

Licensing Act 2003 – Consultation Document on Licensing Policy

Introduction

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

Licensing Policy:

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

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

Context of the Policy:

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

How will the Policy be used?

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

Can anything be in the Licensing Policy?

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

How will the Policy be drawn together?

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

Address for Comments:

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

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

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

Appendix A:

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

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

1. Introduction:

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

2. Main Principles:

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

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

3. Crime And Disorder:

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

4. Applications:

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

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

5. Representations:

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

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

6. Cumulative Impact or Effect:

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

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

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

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

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

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

6.6 The Council will not use such policies solely:

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

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

7. Licensing Hours and Nuisance:

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

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

8. Prevention of Harm to Children:

ACCESS TO LICENSED PREMISES

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

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

ACCESS TO CINEMAS

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

CHILDREN AND PUBLIC ENTERTAINMENT

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

9. Public Safety and General Conditions:

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

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

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

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

10. Integrating Strategies and Avoiding Duplication:

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

11. Enforcement; Protocols with Enforcement Agencies:

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

12. Live Music, Dancing and Theatre:

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

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

13. Administration, Exercise and Delegation Of Functions:

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

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

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

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

Appendix B

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

| MATTER TO BE DEALT WITH | FULL COMMITTEE | SUB-COMMITTEE | OFFICERS |
|--|----------------|-----------------------------|------------------------------|
| Application for personal licence | | If a representation is made | If no representation is made |
| Application for personal licence with unspent convictions | | All cases | |
| Application for premises licence/club premises Certificate | | If a representation is made | If no representation is made |
| Application for provisional statement | | If a representation is made | If no representation is made |
| Application to vary premises licence/club registration Certificate | | If a representation is made | If no representation is made |
| Application to vary designated personal licence holder | | If a police representation | All other cases |
| Request to be removed as designated personal licence holder | | | All cases |
| Application for transfer of premises licence | | If a police representation | All other cases |
| Application for Interim Authorities | | If a police representation | All other cases |
| Application to review premises licence/club premises Registration | | All cases | |
| Decision on whether a complaint is irrelevant, frivolous, vexatious, etc | | | All cases |
| Decision to object when local authority is a consultee and not the relevant authority considering the application. | | | All cases |
| Determination of a police representation to a temporary event notice | | All cases | |

Appendix C

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

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

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

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

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

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

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

Appendix D

London Borough of Harrow

Licensing Policy – Licensing Act 2003

Consultation Response Sheet

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

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

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

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

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

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

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

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

We need your details as part of the consultation:

Name

Organisation

Address

Daytime Telephone Number

E mail address

Comment Form:

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

1. Introduction

General Comments on Introduction

2. Main Principles

General Comments on Main Principles

3. Crime And Disorder

General Comments on Crime and Disorder

4. Applications

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

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

Comments on 4.3:

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

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

Comments on 4.6:

General Comments on Applicants Section:

5. Representations

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

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

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

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

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

Comments on 5.3:

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

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

Comments on 5.6

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

General Comments on Representations Section:

6. Cumulative Impact or Effect

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

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

Comments on 6.2:

General comments on Cumulative Impact and Effect Section:

7. Licensing Hours and Nuisance

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

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

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

Comments on 7.8:

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

Comments on 7.9:

General Comments on Licensing Hours and Nuisance Section

Additional questions for consultees:

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

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

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

8. Prevention of Harm to Children

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

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

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

Comments on 8.3:

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

Comments on 8.7:

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

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

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

Comments on 8.9:

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

Comments on 8.10:

General Comments on Prevention of Harm to Children Section:

9. Public Safety and General Conditions

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

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

Comments on 9.3:

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

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

10. Integrating Strategies and Avoiding Duplication

General Comments on Integrating Strategies and Avoiding Duplication Section:

11. Enforcement

General Comments on Enforcement Section:

12. Live Music, Dancing and Theatre

General Comments on Live Music, Dancing and Theatre Section:

13. Administration, Exercise and Delegation Of Functions

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

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