emergency lighting, independent of the normal lighting of the premises, shall be provided and shall illuminate all escape routes. The system shall operate automatically on failure of the normal lighting or be on at all times, and shall be maintained in efficient working order and tested at specified intervals to the satisfaction of the Licensing Authority and the fire authority, with details of tests recorded in the Fire log-book.
- (e) Emergency lighting batteries shall be fully charged before the admission of the public.
- (f) In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements shall be in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.
- (g) Each enclosed area within the premises shall be sufficiently illuminated to a minimum level so that other parts of the area are always clearly visible.
- (h) Corridors, passageways and stairways shall be evenly illuminated to a level not less than that required by the current British Standard Code of Practice.
- (i) If the premises has a single phase electricity supply the premises shall have installed Residual Current Device protection to all final sub-circuits on the socket outlet ring mains with a maximum operating time of 40 milliseconds at a current of 150 milliampere, designed to operate if the earth-leakage current exceeds 30 milliampere. A test button shall also be incorporated.
- (j) Where practicable, stage lighting shall be supplied from a separate sub-circuit from that supplying the main hall lighting. Any lighting and electrical apparatus on the stage likely to become heated shall be provided with suitable protection to prevent contact by scenery or any other combustible material.
- (k) At least three electric handlamps shall be available at the premises at all times for use by appointed staff and the handlamps shall be properly maintained at all times and ready for use in an emergency.

## **16.2 Temporary electrical installations**

- (a) Temporary electrical wiring and distribution systems shall not be provided [without notification to the Licensing Authority at least ten days before commencement of the work] and/or [without prior inspection by a suitable qualified electrician].
- (b) Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable, BS 7909.
- (c) Temporary electrical installations shall only be installed by a competent person; or
- (d) Where they have not been installed by a competent person, temporary electrical wiring and distribution systems shall be inspected and certified by a competent person before they are put to use.
- (e) All temporary electric cable which is not a fixture at the premises shall be heavily and adequately insulated and protected and any metal clad switchgear, spot lamp frames, etc. shall be effectively earthed and each circuit adequately fused.
- (f) Temporary electrical installations shall be disconnected from the permanent installation immediately after each occasion on which they are used and all temporary electrical installations shall be removed entirely as soon as the need for them has ceased.

## **17. Indoor sports entertainments**

- 17.1 An appropriately qualified medical practitioner shall be present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature.
- 17.2 Where there is a ring, it shall be constructed and supported by a competent person and inspected and certificated by a competent authority and any material used to form the skirt around the ring must be flame-retardant.
- 17.3 At any wrestling or other entertainments of a similar nature, members of the public shall not occupy any seat within 2.5 metres of the ring.
- 17.4 At water sports entertainments, staff adequately trained in rescue and life safety procedures shall be stationed and remain within the vicinity of the water at all material times.

## **18. Special effects**

- 18.1 No laser beams (pyrotechnics or real flame), strobe lights, explosives, flammable or smoke-producing agents, toxic or hazardous substances and any similar entertainment involving special effects or special risks shall be

used on the premises except following prior notification to the Licensing Authority at least ten days in advance.

- 18.2 Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.
- 18.3 Signs shall be prominently displayed at the entrance to the premises where appropriate to advise members of the public that special effects will be used during the performance and what those special effects will be.

## **19. Certificates**

- 19.1 Copies of the following certificates shall be produced to the Licensing Authority or the fire authority upon request:
- (a) Certificate of Electrical Safety.
  - (b) Certificate of Safety for Emergency Lighting.
  - (c) Certificate of Structural Soundness.

## **20. Combating the supply of drugs**

- 20.1 An outer body search shall be carried out where there is reasonable suspicion that an individual is in possession of an illegal drug or an offensive weapon; or
- 20.2 An outer body search of the public shall be a condition of entry.
- 20.3 Notices shall be displayed advising the public that an outer body search is a condition of entry and that the Police will be informed if anyone is found in possession of illegal drugs or offensive weapons.
- 20.4 Security arrangements shall be sufficient to discourage the sale, supply and consumption of drugs on or in the immediate vicinity of the premises [e.g. require that security staff check the toilet area regularly].
- 20.5 The Police shall be informed if anyone is found in possession of illegal drugs or an offensive weapon or is known to have been involved in the sale or supply of illegal drugs.
- 20.6 Persons who are known to have been convicted of drug and drug-related offences which are not spent shall be excluded from the premises.
- 20.7 The Police shall be consulted regarding the steps which could be taken to assist with the surveillance of offenders and in respect of other crime prevention measures.
- 20.8 The advice of the Police shall be sought on procedures for keeping records of incidents (eg violence, disorder and other criminal activity, drug and weapons seizures) and making such records available for inspection.



- 20.9 The Police shall be consulted in the development of any policies concerning:
- (a) The storage, disposal and transfer of confiscated drugs and weapons into lawful custody; and
  - (b) Procedures relating to the treatment of individuals who commit criminal offences.
- 20.10 The Licensee shall liaise with the police and local drug agencies to develop a written Drugs Prevention Strategy for the premises.

**21. Ceilings**

- 21.1 All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the Licensing Authority following each inspection.

## Annex E – Theatres and Cinemas (Promotion of Public Safety)

### Possible conditions relating to public safety in Theatres and Cinemas

#### 22. Access to Cinemas, Theatres, Auditoriums, and similar premises

- (a) Licensees are required to restrict children from viewing age-restricted films, according to the recommendations of the British Board of Film Classification or, where relevant, any age restriction determined by the Licensing Authority. The Licensee should state in the Operating Schedule what measures are to be put in place to control such access.
- (c) Subject to the existence of controls under other legislation and the need to determine relevant representations, where a regulated entertainment is specially presented for children the Council as Licensing Authority will consider the following to control access and egress and to ensure the safety of children:
- (i) An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children, or part thereof.
  - (ii) No child, unless accompanied by an adult, to be permitted in the front two rows of any balcony.
  - (iii) No standing to be permitted in any part of the auditorium during the performance.

*Note –Following relevant representations the Licensing Authority will consider attaching conditions to licenses and permissions to prevent harm to children.*

#### 22.1 Attendants

- (a) The number of attendants on each floor or tier in a closely seated auditorium shall be as set out on the table below:

<b>Number of members of the audience present on a floor</b>	<b>Minimum number of attendants required to be present on that floor</b>
1-100	One
101-250	Two
251-500	Three
501-750	Four
751-1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

- (b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor, tier or auditorium where they are on duty.
- (c) Any attendant shall be readily identifiable to the public.

#### 22.2 Standing and sitting in gangways etc

- (a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
- (b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
- (c) In no circumstances shall anyone be permitted to -
  - (i) sit in any gangway;
  - (ii) stand or sit in front of any exit; or
  - (iii) stand or sit on any staircase including any landings.

#### 22.3 Drinks

- (a) Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely-seated audience except in plastic and paper containers.

#### 22.4 Balcony Fronts

- (a) Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

#### 22.5 Seating

- (a) The premises shall not be used for a closely-seated audience except in accordance with plans previously submitted to and approved by the Licensing Authority, a copy of which shall be kept available at the premises and shall be shown to any authorised person upon request.
- (b) Where any part of the premises is used for a closely-seated audience exceeding 250 people there shall be an unobstructed seatway or space of at least 305 mm (12 ins) measured between perpendiculars between the back of one seat and the foremost portion of the seat arm or frame immediately behind.
- (c) Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.
- (d) If tiered seating is provided, the back of the highest level and the ends of the rows shall be provided with an effective safety barrier to the satisfaction of the licensing authority.
- (e) No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.

- (f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

**23. Premises used for film exhibitions**

**23.1 Attendants – premises without a staff alerting system**

- (a) Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1-250	Two
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
Where there are more than 150 members of an audience in any auditorium or on any floor or tier	At least one attendant shall be present in any auditorium or on any floor or tier

**23.2 Attendants – premises with a staff alerting system**

- (a) Where premises are equipped with a staff alerting system, the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1-500	Two	One
501-1000	Three	Two
101-1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

- (b) Staff shall not be considered as being available to assist in the event of an emergency if they are:
- (i) the holder of the premises licence or the manager on duty at the premises; or
  - (ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his or her response in an emergency situation; or
  - (iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which he or she is required to go on being alerted to an emergency situation.
- (c) Attendants shall as far as is reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- (d) The staff alerting system shall be maintained in working order.

### 23.3 Minimum lighting

- (a) The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film.

*Note – the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007: (Maintained Lighting for Cinemas).*

## **Annex F - The Prevention of Public Nuisance**

When addressing the public nuisance objective, applicants should initially identify any issues likely to adversely affect the objective and then the steps to deal with them. Such measures on the Operating Schedule might include the following:

- (i) Measures to demonstrate that, between 11.00 pm – 7.00 am: no noise is audible a metre from the façade of the nearest noise sensitive premises, or no noise is audible within the nearest noise sensitive premises. Depending on the individual circumstances, the Licensing Authority may look for the provision of an acoustic report.
- (ii) Details of the location and types of noise attenuation measures used to minimise noise and vibration escaping the premises and car parking areas. Such measures may include soundproofing, acoustic lobbies and sound limitation devices.
- (iii) Demonstrate measures to avoid vehicular queuing on the carriageway, and disturbances from patrons queuing on the footpath.
- (iv) Arrangements for and the timing of deliveries to the premises.
- (v) The location of gardens and other open-air areas and the hours of use of such areas.
- (vi) The hours of use of refuse and recycling facilities. The storage capacity, site and screening of such facilities.
- (vii) Identify whether the activity will generate additional litter (including fly posters and/or illegal placards) in the vicinity of the premises, and measures to deal with them.

### **Possible conditions relating to the prevention of public nuisance**

#### **24. Hours**

24.1 The permitted opening hours shall be .....; or

24.2 The premises shall be closed to the public between .....hours and .....hours.

24.3 Amplified music or other entertainment noise from within the premises shall not be audible at any residential premises between the hours of .....and ..... [Regulated entertainment] or [consumption of alcohol] shall not be permitted in the following areas .....between the times of .....hours and .....hours.

#### **25. Noise and Vibration**

25.1 A scheme for the soundproofing of the building shall be submitted to the Licensing Authority. The use of the premises shall not commence until all soundproofing works have been carried out to the satisfaction of the Licensing

Authority. The soundproofing works shall be maintained thereafter to the satisfaction of the Licensing Authority.

- 25.2 Noise or vibration shall not be permitted to emanate from the premises so as to cause a nuisance to nearby properties.
- 25.3 Doors and windows shall be kept shut during operating hours.
- 25.4 Amplified sound equipment shall be governed by a sound limiting device set at a level approved by the Licensing Authority.
- 25.5 Prominent, clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- 25.6 All reasonable steps shall be taken to ensure that people entering or leaving the premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and people passing by the premises.
- 25.7 The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas shall be prohibited; or
- 25.8 The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas shall be prohibited except following prior notification to the Licensing Authority at least ten days in advance.
- 25.9 The placing of bottles into receptacles outside the premises shall only take place between the hours of 8.00 a.m. and 7.00 p.m.

**26. Noxious smells**

- 26.1 The premises shall be properly vented and noxious smells shall not be permitted to emanate from the premises so as to cause a nuisance to nearby properties.

**27. Light pollution**

- 27.1 Flashing or particularly bright lights on or outside the premises such as would cause a nuisance to nearby properties shall not be permitted.

**28. Litter**

- 28.1 Litter bins and / or cigarette butt bins shall be provided in the vicinity of the premises. The number and locations of such bins shall be determined by the Licensing Authority.

## **Annex G - The protection of children from harm**

When addressing the protection of children from harm objective, applicants should initially identify any issues likely to adversely affect the objective and then the steps to deal with them. Such measures on the Operating Schedule might include the following potential situations for children to:

- (i) Purchase, acquire or consume alcohol in circumstances that are illegal.
- (ii) Be exposed to drugs, drug taking or drug dealing.
- (iii) Be exposed to gambling.
- (iv) Be exposed to activities of an adult or sexual nature including the exhibition of film, or transmission of programmes or videos that include strong language and/or sexual content
- (v) Be exposed to incidents of violence or disorder.
- (vi) Be exposed to environmental pollution such as cigarette smoke or excessive noise. In view of concerns about passive smoking, the Licensing Authority may expect, where appropriate, a 'no smoking' area be set aside for use by children.
- (vii) Be exposed to hazards.
- (viii) Purchase cigarettes from vending machines. The Licensing Authority expects these machines to be in sight and under the supervision of bar staff.

*Note – This is not intended to be an exhaustive list.*

### **Potential conditions relating to the protection of children from harm**

#### **29. Access for children to licensed premises**

##### **29.1 Age Restrictions – specific**

- (a) Children under 18 are not permitted on the premises; or
- (b) Children under 18 are not permitted on the premises between ..... hours and .....hours; or
- (c) Children under 18 are not permitted on the premises (in the following areas) (between .....hours and .....hours) (during the following licensable activities:.....); and/or
- (d) Children under xx are not permitted on the premises.

##### **29.2 Age Restrictions - Cinemas**



(a) Films shall be classified in the following way:

- U - Universal – suitable for audiences aged four years and over
- PG - Parental Guidance - some scenes may be unsuitable for young children
- 12A - passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult
- 15 - passed only for viewing by persons aged 15 years and over
- 18 - passed only for viewing by persons aged 18 years and over

(b) Immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film.

(c) Where a programme includes a film recommended by the Licensing Authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms –

PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE]  
CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person's parent or legal guardian has first been obtained.

### **29.3 Age Restrictions – Theatres**

- (a) Admission of children under 18 shall not be permitted to entertainment incorporating adult entertainment.
- (b) Where performances are presented especially for unaccompanied children attendants shall be stationed in the area(s) occupied by the children, in the vicinity of each exit; on each level occupied by children the minimum number of attendants on duty shall be one attendant per 50 children or part thereof.

### **29.4 Children in performances**

- (a) Backstage facilities shall be of a sufficient size to accommodate safely the number of children taking part in any performance.

- (b) All chaperones and production crew on the show shall receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- (c) Special effects, which may trigger adverse reactions especially with regard to children such as smoke, dry ice, rapid pulsating or flashing lights, shall not be used without consent of the Licensing Authority.
- (d) Children performing shall be kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises.

## **Annex H – Licensing and Compliance Enforcement Policy**

### **Introduction**

The Licensing team operates in connection with the Council's role as the Licensing Authority for the Licensing and Gambling Acts and the Local Authority for the regulation of other licensable activities and inspect premises for compliance under other Acts. The team works in partnership with the police, businesses, residents and other partner organisations. Through advice and enforcement it seeks to ensure compliance with regulations to create and maintain fair and safe standards of operation from the individuals, premises and services it licenses and for those that use the licensable services.

### **Purpose and Scope**

The purpose of the Licensing Enforcement Policy is to set out the ways in which this service will enforce the law in accordance with the principles adopted by the department as a whole. The policy sets out what businesses and others affected by its regulatory responsibilities can expect from the service and assists staff in applying enforcement powers.

The policy applies to all Licensing officers with enforcement responsibilities. The Service Head of Licensing or deputy have additional responsibilities that are specified in the individual paragraphs of this policy and it will be reviewed as appropriate in response to changing circumstances, such as new legislation or guidance.

### **Service Standards**

In regard to enforcement, the general standards and procedures applicable to the service are set out below.

### **Inspections and Other Enforcement Visits**

Premises in the borough will be inspected on the basis of licence application, risk assessment, annual or periodic inspection, or complaint. Inspections vary according to the legislation applicable. Where comprehensive inspections are carried out the officer will hand over a Post Inspection Report (PIR) that will summarise the findings of the inspection. Other visits may be made to premises in order to check on compliance with the terms of licence and or legislation. These visits may include covert test purchases, visits in response to complaints, observations of premises etc.

### **Enforcement Options**

In the event of an infringement being detected then the following list of options are available to the officer:-

- a) Advice
- b) Informal warning
- c) Written warning
- d) Simple caution
- e) Prosecution

In taking enforcement action, it is important that any action is proportionate to the risk however every effort will be made to minimise the cost to business or individuals. Wherein the opinion of the officer, the offence detected should be dealt with by way of c) Written warning, d) Simple caution or e) Prosecution, then the officer should consult with the Head of Licensing or deputy for an initial assessment as to which of those options would be the appropriate course of action. The initial views may well be modified as further information becomes available. Simple cautions will not be offered unless the authority is satisfied that there is sufficient evidence to prosecute and if the caution is refused, in certain circumstances, prosecution proceedings will follow with out the offer of a formal caution..

Where infringements are detected during an inspection of licensed premises, the officer should issue a “post inspection report” (PIR) to the trader in question except when the infringement is of a very minor nature. The PIR is in the form of a self-duplicating document. The top copy will be given to the licence holder/responsible person; the duplicate copy will be kept by the licensing authority. The issue of a PIR does not preclude writing to the licence holder/responsible person giving more detailed advice, issuing a written warning or more serious action being undertaken in response to the infringement

Whilst recognising that officers need to exercise judgment in individual cases, it is also appropriate that duties are carried out in a fair, equitable and consistent manner. In order to facilitate this, the following paragraphs apply.

For the guidance of officers when offences have been committed in any of the following circumstances then the minimum course of action should be a written warning. Where the investigating officer considers more severe action is appropriate, including prosecution, the investigating officer should consult the Head of Licensing and or deputy about the recommendation. The following matters may be considered when deciding the appropriate action:

- Offence was committed recklessly
- Offence was committed knowingly
- Offence was committed deliberately
- Offence was committed fraudulently
- The offence had a significant effect on a customer or group of people
- There have been repeated breaches
- The offence is likely to be repeated
- Violence has been used
- The offender was in a position of trust/authority
- The offender was a ringleader or organiser of others who committed the offences
- There are previous convictions or cautions for similar offences

A significant penalty is the likely outcome if prosecuted

In considering whether to initiate a prosecution in addition to the above, the following matters may be relevant for consideration by the Head of Licensing and or deputy in their absence.

- The admissibility and reliability of the evidence and there being a realistic prospect of conviction
- Relevant matters in the Code of Conduct for Crown Prosecutors
- Any expressed views of victim or victims family about the offender

- Whether there has been any willful obstruction of the officer investigating the offence
- Whether the offender did take any remedial action in response to advice given
- Whether the offender has corrected any harm done to the victim

Criminal proceedings should not normally be taken against an individual if he/she is not involved in the management or supervision of the licensable activity, nor has any additional responsibility for matters associated with the offence and is acting only in the course of their employment, unless the employee has contradicted the employer's instructions, is being deliberately obstructive or in committing the offence has acted unreasonably.

Occasionally the decision as to whether or not to prosecute is not clear-cut. The initial decision rests with the Head of Licensing or deputy, who will make the decision after considering the prosecution report, and after discussing the matter with the investigating officer and the officer in charge (if a different officer).

When offences detected are of a nature where it is considered that a simple caution or prosecution is the appropriate course of action and it is considered that a Director has consented, connived or was attributable to any willful neglect, then the same action against the director as is being taken against the licensee or company should be considered. This should be discussed with the Head of Licensing and or deputy.

If it is considered likely that the offending company may be wound up in order to avoid criminal proceedings then proceedings against the directors should be considered. This should be discussed with the Head of Licensing and or deputy.

Criminal proceedings against employees should not, except in unusual circumstances be considered, unless the employee has contradicted the employers instructions or is being deliberately obstructive or has not heeded warnings.

Offences of obstruction should be considered for prosecution especially if the nature of the obstruction has resulted in additional work and/or costs to the Department.

In the case of Temporary Event Notices, the 'notice giver', who may be an individual, may have criminal proceedings brought against them for breaches of legislation in connection with the event for which they as notice giver have legal responsibility.

## **Notifications**

This service will fully comply with any requirements for statutory notifications. This includes the requirement to provide the HSE with details of Health and Safety notices and / or prosecutions and the OFT with information about convictions in order to keep the Central Register of Convictions updated.

## **Shared Enforcement Role**

For some legislation there is a shared enforcement responsibility with other agencies such as the Police, Environmental Health, etc. The following paragraphs give guidance on how that responsibility is to be shared in the circumstances referred to.

The Licensing Act 2003 creates specific responsibilities for enforcement for the Police, Trading Standards and the Licensing Authority. Protocols between the Licensing Authority and the Police, and the London wide protocol with the LFEPA outline the respective responsibilities. The Licensing Authority and the Police will be the primary enforcer of conditions of licence. Trading Standards will enforce the under age sales of alcohol for consumption off licensed premises and the Police on. Complaints about noise nuisance under the Environmental Protection Act 1990 will be primarily the responsibility of Commercial Environmental Health as will inspection and response to complaints about the Health and Safety of licensed premises. Officers of the Licensing Authority where appropriately authorised under other legislation may enforce it on behalf of the Local Authority.

Where joint enforcement undertaken by the Police and Licensing officers for unlicensed trading results in prosecutions whether by the police or the local authority these will usually be processed by the local authority.

Where legislation creates other similar shared responsibilities this service will fully enforce those provisions of the legislation concerned.

Licensing officers will often receive information that will be of relevance to other regulators investigating criminal offences. The policy is that such information should be provided to those other regulators providing that no officer commits any offence in providing that information and that the relevant 'authority' for disclosure is provided. Information will be passed to the Police, Customs and Excise, the Inland Revenue, other local authorities on the above basis.

## **Powers of Entry**

Licensing officers have considerable powers to enforce the law conferred on them by legislation. Some legislation grants authority to enter and inspect premises. Refusal to permit entry may constitute the offence of obstruction. In particular some legislation enforced by the Licensing team allows, if necessary, entry by reasonable force. A warrant issued by the justices will be sought where this is a requirement of entry or in some cases if entry had previously been refused or it is anticipated that entry may be refused and that pre-warning the occupant of entry would defeat the point of entering.

### **Forfeiture of Goods**

When criminal proceedings are instigated in relation to goods that have been seized as evidence of an infringement of legislation then the normal course of action would be to request the court that such goods should be forfeited. Goods seized as evidence must be counted, bagged and tagged where and when possible in front of the offender and a notice of seizure must be completed. The accused must be given an opportunity to sign the seizure notice and be given a copy of the notice.

The goods must be held securely until the case comes to trial or a decision not to prosecute is made. Where it is decided to prosecute, the goods must be made available for the Court who will decide whether or not to order the forfeiture of the goods. If the decision is made not to prosecute, the goods must be made available to the offender for collection and kept securely until such time that they are collected. Goods must be checked out and signed for. Forfeit goods must be kept securely for such period as the court may order or until appeal options have expired before disposing of them.

In a case where a simple caution is accepted the owner of seized goods may assign the goods to the Licensing Service for disposal. As an alternative to seeking a court order or a simple caution the owner of the goods may be asked to voluntarily assign the ownership of the goods to the Licensing Service for disposal.

Arrangements will be made by the Licensing Service for goods subject of a forfeiture order or voluntarily handed over to the Licensing service to be destroyed or occasionally it may be appropriate to donate goods to a suitable charity, if the goods can be rendered legal through, for example, removal of infringing trade marks.

### **Particular Customer Needs**

This service will endeavour to be flexible in responding to customer needs by adapting the method of operation to suit the customer. In particular the following paragraphs apply in this regard:

Service leaflets, letters or other documents are willingly translated into other languages utilising a translation service. There is no additional expense to the customer for this service. We will also arrange for interpreters when appropriate.

## Glossary

These definitions are to assist in understanding the Policy. Therefore, they are not legal definitions. Reference should be made to the Act, the Guidance, and any regulations issued by the Secretary of State for any legal information.

- **Alcohol** - includes beer, wine, cider, spirits, or other fermented, distilled, or spirituous liquor of or exceeding 0.5% strength.
  
- **Authorised Officers** – those employees of the Council authorised by the Act or by the Council's constitution.
  
- **Club Premises Certificate** - provides authorisation for qualifying clubs to use club premises for qualifying club activities (see Qualifying Clubs below).
  
- **Cumulative Impact** – the impact on an area where the number, type, and closeness of premises selling alcohol, combined together can create serious problems from people using or leaving the premises.
  
- **Designated Premises Supervisor** – the individual for the time being specified in the Premises Licence as the Premises Supervisor. This can include the Premises Licence holder. Every Premises Supervisor must have a Personal Licence.
  
- **Enforcement** – the Police remain key enforcers of licensing law, however, the Council Enforcement officers also have an enforcement role. The Guidance has no binding effect on police officers who, within the terms of their service policies and the law, remain operationally independent
  
- Entertainment includes:
  - The performance of a play
  - An exhibition of a film
  - An indoor sporting event
  - Boxing or wrestling entertainment
  - A performance of live music
  - Any playing of recorded music
  - A dance performance
  - Dancing
  
- It does not include:
  - Films as part of exhibitions in museums galleries etc



- Music incidental to something other than regulated entertainment
- TV and radio broadcasts
- Religious meetings or services
- Places of public worship
- Garden fetes unless for private gain
- Vehicles in motion

• **Other Persons** - are the bodies or individuals who are entitled to make representation to licensing authorities on applications for the grant, variation, or review of premises licence. Although any person or body may make a representation, the level of weight attached to a representation will differ depending on how close they are situated to the premises.

The group includes;

- A person
- A body representing a person or persons
- A person involved in a business
- A body representing person involved in such business e.g. A trade Association.

• **Late-night Refreshment** - outlets include places serving hot food or drink (or the means to heat it, for example, a microwave oven) to eat in the premises or to takeaway, between the hours of 11pm and 5am.

• **Licence Review** - In addition, responsible authorities and other persons will have the power to apply for a review by the licensing authority of existing licences on a ground relating to the promotion of the licensing objectives. Such a review can result in the modification of the licence, its suspension, or, ultimately, revocation.

• **Licensed Activities:**

- The retail sale of alcohol
- The retail supply of alcohol
- Regulated entertainment
- Late-night refreshment outlets between 11pm and 5am

**Licensing Committee** – a committee of 10 to 15 Councillors, appointed by the Council.

• **Licensing Objectives:**

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

• **Licensing Sub-Committee(s)** – one or more committees of three members appointed from the Licensing Committee to whom the functions of the Licensing Committee can be delegated under the Act.

• **Personal Licence** – permits individuals to supply, or to authorise the supply of alcohol. The licensing of individuals separately from the licensing of premises permits the movement of personal licence holders from one premises to another, allowing greater flexibility. It ends the outdated regime where publicans are tied by licence to the premises where they work.

• **Qualifying Clubs** - To be classified as a qualifying club in relation to a qualifying club activity, a number of general conditions must be met. These are that;

- under the rules of the club, persons may not be admitted to membership, or be admitted, as candidates for membership, to any of the privileges of membership without an interval of at least two days between their nomination for membership and their admission;
- under the rules of the club, those becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission;
- the club is established and conducted in good faith as a club;
- the club has at least 25 members;
- alcohol is not supplied to members on the premises otherwise than by or
- on behalf of the club.

To qualify as a club authorised to supply alcohol to its members and guests, additional conditions must be met. These are:

- The purchase and supply of alcohol by and for the club is managed by a committee made up of elected members of the club all aged over 18 years;
- No arrangements may be made for any person to receive any commission, percentage or similar payment at the expense of the club with reference to purchases of alcohol by the club;
- No arrangements may be made for any person to derive directly or indirectly any monetary benefit from the supply of alcohol to members or guests apart from to benefit the club as a whole or any indirect benefit a person derives by reason of the supply contributing to a general gain for the club as a whole.

• **Regulated Entertainment** - is entertainment that is:

- Provided to the public, or
- Exclusively to members of a qualifying club and their guests, or
- Entertainment provided for profit/personal gain

• **Representations** - considered to be relevant are those that address the likely effect of the application on the promotion of the four licensing objectives. If the representation is made by an interested party it will not be relevant if the licensing authority considers it to be vexatious or frivolous.

• **Responsible Authorities** - include:

- Chief Officer of Police
- The Fire Authority
- The enforcing authority for section 18 of the Health and Safety at Work etc Act 1974
- The local planning authority
- The local authority
- A licensing authority
- Social Services – Area Child Protection Agency
- Crime Reduction Partnership

• **Special Policy** - Where a high concentration of licensed premises has been identified as causing a problem for the area and where imposing conditions on individual premises licences may be ineffective in addressing the licensing objectives, the Council may consider the refusal of new licences.

• **Temporary Events** - relatively small scale events held in or on any premises involving no more than 499 people at any one time. Each event, which must be covered by a Temporary Event Notice, can last up to 96 hours, and no more than twelve events can be held at any particular premises in a year.

• **Vicinity** – usually taken to mean the area immediately around the licensed premises, i.e. in front, to the rear, the sides, above and below, but, where there is reasonable evidence to suggest that problems are directly linked to activity or customers of a particular premises, this can be extended. Ultimately, this will be decided by courts; however, the licensing authority will have to consider whether a resident or business would be directly affected by the carrying out of licensable activities on the premises.

• **Variation** – changes in the operation of a premises, club or event, including variation of operating hours and modification of the premises.

**Contacts and Further Information**

If you want further information about the service provided or the standards applicable please contact us or look at our website at [www.harrow.gov.uk/licensing](http://www.harrow.gov.uk/licensing)

Call the service on:

T 020 8901 2600

F 08452801845

e-mail [licensing@harrow.gov.uk](mailto:licensing@harrow.gov.uk)