



HILLINGDON
LONDON



Licensing Committee

Date: THURSDAY, 15 OCTOBER
2015

Time: 10.00 AM

Venue: COMMITTEE ROOM 5 -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE
UB8 1UW

Councillors on the Committee:

Dominic Gilham (Chairman)
David Yarrow (Vice-Chairman)
Lynne Allen (Labour Lead)
Roy Chamdal
Jazz Dhillon
Janet Gardner
Judy Kelly
Carol Melvin
John Morse
Brian Stead

Published:
Tuesday, 6 October 2015

Contact:
Mark Braddock
Democratic Services
Tel: 01895 250470
Email: mbraddock@hillington.gov.uk

This Agenda is available on the Council's Website at:
www.hillingdon.gov.uk

Putting our residents first

Lloyd White
Head of Democratic Services
London Borough of Hillingdon,
3E/05, Civic Centre, High Street, Uxbridge, UB8 1UW
www.hillingdon.gov.uk

Useful information for residents and visitors

Travel and parking

Bus routes 427, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away. Limited parking is available at the Civic Centre. For details on availability and how to book a parking space, please contact Democratic Services. Please enter from the Council's main reception where you will be directed to the Committee Room.

Accessibility

For accessibility options regarding this agenda please contact Democratic Services. For those hard of hearing, an Induction Loop System is available for use in the various meeting rooms.

Attending, reporting and filming of meetings

For the public part of this meeting, residents and the media are welcomed to attend, and if they wish, report on it, broadcast, record or film proceedings as long as it does not disrupt proceedings. It is recommended to give advance notice to ensure any particular requirements can be met. The Council will provide a seating area for residents/public, an area for the media and high speed WiFi access to all attending. The officer shown on the front of this agenda should be contacted for further information and will be available at the meeting to assist if required. Kindly ensure all mobile or similar devices on silent mode.

Please note that the Council may also record or film this meeting and publish this online.

Emergency procedures

If there is a FIRE, you will hear a continuous alarm. Please follow the signs to the nearest FIRE EXIT and assemble on the Civic Centre forecourt. Lifts must not be used unless instructed by a Fire Marshal or Security Officer.

In the event of a SECURITY INCIDENT, follow instructions issued via the tannoy, a Fire Marshal or a Security Officer. Those unable to evacuate using the stairs, should make their way to the signed refuge locations.



Agenda

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To approve the minutes of the meeting held on 17 June 2015 1 - 4
- 4 To confirm that the items of business marked Part 1 will be considered in public and the items marked Part 2 in private

Licensing Committee Reports - Part 1 (Public)

POLICY DISCUSSION

- 5 Review of Licensing Policies 5 - 160

INFORMATIVES

- 6 Scrap Metal Act 2013 - Update & Analysis 161 - 164
- 7 Private Members Bill in relation to Fixed Odds Betting Terminals 165 - 170
- 8 Legislative Update 171 - 174

BUSINESS REVIEW

- 9 Recent reporting changes to Licensing Sub-Committees & consideration of a new Universal Licensing Protocol 175 - 196
- 10 Forward Planner 197 - 198

Licensing Committee Reports - Part 2 (Private and Not for Publication)

11 Sub-Committee Decisions & Ratification of Minutes 199 - 220

12 Any other items the Chairman agrees are relevant or urgent



Minutes

LICENSING COMMITTEE

17 June 2015

**Meeting held at Committee Room 5 - Civic Centre,
 High Street, Uxbridge UB8 1UW**

	<p>Committee Members Present: Councillors Dominic Gilham (Chairman), David Yarrow (Vice-Chairman), Lynne Allen (Labour Lead), Janet Gardner, Judy Kelly, Carol Melvin, John Morse and Brian Stead</p> <p>Also Present: APS Ian Wares - Met Police, Emly Mitchell - Met Police</p> <p>LBH Officers Present: Claire Freeman - Regulatory Services, Stephanie Waterford - Regulatory Services Beejal Soni - Legal Services, Gill Oswell - Democratic Services.</p>
3.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>Apologies had been received from Councillors Roy Chamdal and Jazz Dhillon.</p>
4.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest notified.</p>
5.	<p>MINUTES OF THE MEETING HELD ON 16 APRIL 2015 AND 14 MAY 2015 (<i>Agenda Item 3</i>)</p> <p>The minutes of the meetings held on 16 April and 14 May 2015 were agreed as a correct record.</p> <p>16 April 2015 Minutes Updates</p> <p>Minute 28 - Community & Ancillary Sellers Notice - The Committee was informed that the announcement Order was still awaited from Central Government, once this had been received the fess could be set.</p> <p>Minute 29 - Reducing the Strength Update - Surveys in Uxbridge and Hayes had taken place but the initiative was currently on hold due to other commitments.</p>
6.	<p>PUBLIC HEALTH AND LICENSING (<i>Agenda Item 4</i>)</p> <p>The Committee received an update from officers in relation to a recent Public Health Licensing Conference. The report provided Members with the guidance from Public Health England on the current powers Licensing Authority's currently have to reduce alcohol related harm. Members were informed that Public Health was one of the responsible authorities and they were consulted on new and variations to licences and on licensing policy reviews.</p>

Members raised concerns that not all responsible authorities responded to consultations on licensing applications and felt that even if they had no concerns, a response should be provided. It was the Committee's view that these should then be included in the report to the Licensing Sub-Committees.

Officers appreciated Members concerns but explained that they were exploring a way of bringing this information forward for the sub-committees. It was explained that the hearing regulations stated that only relevant representation should be put before Licensing Sub-Committees. Any responsible authority's (RA) representations in reports meant that all parties should have an opportunity to ask questions about them.

It was Members view that this information needed to be included when sub-committees were considering licensing applications. It showed residents, which responsible authorities had no concerns about an application. It would also enable members to make an informed decision and to decide if the information that was provided was relevant or not.

The Committee felt that including RA responses in reports would show interested parties that the licensing application had been seen by RAs and that they had no concerns.

The Legal officer suggested that a compromise might be to consider providing information about the history of premises in the report.

The members re-iterated the importance they placed on the responses from RAs being included in the report especially now that Public Health fell within the remit of the Council.

Officers agreed to look at the concerns raised by the Committee and to explore the matter further.

Clarification was sought on the Cumulative Impact Assessment (CIA).

Officers explained that Cumulative Impact Policies (CIPs) related to stress areas to enable a cap to be put on hours of operation on certain category of premises, including off licences. Although the Council already has powers in relation to licensing and gambling premises, there has never been justification for its use in the Borough so far. Officers advised that they worked closely with the police and before any issues escalated, work with licence holders was undertaken. If this did not help then the review process was implemented.

A member asked that if there were no stress areas in the Borough why the Street Angels had been in operation in the area.

The Police felt that the Street Angels operated in areas where they lived and their presence was welcomed. In answer to a question raised in relation to stress areas, it was felt that there were not sufficient issues in the Borough to bring a CIP into force.

The Chairman asked officers to invite an officer from Public Health to the next Licensing Committee meeting to provide information on the statistics for alcohol related Accident and Emergency admissions.

Resolved - That the report be noted.

	The meeting, which commenced at 10.00 am, closed at 10.35 am.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Gill Oswell on Democratic Services Officer - 01895 250693. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

This page is intentionally left blank

REVIEW OF LICENSING POLICIES

Committee	Licensing Committee
Officer Contact	Stephanie Waterford, Residents Services
Papers with report	Appendix 1 - Summary of changes to each policy Appendix 2 - Draft Street Trading Policy Appendix 3 - Draft Markets Policy Appendix 4 - Draft Statement of Licensing Policy Appendix 5 - Draft Statement of Gambling Policy
Ward(s) affected	All

HEADLINE

To notify Committee Members on the current consultation taking place in relation to four key licensing policies and invite Members to make any comments in response.

RECOMMENDATION

That the Committee:

- 1. Provide their comments on the draft policy documents, noting that they will set the framework for future Licensing Sub-Committee decisions;**
- 2. Request the Senior Manager, Democratic Services drafts the Committee's proposed response to Cabinet, subject to being circulated to Committee Members and final agreement by the Chairman and Labour Lead.**

SUPPORTING INFORMATION

- 1.1 The Council is required to review its licensing policies at regular intervals to ensure that it is carrying out licensing functions in accordance with current legislation. During this review, consideration has been given to how changes might improve the way in which services are being delivered, to make them more efficient and customer friendly.
- 1.2 Draft policies have been produced for key pieces of licensing legislation. These policies now need to be consulted upon, prior to final consideration by Cabinet or adoption by full Council. An overview of each policy, and the reasons behind each review, are detailed below.

Street Trading Policy

- 1.3 The current policy was introduced in September 2011 and combined licensing processes for street trading activity and street markets. These are two distinct areas of licensing. The approval considerations and legalities are different and during the

review of the current policy, it was decided to separate street trading and market licensing elements to provide a simpler approach and so more concise policy documents.

- 1.4 The review proposals seek to reduce administrative burdens on applicants and businesses by reducing application documentation to the minimum required by legislation.
- 1.5 In order to reduce administrative burdens on applicants and processing costs, it has also been proposed to licence street traders on a yearly basis, compared to the six-monthly basis under the current arrangements.
- 1.6 The draft policy is attached at appendix 2

Markets Policy

- 1.7 As detailed above, the Street Trading and Markets Policy has been split into two separate policies.
- 1.8 Changes are proposed for the layout, format and wording of this document in order to improve readability and to reduce jargon. However, overall, the provisions are not proposed to be changed substantially.
- 1.9 The draft policy is attached at appendix 3.

Statement of Licensing Policy

- 1.10 The Licensing Act 2003 controls sales of alcohol, regulated entertainment and late night refreshment. The Council is required by Section 5 of the Licensing Act 2003 to review the Statement of Licensing Policy every five years. Hillingdon's current policy was adopted by Full Council in January 2011 and is therefore due for review, and subsequent approval by January 2016, before it expires.
- 1.11 There have been a number of legislative changes under the Licensing Act, most notably, the deregulation of entertainment. This has been incorporated into the revised policy.
- 1.12 The draft policy is attached at appendix 4.

Statement of Gambling Policy

- 1.13 The Gambling Act 2005 regulates gambling activity such as betting shops, bingo halls and gaming machines. The Gambling Act 2005 requires the Council to review its Gambling Policy every three years. The last policy was adopted in January 2013 by Full Council and is therefore due for review and approval by January 2016, before it expires.
- 1.14 There has been little change to gambling legislation since 2013 and so very few changes are proposed to the policy. However, further changes to legislation are due to come into force next year. Once these are in place, a further review of the policy may be necessary.

1.15 The draft policy is attached at appendix 5.

Legal implications

Licensing Act Policy

- 1.16 The Council has a statutory duty under Section 5 of the Licensing Act 2003 to review and republish its Statement of Licensing Policy every 5 years. The Licensing Act 2003 also specifies that a consultation be held prior to adoption, including specifying statutory consultees. The current policy needs to be formally reviewed consulted upon and republished by the end of January 2016. Failure to do so will be a breach of the Council's statutory duty.
- 1.17 The draft revision of the Policy reflects changes in legislation and statutory guidance since the last statement was published, in particular the changes made by the Police and Social Responsibility Act 2011, and are also consistent with the current guidance issued by the Secretary of State under Section 182 of the 2003 Act. However, apart from these legislative updates and making the policy more “user friendly”, the Licensing Statement remains broadly the same.
- 1.18 The revised Statement of Licensing Policy is part of the Council’s policy framework under the Constitution and will need to be formally approved and adopted by both Cabinet and full Council prior to January 2016.

Gambling Act Policy

- 1.19 The Council has a statutory duty under Section 349 of the Gambling Act 2005 to review and republish its Statement of Gambling Policy every 3 years. As is the case with the Licensing Act 2003, the Gambling Act also specifies that a consultation be held prior to adoption, including specifying statutory consultees. The current policy needs to be formally reviewed consulted upon and republished by the end of January 2016. Failure to do so will be a breach of the Council's statutory duty.
- 1.20 The draft revision of the Policy reflects changes in legislation and statutory guidance since the last statement was published, in particular the changes made by the introduction of Local Area Profiles and compulsory risk assessments by operators. However, apart from these legislative updates and making the policy more “user friendly”, this policy remains broadly the same.
- 1.21 The legislation requires that the revised Statement of Gambling Policy should be formally approved and adopted by both Cabinet and full Council prior to January 2016. The revised policy is in draft form and may be amended subject to responses during the consultation period. Further regulations and procedures with regard to Local Area Profiles will become operative from May 2016. This may result in a further review of the policy in 2016.

Street Trading Policy

- 1.22 The London Local Authorities Act 1990 (as amended) requires that a public consultation be held for a minimum of 28 days before a draft policy can be adopted

as a final policy. The legislation specifies that details of the consultation should be published in the form of a notice in both the London Gazette and a local newspaper. The proposed policy is in draft form and may be amended subject to responses during the consultation period.

Markets Policy

- 1.23 The Food Act 1984 does not require a policy to be adopted. As such general principles of consultation should be followed in respect of this policy. Consultation must be undertaken when proposals are still at a formative stage, must give sufficient reasons to permit the consultee to make a meaningful response, must allow adequate time for consideration and response, and the results of the consultation must be conscientiously taken into account in finalising any proposals.
- 1.24 It is noted that this draft policy was previously part of a joint Street Trading and Markets Policy. As such consultation in line with the Street Trading Policy would be suitable in this case. This draft revision, to create a separate policy for Markets, accords with the requirements of the legislation.

Timetable

- 1.25 The proposed timetable for policy implementation is set out below:

24 th September 2015	Draft Policies agreed by Cabinet
5 th October to 20 th November 2015	Public & Statutory consultation period.
15 th October 2015	RESPOC
15 th October 2015	Licensing Committee
17 th December 2015	Final set of proposed policies to Cabinet post-consultation (Street Trading and Market Policies may be approved by Cabinet at this meeting)
14 th January 2016	Statements of Licensing and Gambling Policies considered at Full Council

Financial Implications

None at this stage.

Background Papers / Further Reading Material

Current Street Trading & Markets Policy
 Current Statement of Licensing Policy
 Currently Gambling Policy

Appendix 1 - Overview of proposed policy changes

Draft Street Trading Policy

The Policy has been reviewed following a change in working practices since the introduction of the last policy in early 2011, and in order to incorporate feedback received since that time, from ward Councillors, the trade and community groups.

The current policy covers street trading and markets which are two distinct areas of licensing. The approval considerations and legalities of these areas are different and, during the review of the current policy, street trading and market licensing have been separated to provide clearer and more concise policy documents. This policy relates to Street Trading only.

General changes

There are several changes to the layout and format of the policy document in order to improve readability.

The Policy additions and changes are as follows:

Section 1 - Introduction and intention

New introduction and intention section combining current policy sections 1 & 2. This has also been expanded to set out the Council's intention clearly, particularly in para.1.3 where a vision for street trading is proposed. Para.1.6 states that a consultation will be carried out prior to final approval of the policy - Regulatory Services will carry out a 6 week consultation with relevant stakeholders once agreed by Cabinet.

Section 2 - Other Legislative Considerations

This is a new section which informs applicants and licence holders of their obligations under separate legislation.

Section 3 - Eligibility and Suitability Criteria for Applicants

Minor changes to the text of Section 4 in the current policy have been made in order to make it clearer for applicants.

Section 4 - Types of Authorisation

This section combines section 7.0 and 8.0 of the currently policy. It removes the requirement for holders of temporary licenses to hold such a licence for three years before a permanent licence will be considered. In addition, temporary licences are only issued for a maximum of six months; this means that applicants currently need to renew their licence twice per year.

This has created a burden on applicants and also on the Council's processing teams. Allowing applicants to apply for a permanent licence would halve the processing costs but still retain the current revenue from fees.

The street trading legislation allows Councils to issue permanent licences for periods between one and three years. The Councils will still retain the same enforcement powers to review, revoke and prosecute for licensing offences, with this change.

The new paragraph, 4.1, states that permanent licences will be available to applicants for pitch, shop front and table and chair licences and will be valid for one year.

Section 5 - Fees

This replaces section 6 of the currently policy, and has been revised to streamline the processing of applications. The street trading fee is a 'licence' fee, not an 'application' fee, and the currently policy requires payment of the fee on grant of the licence. This change allows for payment of the fee upon application.

Section 6 - Application Requirements

This is a revision of section 5.0 of the current policy. The application requirements have been reduced in line with the minimum requirements in the Act. Paragraph 6.1 details these requirements for applicants and this mirrors similar requirements for other licence application types, thus streamlining processes.

This section also includes an additional requirement relating to barriers surrounding a trading area. Paragraph 6.7 requires applicants of tables and chairs licences, to submit full details of the proposed equipment, so that officers can better assess any damage to the Highway, prior to the granting of the licence. Currently, licence holders of tables and chairs licences are required to comply with a condition relating to barriers but there is no requirement to submit details.

Section 7 - Special Provisions for Community/Charity Trading Licences

This is a new section to allow for a lighter touch approach to community or charity trading events. Whilst maintaining the minimum statutory requirements for temporary licence applications, the consultation period has been shortened to allow for late notice of trading activities. There is also provision for community/charity groups to request a waiver of the licence fee.

Section 8 - Consultation

This section has some text changes to Section 19 in the current policy. In addition the following policy changes have been made:

- Local traders and businesses have been removed from the list of consultees, as this is more effectively carried out through the trade associations and ward Councillors.
- A consultation period for Community/Charity trading licences has also been specifically addressed.
- The requirement for applicants to display a 'notice of application' has been removed to reduce the burden on applicants. This will also reduce officer time in processing the application. There is no requirement to display a notice in Street Trading legislation.

Section 9 - Assessing consultation feedback and objections

This has been simplified from Section 20 in the current policy.

Section 10 - Decision making

This section has been significantly revised from Section 23 in the current policy and now clearly sets out the Mandatory and Discretionary grounds for refusal. This makes the Council's decision making powers clearer.

Section 11 - Hearings

This is a revision of Section 22 in the current policy which clarifies the Council's hearing procedures.

Section 12 - Appeals

Text changes to Section 24 in current policy to make it clearer and more readable.

Section 13 - Conditions and Standards for Licence Holders

This is a new section incorporating Section 32 in the current policy. This clearly sets out the Council's expectations of traders and refers to the conditions contained in Appendix 3 (these conditions have not changed from the current policy).

Section 14 - Special provision for certain geographical locations

This is a new section giving the Council the option of imposing standard trading times and pitch sizes in certain areas. Any proposals for standardisation could be considered in line with any town centre improvements. If this section is adopted, the delegation of these powers would also need to be considered.

Section 15 - Delineation

This is a newly proposed section giving the Council the option to delineate certain trading areas. This could be for a number of reasons, but would define trading areas to make it easier for traders to identify their allocated area. It may also reduce levels of street trading enforcement. If this section is adopted, the delegation of these powers would also need to be considered. There is also a cost implication to the Council in terms of implementation, maintenance and removal costs (studs) if the permitted trading areas should change.

Section 16 - Duration of Licences

This is a revision of Section 25 of the current policy to incorporate a new proposal to issue permanent licences to traders for a period of one year. This removes the requirement for new applicants to hold a temporary for three years prior to being given a permanent licence. This will reduce the red tape currently associated with the application process for both applicants and Officers.

Section 17- Offences

This is a new section which outlines the offences relating to street trading activities.

Section 18 - Enforcement and Review Action

This section proposes minor text and layout changes to Section 26 in the current policy to improve the flow of this section and assist traders, Officers and the Licensing Sub-Committee.

Section 19 - Renewals

This is revision of section 10 in the current policy incorporating more detailed renewal application requirements to assist applicants.

Section 20 - Variations

This is an expansion of Section 11 in the current policy which sets out a procedure for applicants to make variations to their licences during the duration of the licence. The section also makes provision for fees to be charged to administer variations.

Section 21- Succession

Test changes to Section 9 in the current policy to make clearer to understand.

Section 22 - Lapsing of Street Trading Licences

A new section included to cover circumstances where licences may lapse. This is not addressed in the current policy.

Section 23 - Designation of Licence Streets

This section is the same as section 27 in the current policy with the addition of 23.4 and 23.5. These set out the circumstances where the Council may consider new trading locations that are not included in the current list of designated streets.

Section 24 - Exemptions

This is a new section which sets out the exemptions under the Act. This is not addressed in the current policy.

Section 25 - Commodities

This has very minor text changes relating to Section 30 in the current policy.

Section 26 - Motor Vehicles

This is a new section to outline the restrictions on selling motor vehicles, which are detailed in the Act, but not addressed in the current policy.

Section 27 - Ice Cream Traders

This is a revision of Section 31 in the current policy. The list of current prohibited locations can be found in the revised policy in Appendix 5. Consideration could also be given to expand this to include Council parks and green spaces.

Appendices

Appendix 1 - List of Designated Licensed streets

No change

Appendix 2 - Commodities

No change

Appendix 3 - Terms and Conditions for Street Traders

No change

Appendix 4 - Special Provisions (conditions specific to tables and chairs and shop fronts)

No change

Appendix 5 - Prohibition of Ice Cream Traders

To reflect the new housing development on the former RAF site, consideration may wish to be given to amending the Area of Uxbridge town centre where some trading is prohibited.

Draft Markets Policy

The Street Trading and Markets Policy has been reviewed following changes in working practices since the introduction of the current policy in 2011, also to incorporate feedback received, and to simplify processes.

The current policy covers both street trading and markets which are two very distinct areas of licensing. The approval, consideration and legalities of these two areas are different and during the review it was decided to separate the two areas to provide clearer and more concise policy documents. This proposed policy relates to Markets only.

General changes

There are several changes to the layout, format and wording of this document in order to improve readability.

Policy additions and changes are as follows:

Section 1 - Introduction and Intention

This is a new section which sets out the Council's vision, where markets are proposed.

Section 2 - Legislative Back ground

This is a new section which sets out the legislative framework under which markets are licensed.

Section 3 - A Single Licence for Markets

This is the same as section 13 in current policy. There are minor changes to text in final sentence to improve readability.

Section 4 - Occasional Street Markets

No change from section 14 in current policy.

Section 5 - Charity and Community Markets

This appears the same as section 15.0 in current policy with a minor change to point 15.0 (f) which now makes provision for a relaxation to the requirement to make an application three months prior to the event.

Section 6 - Approval in Principle

There is a minor change to section 16.0 in the currently policy, to reflect a change in the name of the administering team and to provide additional information in the final paragraph to assist applicants.

Section 7 - Applications and Supporting Information

This remains unchanged from section 17.0 in current policy.

Section 8 - Market Fees

There are minor changes to the text in section 18.0 of current policy, to reflect a change in name of the administering team.

Section 9 - Consultation and Advertisement

This is a revision of section 19.0 of the current policy. It has been rewording to make it easier to read. There is also the addition of Food Health and Safety team as a consultee where food items are proposed.

Section 10 - Consideration of Applications

Minor text changes to section 21.0 of current policy to improve readability.

Section 11 - Hearings

This is a revision of section 22 in the current policy which clarifies the Council's hearing procedures by providing more detail.

Section 12 - Decision-Making and Grounds for Refusal

This is the same as section 23.0 in currently policy, where it applies to Markets.

Section 13 - Duration of Licence

Appears the same as section 25 of current policy where it refers to markets.

Section 14 - Enforcement Action

This is a revision of section 26.0 in the current policy. It has been simplified to reflect the enforcement approach with respect to markets.

Section 15 - Other Legislative Considerations

Complete revision of 28.0 of current policy to reflect considerations specific to market licences.

Section 16.0 - Policy Review

This is as section 29.0 in currently policy. There are minor changes to text to reflect changes in officer titles.

Section 17.0 - Licence Conditions

These are unchanged from appendices 4, 7 and 8 in the current policy and can be found in Appendix one of the revised policy.

Draft Statement of Licensing Policy

The Council is required by the Licensing Act 2003, to review the Statement of Licensing Policy every five years. The current policy was revised in 2010 and adopted by Full Council in January 2011.

There have been a number of changes in legislation, most notably the deregulation of entertainment activities. Case law is also constantly influencing the interpretation of the legislation and shapes the way in which the Licensing Authority makes its decisions.

This policy relates to the Licensing Act 2003 only, which regulates alcohol sales, regulated entertainment and late night refreshment.

General changes

There are a number of changes to the layout and format of the policy document in order to make the document easier to read. Additional sections have also been included.

The Policy additions and changes are as follows:

Section 1 - Introduction and Background

New introduction and background section simplifying part of section 1 of the current policy and adding some detail about the number of authorisations currently in force.

Section 2 - Policy Statement

This is a new section incorporating the remainder of Section 1 in the current policy and adding paragraphs setting out the intention of the policy at 2.1 and 2.3.

Section 3 - Consultation

This is a duplication of the consultation section in the existing policy. The list of consultees has been revised mainly to refer to categories of consultees rather than individual consultees.

Section 4 - General Principles and the Role of the Licensing Authority

This is a reformat of Section 5 in the current policy, the wording remains the same.

Section 5 - Integration of Strategies and Avoidance of Duplication

This is a revision of Section 3 of the current policy and creating specific paragraphs for planning and noise nuisance. These sections have been given individual acknowledgement as they are specifically mentioned in the Government Guidance and are the areas where duplication is most likely. The list of suggested measures to deal with issues outside of the licensing regime has been removed as legislation in other areas is subject to change and each set of issues is best addressed on an individual basis rather than by way of a general policy.

Section 6 - Promotion of Equality

This is a duplication of Section 4 of the current policy. The wording remains unchanged.

Section 7 - Prevention of Crime and Disorder

This section currently features in section 6.2 of the current policy and has been revised to set out clearer expectations of applicants and licence holders. It has also been updated to reflect current working practices with Police Licensing Officers.

Section 8 - Public Safety

This section currently features in section 6.3 of the current policy and has been revised to set out clearer expectations of applicants and licence holders. It has also been updated to reflect current working practices with Health and Safety Officers and Officers of the London Fire and Emergency Planning Authority.

Section 9 - Prevention of Public Nuisance

This section currently features in section 6.4 of the current policy and has been revised to set out clearer expectations of applicants and licence holders. New paragraphs have been added at 9.4 and 9.5 to specifically address nuisance caused by smokers and from the use of smoking shelters. This is due to an increase in issues associated with this activity since the introduction of the smoking ban and the current policy.

Section 10 - Protection of Children from Harm

This section currently features in Section 6.5 of the current policy and remains largely unchanged. There has been an addition in Para 10.5, of measures to protect children from harm in licensed premises. This sets out clearly the steps which applicants and licence holders may wish to include in their business operations and also steps which the Licensing Authority may impose where there are issues.

Section 11 - Public Health and Licensing

Since the introduction of the current policy in 2011, Public Health have become a 'Responsible Authority' meaning that they now get consulted on every licence application and can make representations against them. Section 11 is a new section to reflect the changes.

Section 12 - Licensing Committee

Currently featuring as Section 2 of the current policy, the wording remains unchanged however it has been located to a more logical location within the revised policy.

Section 13 - Authorisations and Applications

Section 9 of the current policy has been incorporated into Section 13 and additions have been made to give each type of authorisation specific acknowledgement. New additions at 13.8 and 13.9 have been included to state clearly the eligibility for permissions relating to Members Clubs, which was not included in the current policy. Para's 13.12-13.15 specifically acknowledges personal licence holders in their capacity as a 'Designated Premises Supervisor', previously not included in the current policy.

Section 14 - Representations

This replaces and incorporates Section 10 in the current policy. There have been a number of additions from Paragraph 14.5 detailing the Licensing Authority's expectations from those persons or bodies submitting representations. This has

been included because there have been a number of issues with representations and petitions being submitted in the incorrect format, or outside of the consultation period. Making these points clear in policy will assist persons wishing to make representations to do so in the correct way. A new paragraph 14.9 has been added to clarify the position regarding representations made on the basis of 'need'.

Section 15 - The Role of the Ward Councillor

A new section to clearly define the role of ward Councillors in the licensing process. Also incorporating Hillingdon's own procedure to consult with Ward Councillors for each premises licence application.

Section 16 - Decision Making and Licensing Hearings

A new section setting out the decision making powers of the Licensing Authority and the process and the way in which decisions are delivered at licensing hearings.

Section 17 - Licence Conditions

This section has been reduced from the current Section 11 as the Mandatory Conditions have gone through several revisions since 2010; these have therefore been taken out of the body of the policy and included in an Appendix. A new paragraph 17.3 also refers to the use of model conditions at the discretion of the Licensing Authority

Section 18 - Enforcement

A new section to address enforcement specifically referring to the 'Residents Services Enforcement Policy' and referring to the joint enforcement carried out with Police colleagues. This is not included in the current policy.

Section 19 - Reviews

This incorporates Section 12 in the existing policy but has been expanded to refer to the statutory consultation at paras 19.5 and 19.6. New paragraphs 19.7 - 19.9 have been added to refer to expedited review powers and reviews following closure orders, which were not included in the current policy.

Section 20 - Cumulative Effect

This section appears at Section 7 of the current policy and the wording remains largely unchanged.

Section 21 - Licensing Hours

This section appears at Section 8 of the current policy and the wording remains largely unchanged.

Section 22 - Exemptions

Section 13 (live music, dance and theatre) in the current policy has been removed. This is because most entertainment activities have been deregulated by government. Instead, Section 22 outlines, in brief, the exemptions relating to entertainment. It also makes reference to the need for authorisations where 'relevant entertainment' is provided at paragraph 22.4.

Draft Statement of Gambling Policy

The Council is required by the Gambling Act 2005 to review the Statement of Gambling Policy every five years. The current policy was revised in 2010 and adopted by full council in 2011.

In the intervening time there have been only minor changes to legislation and as such there are very few changes proposed to this policy. Text additions and changes are identified in bold and deletions struck through.

It should be noted, however, that there will be a more significant changes to gambling legislation that come into force From 6 April 2016 next year. Local operators will have to risk assess their premises and share these assessments with the Council.

Additionally, councils may (if they so wish) commission local area profiles detailing the effects of gambling with regard to areas / boroughs / communities. It is anticipated that these local area profiles will be used in a number of ways:

- by operators when risk assessing their premises;
- by local authorities when determining applications, imposing conditions or when considering saturation policies.

It is therefore proposed that a further review of the Gambling Policy is undertaken at a point when the updated regulations that are expected next year, are in place, and when the impact of the local area profiles and / or saturation policies will be fully understood.

Policy additions (shown in **Bold** in the draft policy) are:

- **Part 4 - Local Area Risk Assessments and Local Area Profiles** have been recently introduced by the Gambling Commission in February 2015, placing responsibility on applicants to assess and profile the area specifically around the proposed licensed premises.
- **Para 5.10** - refers to 'primary gambling activity' this has been included due to recent case law involving betting premises and the use of high stake/high prize gaming machines.
- **Para 5.12** - is an addition relating to relevant factors in the consideration of licensing 'separate premises' in the same building.
- **Para 5.17** - makes clear the entitlement to grant a licence but expresses that this entitlement is not an obligation.
- **Para 5.48** - clarifies that the restriction of betting machines is a power which can be used for premises licensed for the sale of alcohol only.
- **Para 5.58** - this has been expanded to place greater emphasis on the Councils expectations in respect of Adult Gaming Centre licence applications.
- **Para 6.15** - makes provision for plans to be submitted if they are not to scale.

This page is intentionally left blank



HILLINGDON

LONDON

Street Trading Policy
The London Government Act 1990
(As amended)

Draft

Contents:

- 1. Introduction and Intention**
 - 2. Other Legislative Consideration**
 - 3. Eligibility and Suitability Criteria**
 - 4. Types of Authorisations**
 - 5. Fees**
 - 6. Application Requirements**
 - 7. Consultation**
 - 8. Decision Making**
 - 9. Assessing Consultation Feedback and Objections**
 - 10. Decision Making**
 - 11. Hearings**
 - 12. Appeals**
 - 13. Conditions**
 - 14. Special Provisions Relating TO Certain Geographical Locations**
 - 15. Delineation**
 - 16. Duration of Licences**
 - 17. Offences**
 - 18. Enforcement and Review Action**
 - 19. Renewals**
 - 20. Variations**
 - 21. Succession**
 - 22. Lapsing of Street Trading Licences**
 - 23. Designation of Licence Streets**
 - 24. Exemptions**
 - 25. Commodities**
 - 26. Motor Vehicles**
 - 27. Ice Cream Traders**
-
- Appendix 1 - List of Designated Licence Streets**
- Appendix 2 - Commodities**
- Appendix 3 - Terms and Conditions for Street Traders**
- Appendix 4 - Special Provisions (Tables and Chairs and Shop Fronts)**
- Appendix 5 - Prohibition of Ice Cream Traders**
- Appendix 6 - Definitions of Street Trading**

1. Introduction and intention

- 1.1 Local Authorities may regulate street trading activities and apply local controls in their area. For the purposes of controlling street trading in the London Borough of Hillingdon, the Council has previously adopted the relevant provisions of the 'London Local Authorities Act (as amended)'.
- 1.2 This policy is intended to provide a framework for the Council to administer and regulate street trading to ensure a consistent approach is taken. It also serves as a reference for licence holders, relevant stakeholders and enforcement officers as to the Councils intended vision and approach to street trading activities.
- 1.3 The Council is keen to create a thriving street trading environment which is sensitive to the needs of traders and residents and one which promotes consumer choice and enhances the trading and business opportunities in the borough.
- 1.4 In regulating street trading activities, the Council aims to reduce the administrative burdens on applicants and licence holders by reducing administrative burdens from the application process and also creating a clear and transparent guide for traders.
- 1.5 The Council will not deviate from this policy unless there is an unavoidable reason to do so.
- 1.6 In the development of this policy, the Council has consulted with licence holders, partner agencies and other stakeholders
- 1.7 Street trading activities are regulated by Part 3 of the London Local Authorities Act 1990 (as amended) which provides Local Authorities in London with an authorisation process to control the following activities;
 - Street Trading Pitches
 - Tables and Chairs on the Highway
 - Shop Front Displays
- 1.8 The Council has powers to designate a street as a 'licence street' and can prescribe the types of commodities or services which will be authorised by a licence.
- 1.9 Licences may be granted to persons over the age of seventeen and last for up to three years or a shorter period as determined by the Council.

2. Other Legislative Considerations

- 2.1 Traders should be aware that this policy relates only to street trading activities and it is the responsibility of the trader to ensure that they are compliant with other legislation. Traders should consider whether their activities are likely to require authorisation and/or compliance with other regulatory regimes. For example; Planning, Building Control, Food Safety, Health & Safety, Control of Waste, Highway Obstruction, Trading Standards, Late Night Refreshment/Entertainment/Alcohol Licensing etc.

3. Eligibility and Suitability Criteria for Applicants

- 3.1 Applicants wishing to be granted a street trading licence may apply to the Council provided that they are aged seventeen or older.
- 3.2 The Council will assess the suitability of the applicant on a case by case basis and may have regard to any relevant enforcement history concerning the applicant and/or the location of the proposed street trading.

4. Types of Authorisation

4.1 *Permanent licences*

A permanent licence will usually be issued to applicants for pitch, shop front and tables and chairs licences and will be valid for one year. In some circumstances, the Council may decide to issue a temporary licence to a new trader, or to a trader renewing a licence where there have been issues with enforcement.

4.2 *Temporary Licences*

Temporary licences will be issued to applicants for pitch licences where the trade is only proposed for one day to six months, or where the trading activity is part of an event or promotion. Temporary Licences will also be available to applicants of pitch, shop front or tables and chairs licences who may wish to trade seasonally or for short periods of time. For example; where a business is going to be sold and a licence is only required for a short time; a seasonal extension to accommodate trade at specific times of the year.

5. Fees

- 5.1 Street Trading licence fees will be set and reviewed from time to time by the Council and any changes to those fees will be advertised in accordance with the provisions of the London Local Authorities Act 1990 (as amended).
- 5.2 The fees are licence fees and are only applicable to licences granted. The Council respectfully requests that payment is made at the time of application

and where a licence is refused for any reason, a full refund will be given to the applicant.

5.3 Where a licence is revoked for reasons beyond the licence holders control, for example, where the highway has been redeveloped and there is no longer sufficient space for the trading activity to take place or where the Council has introduced a ban on certain commodities that were previously licensed, the Council will offer a partial refund of the licence fee. This will be calculated on pro-rata basis in whole months.

5.4 Where a licence has been revoked for reasons within the control of the licence holder, the Council will not issue a refund of the street trading licence fee.

6. Application Requirements

6.1 The Council will require the following submissions to be made in respect of applications, in line with the legislation;

- a) Full name, home address and date of birth of applicants;
- b) The location of the proposed street trading activity including the days and times;
- c) The description of goods and/or services offered for sale;
- d) Proof of permission to trade from the landowner or a statement from the applicant if he is the landowner;
- e) One passport style photograph of the applicant;
- f) Proof of public liability insurance (minimum £2million).

6.2 In addition to those legislative requirements, the Council will also seek the following information from the applicant;

- a) Details of any installations needed to carry out the street trading activity for example, a vehicle, shop front display units, tables and chairs;
- b) The names and addresses of the applicants nominated assistants;
- c) The name and address of a person nominated for succession of the licence.

6.3 Unless there is a specific need to do so, the Council will not routinely require any further submissions from applicants.

6.4 Specific licence types will require the applicant to supply the Council with specific information. Most of this will be contained within the application form. Some examples of what information the Council will be seeking are outlined below;

6.5 Pitch applications

The Council will require details of the vehicle or stall set up being proposed. There will be an opportunity to give this information within the application form however, it may also be appropriate for the applicant to provide photographs or site plans of the proposed installations.

6.6 Shop front display applications

The Council may authorise shop front displays in the area directly outside a shop. The applicant will usually make an application in whole metres from the boundary of the shop frontage, however in some circumstances, it may be appropriate to issue licences for a portion of a metre. This will be dependent upon the availability of space and level of footfall in the surrounding area.

6.7 Tables and chairs applications

Licences for tables and chairs will contain a standard condition requiring the licence holder to create a temporary barrier around the trading area. The applicant may be asked to provide full details of the barriers and the tables and chairs, this may include photographs. Details of the type of furniture to be placed on the highway should also be included in the application form.

7. Special Provisions for Community/Charity Trading Licences

7.1 Community/Charity trading licences will be issued to organisations that are not carrying out trading activity for the purpose of making a profit on an occasional or temporary basis. Whilst the activity may be legally regarded as Street Trading activity, the overall purpose may be non commercial and the Council may apply a 'light touch' to the application process.

7.2 The Council will consider individual applications for Community/Charity trading licences on a case by case basis and acceptance will be assessed in the following circumstances:

- fundraising activities,
- promotion of charity or other local cause,
- promotion of community services.

7.3 The licences will be applied for in the same way as Temporary Street Trading Licences.

7.4 The Council may also consider the grant of a waiver or reduction of the licence fee where requested.

8. Consultation

- 8.1 Upon receipt and acceptance of an application, the Council will carry out a consultation with the relevant Ward Councillors, the Council's Highways Service, the Council's Enforcement Officers and any trade representative i.e. Chamber of Commerce or Town Centre Management. The Council's Food Safety team will be consulted where the application is proposing to trade in food items. Applications will also be displayed on the Council's website.
- 8.2 The purpose of the consultation is to seek assurances that the applicants proposals satisfy the requirements of the legislation and that they are suitable to be licensed. Through the consultation process, certain discretionary grounds for refusal or modification of applications may be identified.
- 8.3 For Permanent and Temporary Street Trading Licences, the consultation period will last for twenty one consecutive days starting with the day after the application has been received.
- 8.4 For Community/Charity Trading Licences, the consultation will be for a minimum of five consecutive days starting with the day after the application was received.
9. Assessing consultation feedback and objections
 - 9.1 Where the Council receives feedback or an objection to an application consultation, it will carefully consider whether that feedback/objection may influence the Councils discretionary decision making powers.
 - 9.2 The Council will not consider any feedback or objections where they are; frivolous, vexatious or repetitious. Such objections are considered not 'relevant'.
10. Decision Making
 - 10.1 The Council has powers to consider a wide range of matters on which to refuse street trading licences. Any decisions made upon these grounds will be evidenced and justified after careful investigation into any responses received to the consultation process. The Council's decision making powers are split between mandatory and discretionary grounds for refusal.
 - 10.2 Certain grounds for refusal may also present themselves through the application process. Where these grounds are identified, the applicant will be offered the opportunity to amend the application before it is determined.
 - 10.3 The mandatory grounds for refusal are:

- a) The applicant is under the age of seventeen.
- b) The proposed trading location is not within a designated licence street.
- c) The applicant is proposing to sell goods or services which the Council has resolved to ban.
- d) There is not enough physical space within the proposed trading location and any trading activity would have an adverse impact on the surrounding area by causing obstructions to persons or vehicles using the street.
- e) The applicant has made an application to trade in a location which does not satisfy the definition of a 'street' for the purposes of the legislation.

10.4 The determination of applications where no relevant adverse feedback has been received during the consultation period, will be determined by Officers delegated for the purpose, and may be changed from time to time as appropriate.

10.5 The discretionary grounds for refusal are:

- a) There are enough street traders in the area offering the same or similar goods to those of the applicant.
- b) The applicant is unsuitable to hold a licence.
- c) The applicant has previously demonstrated misconduct or unscrupulous behaviour whilst being the holder of a street trading licence.
- d) The applicant has failed to comply with the terms or failed to pay a fee of a street trading licence.
- e) The applicant has failed to propose suitable measures for the storage of perishable items when street trading is not taking place.
- f) The applicant of a shop front licence is proposing to sell goods or offer services which are not sold or offered for sale within that shop.
- g) The applicant is not the owner/occupier of a shop outside which a shop front trading licence is sought.

10.6 Where relevant adverse feedback has been received within the consultation period and discretionary grounds for refusal have been identified, the Council's Licensing Sub-Committee will be tasked with making determinations. Where applications are heard by the Licensing Sub-Committee, the Sub-Committee may exercise its discretion on accepting late objections if they are relevant and where there are demonstrable mitigating circumstances for being submitted outside the consultation period.

10.7 The Council may also have regard to the other following factors when considering the impact on the local area of the proposed trading activity. This may result in additional conditions being imposed upon any licence granted.

- a) Public Safety – whether the street trading activity represents, or is likely to represent, a substantial risk to members of the public from the point of view of obstruction of the highway for emergency vehicles, or otherwise, a fire hazard, unhygienic conditions or other danger that can be reasonably foreseen, that may occur when a trader is using the site.
 - b) Prevention of Crime and Disorder – whether the street trading activity represents, or is likely to represent, a substantial risk to public order. This is potentially more of an issue for traders wishing to operate as part of the night time economy.
 - c) Prevention of public nuisance or environmental damage – whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance or environmental issues. Examples include; damage to street surfaces; noise; litter; refuse; vermin; fumes/odours etc.
 - d) Appearance of trading area – Whether the street trading area is properly constructed and presented and enhances the aesthetic street scene of an area. Guidance will be given to applicants regarding the standard expected by the Council.
- 10.8 Where grounds for refusal do exist, the Council may still award a licence but this could be a modification from what was originally applied for. For example, it may be appropriate to reduce the days/times of trading activity, to reduce the size of the proposed trading area or add conditions.
- 10.9 In accordance with the EU (Provision of Services) Regulations, tacit consent will apply to street trading licence applications if no grounds for refusal are identified through the consultation process within twenty eight days following receipt of a valid application. In all cases where a Licensing Sub-Committee hearing is required, the applicant will be notified.
11. Hearings
- 11.1 Where the Licensing Sub-Committee is to consider grounds for refusal of a licence application, Officers will aim to convene a hearing within twenty working days following the end of the consultation period or as soon as reasonably practicable.
- 11.2 Where a street trading licence is being considered for revocation, the Council is required to afford the licence holder an opportunity to address the Licensing Sub-Committee. The Council will give at least twenty one days notice of any revocation proceedings being brought against the trader.
- 11.3 The Licensing Sub-Committee constituted for the purpose of determining street trading licences shall be made up from Members of the Licensing Committee as constituted under the Licensing Act 2003.

11.4 Applicants will normally be notified of the decision on the day of the hearing and can expect a written decision within five working days of the decision.

11.5 In certain circumstances, the Licensing Sub-Committee may defer their decision or they may adjourn a hearing. This will be dependent upon the severity and complexity of the case before them and it may be appropriate to gather additional information to aid the decision making process.

12. Appeals

12.1 Any person aggrieved by the Council's decision to refuse or revoke a street trading licence may lodge an appeal to the Magistrates Court within twenty one days of receipt of the written decision notice following the outcome of the Licensing Sub-Committee.

12.2 All decision notices will contain full details of the appeal rights including how to lodge an appeal. Applicants for temporary licences do not have any appeal rights, notwithstanding statutory rights to seek Judicial Review proceedings.

13. Conditions and Standards for Licence Holders

13.1 The council expects all licence holders to carry out their trading activities in accordance with the conditions imposed upon it.

13.2 When the Council issues a street trading licence, it shall include the following:

- a) The trading address to which the licence relates;
- b) The full name of the licence holder and any named assistants;
- c) The size and location of the licensed trading area;
- d) The commodities/services authorised by the licence;
- e) A photograph of the licence holder;
- f) Any non-standard conditions relating to the licence;

13.3 In addition to the above information, the Council will also impose standard conditions on all street trading licences. Standard conditions will be reviewed from time to time. The standard conditions can be found at Appendix 3.

13.4 The Council expects all licence holders to maintain their trading area in a proper manner and to ensure that any trading/display equipment is of a good quality and tidy appearance. The Council will provide traders and applicants with examples of the standards expected and will offer assistance and advice to traders and applicants on how to improve the look and quality of their trading/display equipment.

13.5 The intention of the Council is to create a vibrant and thriving shopping environment for residents and also add to the aesthetics of a shopping area.

14. Special Provisions for certain geographical locations

14.1 From time to time, the Council may consider imposing certain trading restrictions in certain geographical locations. For example, it may be appropriate to standardise trading times or maximum trading areas within very busy areas with a high concentration of traders. The Council may also determine to grant only Temporary Licences in a geographical area.

14.2 The Council will consider this action as part town centre regeneration or as part of other town centre incentives.

14.3 Details of these special provisions are detailed in Appendix 4

14.4 Where the Council is minded to impose new restrictions, it will consult with those traders affected to ensure transparency in the process.

15. Delineation

15.1 Where the Council issues a licence, it may be appropriate to define the trading area by delineating with studs or similar.

15.2 The Council will consider the following factors when deciding to delineate in certain areas:

- a) Whether there is a need to define the trading area to assist traders in keeping within their licensed trading area
- b) Where licence holders of pitch licences, and the Council's enforcement officers, need to easily identify a specified trading area.
- c) Where there is a high concentration of traders in a particular area and trading boundaries need to be defined

15.3 Delineation will be considered in consultation with the Council's Highways Service to ensure the appropriate materials are used. The cost for delineating trading areas will be borne by the Council.

16. Duration of Licences

16.1 The Council has powers to issue permanent licences for up to three years and temporary licences for up to six months.

16.2 The Council will normally issue permanent licences for one year. Temporary licences are issued for periods from one day to six months.

17. Offences

17.1 S38 of The Act outlines the offences which include;

- a) Failure to comply with the street trading terms and conditions

- b) Making a false statement in connection with an application
- c) Obstruction of an authorised officer of the Council
- d) Failure to produce a valid street trading licence

18. Enforcement and review action

18.1 The decision to use enforcement action will be taken on a case by case basis and, to ensure consistency of approach, in accordance with the Residents Services Enforcement Policy which may be applicable. The action taken, which may be immediate, will be proportionate to the seriousness and nature of the non-compliance.

18.2 Factors that will be taken into consideration include, but are not limited to:

- a. The risk that the non-compliance poses to the safety, health or welfare of the public at large or to individuals;
- b. Evidence suggests that there was pre-meditation in the commission of an alleged offence;
- c. The alleged offence involved a failure to comply in full or in part with the requirements of this policy and / or the terms of the street trading licence;
- d. There is a history of previous warnings or the commission of similar offences;
- e. Aggravated circumstances such as obstruction of an officer or negative conduct;
- f. If the alleged offence, though not serious itself, is widespread in the area where it is committed;
- g. The gravity of an alleged offence, taken together with the seriousness of any actual or potential harm;
- h. There has been a repetition of a breach that was subject to a formal caution or issue of a Fixed Penalty Notice;
- i. False information has deliberately been supplied and/or intention to deceive.

18.3 The Council may take the following types of enforcement action (in no particular order):

- a) Verbal/written warnings – e.g. a contravention and / or where Officer contact has not resolved the contravention;
- b) Simple cautions;
- c) Licence revocation e.g. where fees go unpaid, a breach of a licence condition; conduct of the licence holder etc.
- d) Fixed Penalty Notices;
- e) Prosecution.

18.4 Where grounds for revocation have been identified, the case will be considered by a Licensing Sub-Committee in the form of a licence review hearing.

18.5 Any decision to prosecute will be taken as a last resort and such a decision will be made in accordance with the Residents Services enforcement policy and the Code for Crown Prosecutors. Council enforcement officers will carry out their enforcement-related work with due regard to the Enforcement Concordat. Information concerning non-compliance may be shared with other enforcement agencies. Any such action will only be undertaken in the public interest and in compliance with the Data Protection Act 1998.

18.6 Officers will regularly inspect street trading areas to ensure compliance with the licence terms and conditions i.e. the trader is only trading in the licensed pitch area. In addition, all complaints of unlicensed street trading will be investigated.

19. Renewals

19.1 When a permanent street trading licence is due to expire, the Council will notify the licence holder three months in advance of this date and invite a renewal application.

19.2 Renewal applications must be submitted to the Council at least two months prior to the date of expiry.

19.3 Licence holders can expect to provide the same information as would be required for a new licence, however, if nothing has changed since the licence was granted, the Council may resolve not to require certain documentation i.e. photograph of the applicant, landowners permission etc.

19.4 Renewal applications are also subject to the same consultation requirements as new applications and the Council may identify grounds for refusal during that process.

19.5 Where discretionary grounds for refusal have been identified, the application will be determined by the Licensing Sub-Committee; a hearing will be arranged as soon as reasonably practicable.

19.6 If a licence is due to expire and the Council has not determined the renewal application, the trader may be allowed to continue trading during the interim period. This will usually be allowed save for circumstances where the trader has been subject to enforcement action or other reasons where the Council may not wish for the licence to continue during this period.

19.7 Each case will be considered on its own merits and on a case by case basis.

20. Variations

- 20.1 Whilst not specifically addressed in the street trading legislation, the Council will allow traders to apply for variations to their licences within the duration of the licence. Variations may include, but not limited to; the size of the trading area; the authorised trading times; the authorised commodities; the conditions imposed upon the licence.
- 20.2 Variations must be applied for, using the appropriate form and will be subject to the same consultation process as for new and renewal applications.
- 20.3 A processing fee will be charged and should accompany the application. Where a variation is sought for an increase in a shop front display area, the fee for any additional metres will be charged as well as the processing fee.
- 20.4 Where the variation is administrative, e.g change of licence holder's address; change of assistant's details, a lesser processing fee will be charged.
- 20.5 Where grounds to revoke a licence have been identified, the Council may, instead, choose to vary the licence by imposing additional conditions or making restrictions on the licensed area or times. Any such variations will be imposed by the Licensing Sub-Committee when considering a case for forced revocation/variation.

21. Succession

- 21.1 The legislation allows 'Succession rights' which allow the licensed trader to nominate a relative whom he desires the licence be granted to under the following circumstances;
 - a) When the licence holder dies;
 - b) When the licence holder retires, having reached the normal age for retirement;
 - c) When the licence holder advises the Council that owing to ill health, he is unable to continue to operate the licence.
- 21.2 The Council will consider the circumstance of the individual trader when assessing succession rights. Officers can provide advice on these rights and it is advised that the trader seeks their own independent legal advice on the matters involved before any assumptions about the entitlement can be made.
- 21.3 Holders of temporary licences are not entitled to succession rights.

22. Lapsing of Street Trading Licences

- 22.1 A Street trading licence will automatically lapse where permission to trade from the landowner ceases.
- 22.2 Where the Council is the owner of the land upon which the street trading activity is taking place, the Council may withdraw permission to trade where

there are exceptional circumstances to justify a decision for example, street works and or/redesign of a street where it would no longer be possible to maintain the trading area.

23. Designation of Licence Streets

23.1 If the Council considers that street trading should be allowed or licensed in any area, it may pass a resolution designating any further street or part of a street as a licence street under Section 24 of the Act. In deciding if a street or site should be designated for street trading, the following may be considered;

- a. The presence of any existing or planned street furniture;
- b. The proximity and nature of any road junctions and pedestrian crossing points;
- c. The number of street trading sites already licensed in the vicinity;
- d. Whether the proposed site for designation would impact on accessibility for members of the public i.e. pedestrians, pushchairs, wheelchairs etc.
- e. Whether the safety of the public will be put at increased risk;
- f. Whether the proposed site will leave the recommended clearance of two metres clear passage between the trading area and the edge of the kerb or footway;
- g. Whether there will be a negative impact on the character or appearance of the area.

23.2 For designation, there is a consultation period of twenty eight days, when the Council consults with the Police, Highways Authority, existing licence holders in the affected area, and any other relevant body. The Council may also pass a resolution to rescind or vary the designation of a licence street, and must consult on any intentions to do so in a notice published in a local paper. After publishing the consultation notice, the Council will consider any representations received, before making a decision.

23.3 A street does not have to be designated as a licence street for street trading purposes where a temporary street trading licence is issued.

23.4 For traders wishing to trade on a street which is not designated, the Council is open to considering new locations where designation has not previously been made. In these circumstances, the trader will be required to submit full plans of their proposals to the Council for consideration.

23.5 Designation of new streets will not normally be considered for streets with parking restrictions and/or a speed limit of 40mph or more.

23.6 A list of current licence streets found in Appendix 1

24. Exemptions

24.1 The Council recognises that certain trading activities do not constitute street trading and are therefore exempt from the licensing regime. The following exemptions are outlined in the legislation:

- a) A person trading as a 'Pedlar' under the authority of a pedlars certificate granted under the Pedlars Act 1871, provided that the trading is only carried out 'house to house';
- b) Trading as part of a street market – these are licensed by the Council under a separate statutory regime;
- c) Trading in a trunk road picnic area;
- d) Trading as a news vendor;
- e) Trading by a rounds man delivering milk and/or other perishable goods;
- f) Charity collections;
- g) The selling or offering for sale goods or services on private land adjacent to a shop provided that the trade forms part of the normal business of that shop. For example; a fruit/vegetable display outside a grocers shop or tables and chairs for diners outside a café.

25. Commodities

25.1 Applications for street trading licences must be made in accordance with the Council's approved list of commodities and banned commodities (Included as Appendix 2). The Council will consider commodities that are not on the approved list at its own discretion.

25.2 The Council may amend this list in order to ensure fair trading opportunities to all traders in the relevant area. The Council may, from time to time, ban certain commodities in certain areas where there is a need to do so. If the Authority amends the list of banned commodities, a twenty one day consultation with traders will be held in the affected area prior to a decision being made.

26. Motor Vehicles

26.1 It is an offence for traders to expose or offer for sale any motor vehicle on a public street.

26.2 Where motor vehicles for sale are displayed on a street, this will be determined as an improper use of the highway for which the seller of the vehicle may be subject to legal action and the vehicle seized.

26.3 Persons operating motor vehicle trading activity from their residential address may only do so if they have planning permission for the trading activity and do not display their vehicles on the public highway.

27. Ice Cream Traders

- 27.1 Ice cream trading means the selling, exposing or offering for sale from a vehicle, goods which consist mainly of ice cream, frozen confectionery or other similar items.
- 27.2 Itinerant ice cream traders are defined as traders from a vehicle who go from place to place remaining in a particular location for no more than fifteen minutes and who do not return to the same location or the same street on the same day.
- 27.3 Ice cream traders may not trade from a designated licence street, or in areas where such trade has been prohibited by the Council.
- 27.4 Where the Council is considering the prohibition of ice cream trading in certain locations, it will pass a resolution under S37 of the Act.
- 27.5 A current list of prohibited locations can be found in APPENDIX 5.

Appendix 1

List of Designated Licence Streets

Pursuant to Section 24(10) of the London Local Authorities Act 1990 (as amended) the following streets are designated as “licence streets” for the purposes of street trading.

Shop front displays and tables and chairs only;

Bakers Road, Uxbridge	Lansbury Drive, Hayes
Barra Hall Circus, Hayes	Laurel Lane, West Drayton
Belmont Road, Uxbridge	Long Lane 1-12, Ickenham
Betam Road	Long Lane 305-321, Hillingdon
Botwell Lane, Hayes	Long Lane 370-396, Hillingdon
Bourne Avenue, Gloucester Parade, Hayes	Long Lane, Crescent Parade, Hillingdon
Byron Way, West Drayton	Long Drive, South Ruislip
Cocks Yard, Uxbridge	Manor Way, Ruislip Manor
Coldharbour Lane, Hayes	Maxwell Road, Northwood
Coleridge Way, West Drayton	Moorfield Road, Cowley
Cowley Road 100-118, Uxbridge	Moorhall Road, Harefield
Cowley Road 18-20, Uxbridge	Mulberry Crescent, West Drayton
Dawley Road 1-19, Hayes	North Hyde Road 141-171, Hayes
Dawley Road, Dawley Parade, Hayes	Old Stockley Road
East Lane, Hayes	Park Way, Ruislip Manor
Eastcote High Road, Black Horse Parade, Eastcote	Park Lane, Harefield
Falling Lane, Yiewsley	Pembroke Road, Ruislip Manor
Field End Road, Eastcote	Pield Heath Road, Cowley
Field End Road 702-724, South Ruislip	Pinner Road, Northwood
Green Lane, Northwood	Pinner Road, Northwood Hills
Harlington Road 305-315, Hillingdon	Pump Lane, Hayes
Harmondsworth Road, West Drayton	Redmead Road, Hayes
Harlington Road 305-315, Hayes	Rickmansworth Road, Harefield
Harvil Road, Harefield	Romney Road, Romney Parade, Hayes
Hayes By-Pass (The Parkway)	Royal Lane, Yiewsley
Hercies Road, Hillingdon	Ryefield Avenue, Hillingdon
High Road 28-34, Cowley	Salisbury Road, Eastcote
High Road 81-97, Ickenham	Sipson Road, West Drayton
High Road, Ickenham	Station Approach, South Ruislip
High Street, Cowley	Station Road, West Drayton
High Street, Dellfield Parade, Cowley	Station Road, Cowley
High Street, Harefield	Station Road, Hayes (<i>NOT pedestrianised</i>)
High Street, Harlington	Station Road Hayes, <i>pedestrianised area between Pump Lane and Crown Close;</i>
High Street, The Parade, Cowley	St Dunstons Road, Hayes
High Street, Uxbridge	Sutton Court Road, Hillingdon
High Street, Uxbridge – <i>pedestrianised area between Vine Street and Belmont Road.</i>	Swakeleys Road 1-31, Ickenham
High Street, Ruislip	Swan Road 58-66 and 81, West Drayton
High Street, Yiewsley	The Green 1-16, West Drayton
High Street 110-118, Northwood	Victoria Road, South Ruislip
High Street 2-88, Northwood	Victoria Road, Ruislip Manor
Hillingdon Hill, Hillingdon	Victoria Road 439-445 and 490, South Ruislip
Horton Road, Yiewsley	Violet Avenue 53-65, Yiewsley
Howletts Lane, Ruislip	West Drayton Road 177-183, Yiewsley
Ickenham Road, Station Parade, West Ruislip	West End Road, Ruislip Gardens
Ickenham Road, Ruislip	Whitby Road 143-163 and 208-218, South Ruislip
Joel Street, Northwood Hills	Windmill Hill, Ruislip Manor
Kingshill Avenue, Hayes	Uxbridge Road 1172-1380, Hayes End

Appendix 1 (cont)

Uxbridge Road 124-152, Hayes Uxbridge Road 641-693, Hayes Uxbridge Road 759-849, Hayes End Uxbridge Road, Blenheim Parade, Hillingdon Uxbridge Road, Byron Parade, Hillingdon Uxbridge Road, Crescent Parade, Hillingdon Uxbridge Road, Heathside Parade, Hillingdon Uxbridge Road, Marlborough Parade, Hillingdon	Uxbridge Road, Westbourne Parade, Hillingdon Uxbridge Road, Whiteleys Parade, Hillingdon Vine Street, Uxbridge Welbeck Avenue, Yeading Willow Tree Lane, Hayes Windsor Street, Uxbridge Yeading Lane, Yeading
---	---

Pitch traders only

Hayes Bypass (The Parkway) High Street, Uxbridge High Street, Uxbridge – <i>pedestrianised area between Vine Street and Belmont Road.</i> Moorhall Road, Harefield Pasadena Close, Hayes Pump Lane (Eastern End)	Rickmansworth Road, Harefield Old Stockley Road, West Drayton Silverdale Road, Hayes Skyport Drive, Springfield Road, Hayes Swallowfield Way, Hayes
---	--

Appendix 2

Commodities

Category	Commodity
Clothing	<ul style="list-style-type: none"> • Women's clothing • Gents clothing • Children's clothing • Baby wear • Sportswear • Clothing accessories i.e. hats scarves, ties, belts etc • Underwear/Nightwear • Footwear/slippers • Other items (must be specified)
Flowers	<ul style="list-style-type: none"> • Cut flowers and plants • Uncut flowers and plants • Artificial flowers • Flower accessories i.e. pots, food, hanging baskets etc. • Seasonal i.e. Christmas Trees, Holly, Mistletoe etc • Other items (must be specified)
Fruit & Vegetables	<ul style="list-style-type: none"> • Raw fruit/vegetables • Other items (must be specified)
Food	<ul style="list-style-type: none"> • Pre-packed groceries • Dried fruit, seeds, pulses, beans etc • Cheese and dairy • Meat/fish • Bread/cakes • Deli food i.e. olives, pickles, nuts etc • Confectionary • Other items (must be specified)
Household goods	<ul style="list-style-type: none"> • Cleaning products • Laundry products • Cleaning utensils • Plastic storage and accessories e.g. crates, boxes etc • Light bulbs • Other items (must be specified)
Toiletries & Cosmetics	<ul style="list-style-type: none"> • Toiletries • Hair products • Make-up • Perfume • Other items (must be specified)
Kitchen/Dining	<ul style="list-style-type: none"> • Cookware • Serve ware • Glassware • Table wear • Other items (must be specified)
Soft furnishings	<ul style="list-style-type: none"> • Cushions & throws • Bedding • Curtains & blinds • Rugs & mats • Dining linen • Other items (must be specified)

Appendix 2 (Cont)

Electrical & Audio/Visual	<ul style="list-style-type: none"> • Audio/amplification equipment • Visual/display equipment • Computer hardware and accessories • Games consoles • Musical Instruments • Cameras • Electrical accessories • Other items (must be specified)
Travel Accessories	<ul style="list-style-type: none"> • Luggage • Sports bags • Handbags • Other items (must be specified)
Jewellery and accessories	<ul style="list-style-type: none"> • Costume jewellery • Precious jewellery • Hair accessories • Sunglasses • Watches • Other items (must be specified)
Stationery	<ul style="list-style-type: none"> • Office supplies • Paper • Greetings cards • Wrapping supplies/gift bags • Other items (must be specified)
Toys	<ul style="list-style-type: none"> • Children's toys • Outdoor games and toys • Baby/nursery equipment • Other items (must be specified)
Tools, DIY & Gardening	<ul style="list-style-type: none"> • Tools • Garden tools • DIY supplies • Other items (must be specified)
Furniture	<ul style="list-style-type: none"> • Furniture including antiques • Other items (must be specified)
Sports equipment	<ul style="list-style-type: none"> • Exercise equipment • Track & Field • Golf • Sports equipment • Other items (must be specified)
Pet supplies	<ul style="list-style-type: none"> • Pet food • Pet beds • Pet cages/hutches/tanks/carriers • Grooming and care supplies • Other items (must be specified)
Arts & Crafts (original handmade goods)	<ul style="list-style-type: none"> • Art • Sculpture • Craft items • Handmade textiles • Other items (must be specified)
Textiles	<ul style="list-style-type: none"> • Fabric • Haberdashery • Yarn/Wool • Knitting/Sewing supplies • Other items (must be specified)
Miscellaneous	<ul style="list-style-type: none"> • Other items not in any category above (must be specified by the applicant)

Appendix 2 (Cont)

Banned Commodities

Commodity	Ward/Area of ban
Continuous or regular street trading of food (e.g. Mobile food traders)	Uxbridge Town Centre

Appendix 3

Terms and Conditions for all Street Trading Licences & Market Licences

1. PITCH SIZE

The licensed area must be within the dimensions specified on the licence, or any relevant pitch limits marked out on the ground by the Council. An awning may be permitted to extend 30 cm (12 inches) at the front of the trading area, but no articles are to be suspended from the awning beyond the permitted trading area.

2. COMMODITIES / ITEMS TO BE TRADED OR SOLD

Only those commodities or groups of specified on the licence may be sold from the licensed street trading pitch/market place.

3. ADVERTISEMENTS

No advertisement shall be displayed on the licensed trading area for goods, commodities or services other than those licensed for sale or provided on that licensed trading area.

4. DAYS AND TIMES OF TRADING OR BUSINESS

Trading may only take place on the days and during the times specified on the licence. The Council shall advise traders/market operators of any extension of trading times for specified trading periods when and as relevant.

5. TRADING ALONGSIDE PERMANENT BUSINESSES

Licence times shall be the same as trading times applicable to shops in the vicinity of the licensed street trading pitch/market place. However, traders may trade only during the times stated on the licence.

6. REFUSE OR WASTE

It is the trader's responsibility to ensure that all litter and waste generated by their licensed activity is collected for recycling or disposal, in ways that are compliant with legislation. This can mean storage in suitable bins or containers within the licensed area until collection can take place by a registered carrier of waste.

To prevent blockages, odours or nuisance to others, road gullies or surface water drains may not be used for the disposal of food based liquid wastes or other noxious substances.

7. STREET CLEANLINESS

The trader/market operator must keep the immediate licensed area and the area within 5 metres in any direction from the licensed area, free of any wastes or spillages resulting from the trading activity, throughout the trading day. When trading is finished or upon leaving the site the trader/market operator must leave it in a clean condition.

8. DISPLAY OF LICENCE

The licence must be shown at all times, in a prominent position, so that it can be easily read.

9. SAFETY OF EQUIPMENT

Electrical equipment must be approved by the Council before being used on a trading pitch.

10. USING A MAINS VOLTAGE ELECTRICAL SUPPLY

Traders using a mains electrical supply must have consent from the Council before seeking installation from an electricity supplier. Where relevant, the trader and the electricity supplier will be required to provide the Council with certification for the safety of the electricity supply.

11. INTERFERENCE WITH ELECTRICAL SUPPLIES

A trader will be subject to suspension of a licence if they tamper with, or use an electricity supply belonging to the Council without a prior arrangement to do so. A trader causing damage to any Council installation or equipment will be required to pay the full cost of any repair or replacement.

12. PITCH EQUIPMENT, OR TRADING STALLS

Pitch equipment or stalls should be easily and quickly assembled and removed. The Council reserves the right to inspect for stability and safety and to ensure that they are fit for purpose. Any obviously dangerous item must be made safe or immediately removed on request by the Council. It is the trader's responsibility to ensure that items and structures are put up and taken down safely, are properly designed, well sited and in a good, clean condition.

13. GENERAL CONDUCT

Any trader and/or any assistants employed by them shall conduct themselves in a decent manner and ensure that all members of the community are fairly treated and shown courtesy and respect. Trading activities should not give rise to noise inappropriate to the area, or cause other nuisance.

14. PRODUCTION OF LICENCES ON REQUEST

All licensed traders shall produce their licence when requested to do so by an authorised officer the Council or a police officer.

15. NOTIFICATION OF LOCATION FOR STORAGE OF FOOD COMMODITIES, PITCH EQUIPMENT, OR TRADING STALLS etc.

Traders in foodstuffs must notify the Council in writing of any change of address or addresses at which the pitch equipment stalls etc (the "receptacles") and any commodities are stored. Such notice must be given within 7 days of the change. Checks may be made to confirm details and suitability.

16. EMPLOYMENT OF CHILDREN

A licensed trader shall not employ any person under the age of 17 years in any capacity in the course of his trade or business.

Appendix 4

Special Provisions

Conditions Specific to Tables & Chairs Licences

In addition to the conditions relating to all street trading licences, these conditions apply specifically to “Tables and Chairs” licences.

1. The grant of a tables and chairs trading licence does not give any approval or consent which may be needed under any other legislation other than under the Act(s).
2. A copy of the tables and chairs licence must to be displayed in the window of the licensed premises. The copy licence is to be displayed so as to be clearly visible and legible from the street.
3. Only those commodities sold in the relevant shop premises can be served under the tables and chairs licence.
4. Only those services provided within the relevant shop premises can be provided in the licensed area where a licence permits tables and chairs to be placed on the street.
5. Temporary barriers of an approved type must be in place around the trading area during licensed hours and the same must be removed outside of the hours permitted by the licence
6. A tables and chairs licence is not transferable.

Conditions Specific to Shop Front Licences

In addition to the conditions relating to all street trading and market licences, these conditions apply specifically to “Shop Front” licences only

1. A copy of the shop front trading licence must to be displayed in the window of the premises outside which trading is permitted. The copy licence is to be displayed so as to be clearly visible and legible from the street.
2. Monetary exchange or payment cannot be made in the licensed street trading pitch.
3. The dimensions of a licensed street trading pitch shall be such that a minimum of 2m clear of any obstruction shall be maintained on the Public Highway for the safe pass, re-pass and free flow of pedestrian and vehicular traffic.
4. No equipment, stall, container, or display or tables(s) or chair(s) shall at any time be permitted to obstruct an entrance or exit to any adjacent premises or to any part of the building to which the licence applies that is under separate occupation.

5. A shop front trading licence is not transferable.
6. Only those commodities sold in shop premises can be displayed outside premises provided they are not excluded items as defined in these regulations.
7. Only that equipment, stall, container, or display or tables(s) or chair(s) and containers which is suitable and fit for purpose and approved by the Council shall be used by the licence holder and assistants for shop front trading or ancillary to shop front trading.
8. The following items may not form part of the commodities displayed under a shop front licence:
 - a. Alcoholic beverages, tobacco and tobacco products;
 - b. Lottery tickets, phone cards, raffles, tombola and/or other games of chance;
 - c. Medicines, drugs and other prescribed substances
 - d. Uncooked meat or fish
 - e. New and used cars and motorcycles
 - f. Pets and livestock
 - g. Containers of Liquid Petroleum Gas (LPG) including any which are fully or partly discharged or emptied;
 - h. Explosives, including fireworks;
 - i. Goods considered by the Council to pose a Health and Safety risk to the public.
9. Items that are likely to cause damage the street or street furniture may not be used.
10. An awning may be permitted to extend up to a maximum of 30 cm (12 inches) at the front of the licensed shop front pitch but no articles are to be suspended from the awning beyond the permitted area. Additionally, the placement of the awning must permit safe pass and re-pass by pedestrian traffic.

Appendix 5

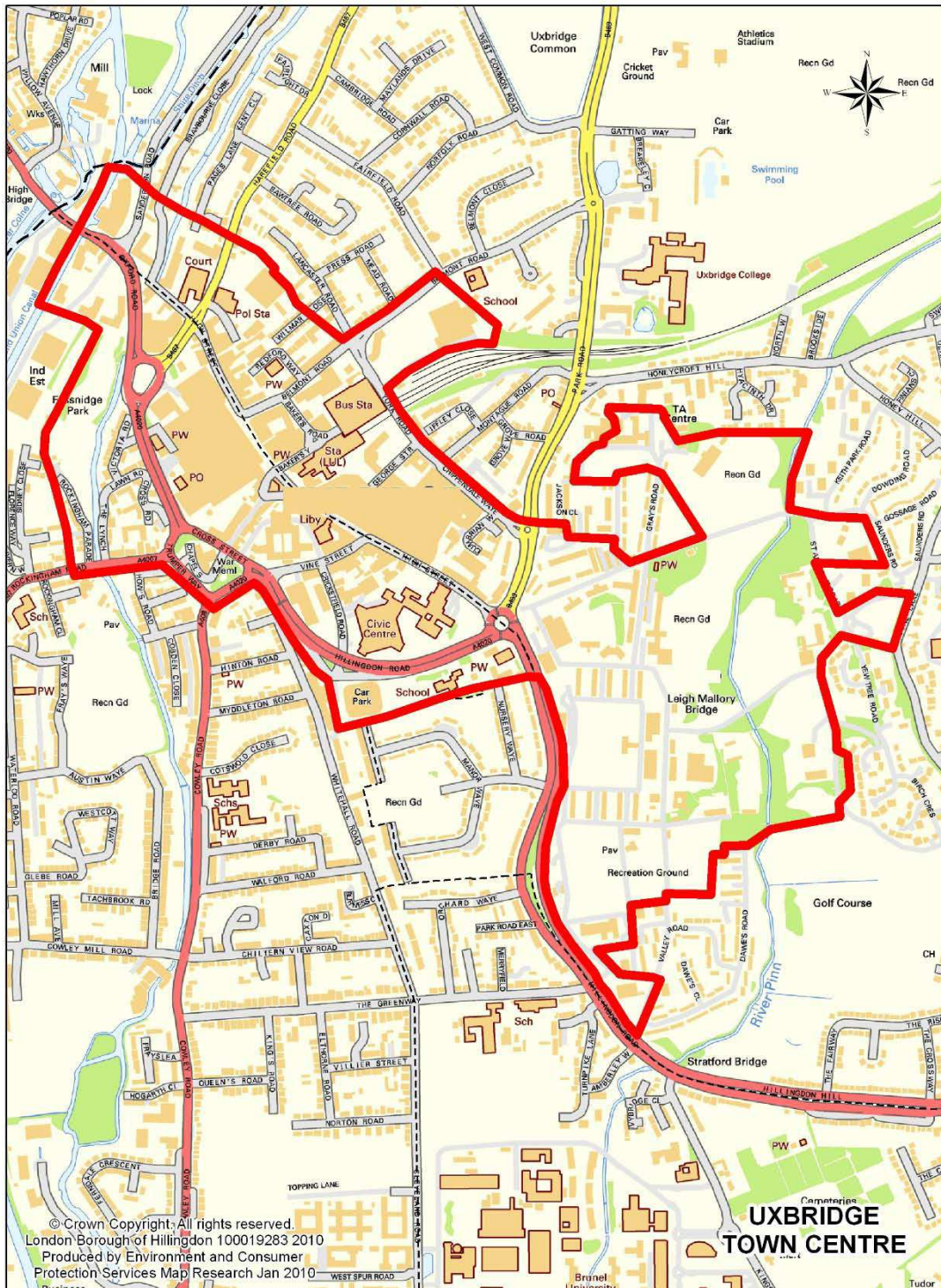
Prohibition of mobile or “itinerant” ice cream trading

1. Any street or part of streets or side streets within 65 metres of any exit used by children from the following premises:
 - (i) Primary schools
 - (ii) Under 5 centres
 - (iii) Day nurseries
 - (iv) Secondary schools
 - (v) Any other similar premises

2. Any street or side street falling within the Uxbridge Town Centre. The Uxbridge Town centre falls within the area bordered in red on the map below.

3. All streets, part of streets and side streets falling within major retail areas in
 - (i) Eastcote
 - (ii) Harefield
 - (iii) Harlington
 - (iv) Hayes
 - (v) Hillingdon Circus Area
 - (vi) Ickenham
 - (vii) Northwood
 - (viii) Northwood Hills
 - (ix) Ruislip
 - (x) Ruislip Manor
 - (xi) South Ruislip
 - (xii) Uxbridge
 - (xiii) Uxbridge Road Hayes
 - (xiv) Yiewsley and West Drayton

Area of Uxbridge town centre



Appendix 6

Definitions of Street Trading

'Street Trading' is defined in the legislation as

- a) the selling or the exposure or offering for sale, any article (including living things); and*
- b) the purchasing or offering to purchase any ticket; and*
- c) the supplying or offering to supply any service*

in a street for gain or reward

'Street' is defined in the legislation as;

- a) any road or footway;*
- b) any other area, not being within permanently enclosed premises, within 7 metres of any road or footway to which the public obtain access without payment*
 - i. whether or not they need the consent of the owner or occupier and*
 - ii. if they do, whether or not they have obtained it*
- c) any part of such road, footway or area;*
- d) any part of housing development provided or maintained by a local authority under Part II of the Housing Act 1985.*

This page is intentionally left blank



HILLINGDON

LONDON

Markets Policy 2016

The Food Act 1984
(As amended)

Draft

Contents:

- 1. Introduction and intention**
- 2. Legislative background**
- 3. A single licence for markets**
- 4. Occasional street markets**
- 5. Charity and community markets**
- 6. Approval in Principle**
- 7. Applications and supporting information**
- 8. Market fees**
- 9. Consultation and advertisement**
- 10. Consideration of applications**
- 11. Hearings**
- 12. Decision making and ground for refusal**
- 13. Duration of licence**
- 14. Enforcement action**
- 15. Other legislative considerations**
- 16. Policy review**
- 17. Licence conditions**

Appendix 1 - Terms and conditions for market licenses

1.0 Introduction and intention

- 1.1 This policy is intended to provide a framework for the Council to administer and regulate market trading, to ensure a consistent approach is taken. It also serves as a reference for licence holders, relevant stakeholders and enforcement officers as to the Council's intended vision and approach to market trading activities.
- 1.2 The Council is keen to create a thriving market environment which is sensitive to the needs of traders and residents, one which promotes consumer choice and enhances the trading and business opportunities in the borough.
- 1.3 The Council will not deviate from this policy unless there is an unavoidable reason to do so.
- 1.4 In the development of this policy, the Council has consulted with licence holders, partner agencies and other stakeholders
- 1.5 The policy proposes a simplified process for licensing of street markets and community events and offers a simple prior approval process to support applicants, so that their proposals have the greatest chance of success, when a final application is made.

2.0 Legislative Background

- 2.1 The Council is "invoking its market rights" under the Food Act 1984 (as amended) in the Borough. The Food Act 1984 allows a local authority to establish a market within its area, and may designate a market place within its area and the days and hours during which markets may be held.

3.0 A Single Licence for Markets

- 3.1 The Council will consider market applications on a case by case basis for street markets proposed within the borough boundary, to which there is a free public access, and which may have multiple stalls or pitches to sell a variety of commodities.
- 3.2 The Council will regulate markets under a single licence, as per Part III of The Food Act 1984. Markets held in the following locations are exempt from the market provisions of the Food Act 1984:
 - a) Any Council park or green space.
 - b) Any private building.
 - c) Enclosed shopping centres.
 - d) Any school / community / church hall or similar.

- 3.3 The licence issued will authorise a number of traders in a particular area, on predetermined days or dates (a market), or where trading takes place from a stall, a series of stalls or pitches, on an occasional or one-off basis.
- 3.4 The market licences may be granted to a private market operator(s), resident's associations or similar, or community/charitable groups.
- 3.5 The Council enforces its market rights in the interests of public safety, and so will determine the area, size of stalls etc and their general layout as well as relevant timings for trading to take place. Officers will assist market operators in planning their event and offer advice.

4.0 Occasional Street Markets

- 4.1 Occasional street markets can encourage economic activity and enhance shopping areas by offering variety and by increasing visitor numbers.
- 4.2 A market operator or a group of traders may apply to the market authority for a licence to hold an occasional street market, for commercial trading purposes. This is a market which takes place on specified dates or days.

5.0 Charity and Community Markets

- 5.1 It is recognised that regulation can sometimes have unwanted impacts on residents, businesses and community groups based in the borough. To minimise these burdens, specific arrangements for local community and charitable group events are outlined below.
- a) A charity or community group may apply for a licence to hold a market for the purpose of supporting a community event e.g. a fun day, or Christmas event.
 - b) Applicants for a charity or community market must identify community or charitable benefit, or provide evidence of charitable status and intention.
 - c) Charity or community applicants should apply to the Council for a waiver of market application fees. The Council will consider any applications for waivers on a case by case basis, and in light of the paragraph 5.1b).
 - d) Where a charity or community event market includes trading by commercial businesses, a waiver of fees should also be applied for; however, the Council may decide to charge a portion of the fee to cover the cost of licensing those commercial businesses. Applications will be assessed on a case by case basis, but such events should mainly be community based, benefiting the social and economic wellbeing of an area.

- e) Licensees must ensure that the terms and conditions that come with the market licence are adhered to by the individual traders, that they have adequate insurances, that they have the required food hygiene training and registration certificates.
- f) Charity or community market operators will be required to make their market applications at least three months prior to the market event taking place. This requirement may be relaxed if there is good reason to do so, and at the Council's discretion.
- g) Where road closures are required, any initial 'approval in principle' will be entirely subject to subsequent approval by the Highway Authority. Evidence of the Highway Authority's approval will be required as part of the market application.

6.0 “Approval in Principle”

- 6.1 The Council wants good, well promoted, markets and events to go ahead. To save wasted effort, increase convenience and to ensure that applications have the smoothest possible journey to approval, Regulatory Services will give support in the form of “approval in principle”.
 - a) Where early applications are made, not including full details of traders and their commodities, the Council may approve the application in principle, pending full details of the traders and their commodities being submitted, at least two weeks prior to the market event.
 - b) Operators or organisers will be encouraged to hold early meetings with licensing officers to discuss proposals and the Council’s requirements, and agree layouts before a full application is made. No fee is to be charged for these meetings. However, it is anticipated that most events will need one, or more meetings to agree matters.
- 6.2 Any approval in principle issued by the Council will be subject to other legislative requirements for example, road closures, parking suspension, alcohol licensing. Approval times for these authorisations should be considered before submitting a market licence application.

7.0 Applications and supporting information

- 7.1 The Council will expect applications for Market Licences to be as thorough and complete as possible. The Council may seek references from boroughs in which the market has previously operated prior to the determination of the licence.

7.2 Market operators must make applications using the Council's own form and should provide the following information and documents as part of the application:

- a) Two standard full face passport photographs.
- b) Evidence of public liability insurance for a minimum of £2 million cover.
- c) Proof of address.
- d) Identification that includes a photograph of the applicant; (such as a new style photo driving licence).
- e) Plan of the proposed market showing location, sizes and layout of stalls/pitches.
- f) Evidence of or proposals for a trade waste disposal agreement or similar.
- g) Photographs/images showing the appearance and style of stall / pitch.
- h) A list of stall / pitch traders and what they want to sell - the commodities – this may be given a minimum of two weeks before the event in the “approval in principle” process.

7.3 The Council may be able to accept alternative supporting documents, by agreement.

8.0 Market Fees

8.1 Market operators for occasional street markets are required to pay a fee in line with the Council's current fee schedule.

8.2 Applicants for charity / community markets should apply to the Council's Regulatory Services team for a waiver / reduction of market licence fees. Information on current market licence fees can be found at www.hillingdon.gov.uk/licensing

9.0 Consultation and advertisement

9.1 Upon receipt and acceptance of an application, the Council will carry out a consultation with the relevant Ward Councillors, the Council's Highways Service, the Council's Enforcement Officers and any trade representative in the locality such as, Chamber of Commerce or Town Centre Management. The Council's Food Safety team will also be consulted where the application is proposing to trade in food items.

9.2 The purpose of the consultation is to seek assurances that the applicant's proposals satisfy the requirements of the legislation and that they are suitable to be licensed. Through the consultation process, certain discretionary grounds for refusal or modification of applications may be identified.

9.3 The consultation period will last for 21 consecutive days starting with the day after the application has been received and validated.

9.4 Assessing consultation feedback and objections

- 9.41 Where the Council receives feedback or an objection to an application consultation, it will carefully consider whether that feedback/objection may influence the Council's discretionary decision making powers.
- 9.42 Any feedback or objections received which is not within scope for consideration, will not be accepted by the Council.
- 9.43 The Council will not consider feedback or objections where they are; frivolous, vexatious or repetitious. Such objections will be considered as not relevant.
- 9.44 The Council recognises that sometimes there will be existing traders in the locality of an application who are dissatisfied with the prospect of an additional trader in the area. However, competition and trade are matters for the local market or trading environment and will not normally be considered by the Council, notwithstanding the Council's discretionary powers for refusing licences.

10.0 Consideration of Applications

- 10.1 Applications which have not been subject to relevant objections will be considered by officers authorised for the purpose of determining market applications.
- 10.2 If relevant objections are received during the consultation period for a licence application, a Licensing Sub-Committee will determine the application. Where applications are heard by a Licensing Sub-Committee, the Committee may exercise its discretion on accepting late representations where they have been received outside of the consultation period.

11.0 Hearings

- 11.1 Where grounds for refusal are presented, the Licensing Sub-Committee will consider the licence application by way of a licensing hearing. Officers will aim to convene a hearing within twenty working days following the end of the consultation period, or as soon as reasonably practicable.
- 11.2 Where a market licence is being considered for revocation, the Council is required to afford the licence holder an opportunity to address the Licensing Sub-Committee. The Council will give at least twenty one days notice of any revocation proceedings being brought against the trader.

- 11.3 The Licensing Sub-Committee, constituted for the purpose of determining market licences, shall be made up from Members of the Licensing Committee as constituted under the Licensing Act 2003.
- 11.4 Applicants will normally be notified of the decision verbally on the day of the hearing and can expect a written decision within five working days of the decision.
- 11.5 In certain circumstances, the Licensing Sub-Committee may defer their decision or they may adjourn a hearing. This will be dependent upon the severity and complexity of the case before them, and it may be appropriate to gather additional information to aid the decision making process.

12.0 Decision Making & Grounds for Refusal

- 12.1 All uncontested applications will be considered by officers authorised for the purpose of determining market applications. Where relevant objections are received to an application, a Licensing Sub-Committee will determine the application.
- 12.2 The complete application process may take up to three months and this is to take into account the twenty one day consultation period, and also, if required, the arrangement of hearings of the relevant Licensing Sub-Committee. Where there are no relevant objections to an application, the Council aims to determine applications within one month of receipt of a fully completed application.
- 12.3 Standard conditions will be attached to every market licence and these may be varied by the Council at any time. Specific trading conditions may also be attached to a market licence by the Licensing Sub-Committee.
- 12.4 In considering applications for the grant or renewal of a market licence the following factors will be considered, and may be grounds for refusal.
- (a) Public safety - Whether the market trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction of the highway to emergency vehicles, or otherwise, a fire hazard, unhygienic conditions or other danger that may occur when a trader is using the site.
 - (b) Prevention of crime and disorder - whether the market trading activity represents, or is likely to represent, a substantial risk to public order. This is potentially more of a problem for licences operating late in the evening.
 - (c) Prevention of public nuisance or environmental damage - whether the market trading activity represents, or is likely to represent, a substantial risk of problems from damage to street surfaces, or from noise, litter, refuse, vermin, fumes, odours or antisocial behaviour, particularly in residential areas.

- (d) Appearance and suitability of the stall or vehicle from which trading takes place - the stall or vehicle must be of a good quality design, of good appearance and meet the criteria, including size, laid down in the standard licence conditions. It is advised that applicants provide photographs or sketches including dimensions of the stall with all new applications.
- (e) Needs of the area – amongst other things, the Council will consider the demand for the articles for sale, and the geographical location of the proposed site.
- (f) History of the applicant - the suitability of the applicant must be considered. Previous failures, without reasonable excuse, to comply with licence conditions or failure or neglect in paying licence fees may result in a licence being refused, revoked or not renewed.
- (g) Pedestrian or vehicular access – whether there is sufficient space for pedestrians and vehicles (including pedestrians using mobility aids and parents with pushchairs/buggies) to continue to use the public highway safely and unhindered.

12.6 Occasionally, if some grounds for refusal do exist, the Council may still decide to award a licence – but this could be for a shorter period than required, or to allow trading only in certain commodities.

13.0 Duration of licence

13.1 Market licences will be issued for a period in accordance with the application and / or any Licensing Sub-Committee decision made to alter the licence period.

14.0 Enforcement Action

14.1 Any breach of the conditions relating to Market Licences will be investigated and enforcement action will be taken in accordance with the Residents Services Enforcement Policy where necessary. A history of enforcement action may be considered as part of any application process.

15.0 Other legislative considerations

15.1 Market traders should be aware that this policy relates only to street market trading activities and it is the responsibility of the trader to ensure that they are compliant with other legislation. Traders should consider whether their activities are likely to require authorisation and / or compliance with other regulatory regimes. For example; Planning, Building Control, Food Safety, Health and Safety, Control of Waste, Highway Obstruction, Trading Standards, Late Night Refreshment / Entertainment / Alcohol Licensing.

16.0 Policy review

- 16.1 This Policy may be reviewed by Cabinet. Changes to elements of this Policy may be made by the Deputy Chief Executive and Corporate Director of Residents Services, acting in consultation with the Leader of Council.

17.0 Licence Conditions

- 17.1 Market Licences are issued with standard, and other, conditions attached. These are effectively the rules by which licensees must operate. The purpose is to allow trading to be carried out safely, responsibly and in harmony with the surroundings, other traders and residents.
- 17.2 A full list of licence terms and conditions can be found at Appendix 1.

Appendix 1

Terms and Conditions for Market Licences

1. PITCH SIZE

The licensed area must be within the dimensions shown on the licence, or any relevant pitch limits marked out on the ground by the Council. An awning may be permitted to extend 30 cm (12 inches) at the front of the pitch/market area, but no articles are to be suspended from the awning beyond the permitted pitch/market area.

2. COMMODITIES / ITEMS TO BE TRADED OR SOLD

Only those commodities or groups of specified on the licence may be sold from the licensed street trading pitch/market place.

3. ADVERTISEMENTS

No advertisement shall be displayed on the licensed market place for goods, commodities or services other than those licensed for sale or provided on that pitch/market place.

4. DAYS AND TIMES OF TRADING OR BUSINESS

Trading may only take place on the days and during the times specified on the licence. The Council shall advise traders/market operators of any extension of trading times for specified trading periods when and as relevant.

5. REFUSE OR WASTE

It is the market operator's responsibility to ensure that all litter and waste generated by their licensed activity is collected for recycling or disposal, in ways that are compliant with legislation. This can mean storage in suitable bins or containers within the licensed area until collection can take place by a registered carrier of waste.

To prevent blockages, odours or nuisance to others, road gullies or surface water drains may not be used for the disposal of food based liquid wastes or other noxious substances.

6. PORTABLE GENERATORS

Generators shall be positioned so that they do not present problems for other street users or traders. Generators shall be checked and certified for safety and shall be erected in a secure location and barriered to prevent interference by members of the public.

7. STREET CLEANLINESS

The market operator must keep the immediate licensed area and the area within 5 metres in any direction from the licensed area, free of any wastes or spillages resulting from the trading activity, throughout the trading day. When trading is finished or upon leaving the site the trader/market operator must leave it in a clean condition.

8. DISPLAY OF LICENCE

The licence must be shown at all times, in a prominent position, so that it can be easily read.

9. SAFETY OF EQUIPMENT

Electrical equipment must be approved by the Council before being used on a trading pitch. Regular testing may be required.

10. USING A MAINS VOLTAGE ELECTRICAL SUPPLY

Traders/market operators using a mains electrical supply must have consent from the Council before seeking installation from an electricity supplier. Where relevant, the trader/market operator and the electricity supplier will be required to provide the Council with certification for the safety of the electricity supply.

11. INTERFERENCE WITH ELECTRICAL SUPPLIES

A trader/market operator will be subject to suspension of a licence if they tamper with, or use an electricity supply belonging to the Council without a prior arrangement to do so. A trader/market operator causing damage to any Council installation or equipment will be required to pay the full cost of any repair or replacement.

12. PITCH EQUIPMENT, OR TRADING STALLS

Pitch equipment or stalls should be easily and quickly assembled and removed. The Council reserves the right to inspect for stability and safety and to ensure that they are fit for purpose. Any obviously dangerous item must be made safe or immediately removed on request. It is the trader's/market operators responsibility to ensure that items and structures are put up and taken down safely, are properly designed, well sited and in a good, clean condition.

13. GENERAL CONDUCT

Any trader/market stall holder and/or any assistants employed by them shall conduct themselves in a decent manner and ensure that all members of the community are fairly treated and shown courtesy and respect. Trading activities should not give rise to noise inappropriate to the area, or cause other nuisance.

14. PRODUCTION OF LICENCES ON REQUEST

All licensed traders shall produce their licence when requested to do so by an authorised officer the Council or a police officer.

15. NOTIFICATION OF LOCATION FOR STORAGE OF FOOD COMMODITIES, PITCH EQUIPMENT, OR TRADING STALLS etc.

Traders in foodstuffs must notify the Council in writing of any change of address or addresses at which the pitch equipment stalls etc (the "receptacles") and any commodities are stored. Such notice must be given within 7 days of the change. Checks may be made to confirm details and suitability.

16. EMPLOYED ASSISTANTS

Traders shall notify the Council in writing of the name, address of every assistant who may be given responsibility for the pitch in the absence of the trader. Details of any subsequent change of assistant or any other relevant information regarding assistants should be given in writing to the Council.

17. EMPLOYMENT OF CHILDREN

A licensed trader shall not employ any person under the age of 17 years in any capacity in the course of his trade or business.

18. ASSISTANCE TO COUNCIL OFFICERS

A trader shall give immediate assistance to Council officers when requested to do so. In dealing with an emergency, this might mean moving a stall or equipment away from the area, quickly.

Appendix 1 (cont)

19. CHANGE OF ADDRESS AND CIRCUMSTANCES

A trader shall give notice in writing to the Council of the change of any of the addresses and circumstances. Unless a trader is unable to do so for good reason, notice of a change of address should be given within seven days of any change. Proof of new address will need to be submitted to the Council.

20. FOOD RELATED TRADING

Food traders shall comply with the necessary food hygiene, food hygiene training and food registration requirements as required by the Council's Food, Health & Safety Team.

Standard licence conditions for market operators

In addition to the conditions relating to market licences, these conditions apply specifically to market operators.

The licensed market operator must ensure that the following conditions are adhered to;

- 1) No person shall sell goods in a market place other than during market hours;
- 2) No person shall bring a vehicle into the market place during market hours unless in case of emergency;
- 3) No stall shall cover or obstruct a fire hydrant. Clear access must be maintained at all times;
- 4) No person in charge of a vehicle shall, during market hours, allow it to stop in the market place, or in its immediate approaches, for longer than is reasonably necessary for the loading or unloading of goods;
- 5) No person shall place any goods on, or occupy any stall or pitch without the permission of the licensed market operator;
- 6) No person shall light a fire in the market place;
- 7) No person shall keep or sell any explosive or highly flammable substance in the market place;
- 8) No person shall bring a petrol generator into the market place. NB. Diesel generators are permitted;
- 9) No person shall post or display any bill, placard or poster, other than a description of goods advertised for sale, in any part of the market place, except with the prior permission of the market authority;
- 10) No person in the market place or in its immediate approaches shall, except by way of sale, distribute or attempt to distribute to the public any printed matter unless prior consent has been obtained from the market authority;
- 11) No person shall bring into or allow to remain in the market place any animal;
- 12) Food traders shall comply with the necessary food hygiene and food registration requirements as required by the Council's Food and Health & Safety Team;
- 13) The market operator shall ensure that each trader is able to demonstrate adequate public liability insurance cover of £2million minimum.

Standard Licence Conditions for Market Traders

In addition to the conditions relating to all market licences, these conditions apply specifically to market traders.

- 1) Every Market Trader shall;
 - a. Ensure that the stall/pitch is properly cleansed before and after market hours as often as may be necessary during those hours;
 - b. Ensure that all refuse accumulated in connection with the stall is placed in a bin or container provided *or* approved by the Council for that purpose;
 - c. As often as is necessary, ensure that the contents of the bin or receptacle are removed to an area designated by the Council for that purpose
- 2) Traders shall have in place the following documentation at the time of trade and must produce them if requested to do so by an authorised officer of the Council;
 - a. Food hygiene documentation (where the traders commodity is food)
 - b. Valid public liability insurance of £2million minimum
- 3) Traders shall not bring petrol generators into the market place. *NB. Diesel generators are permitted.*
- 4) The use of gas cylinders is permitted only where;
 - traders have checked the valves and hoses of gas cylinders for defects before bringing them into the licensed market place, and;
 - the cylinders are in safe working order

This page is intentionally left blank



HILLINGDON

LONDON

Statement of Licensing Policy The Licensing Act 2003

Effective – January 2016 to January 2021

Draft

Contents

1. Introduction and Background
2. Policy Statement
3. Consultation
4. General principles and the role of the Licensing Authority
5. Integration of Strategies and avoidance of duplication
6. Promotion of Equality
7. Licensing Objectives – Prevention of Crime & Disorder
8. Licensing Objectives – Public Safety
9. Licensing Objectives – Prevention of Public Nuisance
10. Licensing Objectives – Protection of Children from Harm
11. Licensing Committee
12. Authorisations and Applications
13. Representations
14. The Role of Ward Councillors
15. Decision Making and Licensing Hearings
16. Licence Conditions
17. Working with Applicants and Local Residents
18. Enforcement
19. Reviews
20. Cumulative Effect
21. Licensing Hours
22. Exemptions

Appendix A – Table of Delegations

Appendix B – Prevention of Crime & Disorder

Appendix C – Public Safety

Appendix D – Prevention of Public Nuisance

Appendix E – Protection of Children from Harm

Appendix F – List of Responsible Authorities

Appendix G - Current Mandatory Conditions

1.0 Introduction & Background

1.1 The London Borough of Hillingdon is the Licensing Authority under the Licensing Act 2003 and is responsible for the administration and enforcement of the provisions relating to:

- Alcohol sales/supplies
- Regulated Entertainment
- Late Night Refreshment

1.2 The London Borough of Hillingdon currently has approximately 800 premises authorisations in force and 3500 personal licences held by individuals.

2.0 Policy Statement

2.1 The Licensing Authority exercises a range of responsibilities including helping to develop a thriving food, drink and entertainment economy whilst safeguarding the local community against issues which may arise from licensed premises.

2.2 The London Borough of Hillingdon is required by Section 5 of the Licensing Act 2003, to determine and publish a statement of licensing policy at least once every five years. The Licensing Policy will provide the Authority with the fundamental principles in respect of carrying out its licensing functions.

2.3 The Policy is also intended to inform applicants, residents and other stakeholders about the way in which the Licensing Authority will make decisions and the operating standards expected from licensed premises in accordance with the licensing objectives.

2.4 In determining its policy, the Council will take into account the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

2.5 In respect of all licensing functions and determination of any licensing policy, the Council has a duty to promote the four licensing objectives:

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

Each objective is of equal importance.

3.0 Consultation

3.1 In reviewing the Council's Statement of Licensing Policy, the Council sought observations and comments from the following persons, organisations and groups and their comments have been incorporated into this policy where relevant:

- Chief Officer of Police for Hillingdon
- London Fire Brigade
- Chief Planning Officer
- Hillingdon Safeguarding Children Board
- Health and Safety Executive and Hillingdon's Health and Safety Enforcement Team
- Public Health
- Trading Standards
- Bodies representing holders of current authorisations
- Resident's Associations
- Ward Members
- Hillingdon's Anti-Social Behaviour Investigations Team
- Transport for London (TfL)
- The London Boroughs of Hounslow, Harrow, Ealing
- The Borough Council's of South Bucks, Three Rivers, Spelthorne, Slough
- Hillingdon Arts Council
- Individuals who have requested a copy of the draft policy.

4.0 General Principles and the Role of the Licensing Authority

4.1 The role of the Licensing Authority is to ensure control of the licensable activities at licensed premises, qualifying clubs, temporary events and the conduct of the personnel involved with the licensable activities as required under the Act.

4.2 Terms and conditions attached to the Premises Licences and Club Premises Certificates granted by the Licensing Authority will relate to matters over which the Premises Licence Holder or Club Management Committees have direct control.

4.3 The focus will be on the licensed premises and the activities in the vicinity of those premises. Those activities, on licensed premises, that have a direct impact on members of the public living, working or engaged in normal activities in the area, fall within the scope of the licensing regime.

4.4 Anti-social behaviour of patrons, disturbance or nuisance, which can be proved to be emanating from particular premises, will be a consideration for the Licensing Authority in its enforcement and decision making role.

5.0 Integration of Strategies and avoidance of duplication

- 5.1 Many people and organisations are involved with, or affected by, the ways in which licensed premises are operated. Most 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. Amongst the various stakeholders there will be a wide range of strategies that relate to, or are influenced by, the exercise of the Council's licensing function.
- 5.2 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory regimes. Some regulations, however, do not cover the unique circumstances of some licensable activities. The Licensing Authority will consider attaching conditions to Premises Licences and Club Premises Certificates where; these are necessary for the promotion of the licensing objectives; these are not already provided for in any other legislation; these are not contained within the applicant's operating schedule and if there are relevant representations
- 5.3 The Licensing Committee will be prepared to accept reports from other relevant departments of the Council regarding the state of the borough. These reports may include contributions from those responsible for the promotion of tourism, cultural development, planning, transport, reduction of crime or anti-social behaviour, community safety, social, and health and community development. This should enable the various agencies or departments with their own strategies, aims and objectives to keep the Licensing Committee aware of the wider picture in pursuance of the licensing objectives.
- 5.4 Planning and public nuisance legislation carry the highest risk of duplication with the Licensing regime and are specifically mentioned in the Section 182 Guidance.

Planning

- 5.5 The licensing function is and should remain distinct from the Planning process. It will be for the planning process to determine land/building use decisions and the market place to determine need for particular types of premises/activities. Licensing decisions will be made with regard to the furtherance of the Licensing Objectives with regard to the particular use sought. However, it is strongly recommended that applicants ensure that:
- The proposed licensable activities do not contravene planning legislation;
 - The hours sought are within the limits authorised by any planning permission.

Enforcing Authority for Public Nuisance

- 5.6 The Environmental Protection Unit is charged with enforcing regulations relating to Public Nuisance and is also a responsible authority for Public Nuisance matters under the Act.
- 5.7 It is accepted that the Licensing Authority will often work hand in hand with the Environmental Protection Unit where nuisance related issues occur at licensed premises. Whilst the Authority has a duty to uphold the prevention of public nuisance, it should be recognised that this duty will not replace the Authority's responsibilities under other legislation.

6.0 Promotion of Equality

- 6.1 The Council, as the Licensing Authority, seeks the elimination of all forms of discrimination in respect of sex, religion, race, disability and sexual orientation in accordance with its established equal opportunities policy (as amended from time to time).
- 6.2 This policy has been subject to an Equalities Impact Assessment and it does not have an adverse effect on equality issues.

7.0 Licensing Objectives - The Prevention of Crime and Disorder

- 7.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment, can be a source of crime and disorder. The Licensing Authority will expect operating schedules to satisfactorily address these issues from the design of the premises through to the daily operation of the business. Applicants are recommended to seek advice from the Police Licensing Officer and Licensing Authority Officers prior to making any application as early advice can alleviate representations being made once an application is submitted. Full contact details for both are contained within the Responsible Authorities contact in appendix B.
- 7.2 Applicants should, where appropriate, take account of local planning and transport policies, and tourism, cultural and crime prevention strategies, when preparing their operating plans and schedules.
- 7.3 Where a number of premises may be in close proximity it may be difficult to attribute the disorder to patrons of particular premises, however there is a duty on Premises Licence Holders or Club Management Committees to act responsibly to ensure their own customers do not contribute to crime and disorder whilst in their premises and in the vicinity of their premises.
- 7.4 When addressing crime and disorder, the applicant should identify any particular issues that are likely to affect adversely the promotion of the crime and disorder objective. They should then include in the operating schedule how they will deal with those matters.

- 7.5 Operating schedules should then show how they will address the issues identified. Further guidance on these measures is contained in Appendix B.
- 7.6 Applications referred to the Licensing Sub-Committee where relevant objections have been received will be determined on the individual merit of each case. The Licensing Sub-Committee has the power to impose specific conditions when considered necessary in respect of the Crime and Disorder objective.
- 7.7 The Council's Licensing Officers will work closely with the Metropolitan Police Service to ensure licence conditions are met, matters relating to crime and disorder are resolved, and that licensed premises are being operated according to the requirements of the Act.
- 7.8 Following the grant of a premises licence, the Metropolitan Police Service, Elected Members and/or interested parties such as local residents and Ward Councillors can apply to the Licensing Authority for a review of the licence if they consider that the Prevention of Crime and Disorder objective has not been met and are relevant.
- 7.9 When making decisions about an application the Licensing Sub Committee will have regard to the Borough's Crime Prevention Strategy and any conditions attached to licences or certificates will so far as possible reflect local crime prevention strategies
- 7.10 High risk or poorly managed premises will be subject to a higher frequency of inspections than low risk and well managed premises. Some of these inspections will be unannounced and conducted whilst the premises are in use for the purpose of the licence.
- 7.11 In the interest of public order and the prevention of terrorism, the Licensing Authority would expect that for significant events, a comprehensive risk assessment is undertaken by premises licence holders to ensure that crime and disorder and public safety matters are identified and addressed. Accordingly, for premises that wish to stage promotions, or events (see examples set out in Appendix B), the Licensing Authority recommends those applicants address the Risk Assessment and debrief processes in their operating schedule.
- 7.12 The Licensing Authority recommends the Metropolitan Police Promotion / Event Risk Assessment Form 696 and the After Promotion / Event Debrief Risk Assessment Form 696A as useful and effective tools for this purpose. Where the Risk Assessment forms are used to assess the likely risks for any promotion or event, the Licensing Authority would normally expect that they will be completed following consultation with the Metropolitan Police Service. This procedure should also be considered by the applicant when completing their Operating Schedule.

7.13 Personal Licence applicants will have to meet specific standards with regard to their suitability. There are a number of obligations on Personal Licence Holders including those who are named as Designated Premises Supervisors, the breach of which could mean appearing before the Magistrates Court.

8.0 Licensing Objectives - Public Safety

8.1 The Licensing Act 2003 Act covers a range of premises and activities, including cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways. Each of these types of premises presents a mixture of risks to public safety, with many common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.

8.2 The Licensing Authority will expect operating schedules to satisfactorily address these issues and applicants are advised to seek advice from the Borough's Licensing Officers and the London Fire Brigade contact details can be found in appendix F, before preparing their plans and schedules. Where an applicant identifies an issue relating to public safety (including fire safety) that is not covered by existing legislation, the applicant should identify in their operating schedule the steps that they will take to ensure public safety. Where representations are received and upheld at a hearing, the Licensing Authority will consider attaching conditions to licences and permissions to promote safety.

8.3 If relevant representations are received from a Responsible Authority, Elected Members or interested parties the application will be determined by a Licensing Sub-Committee.

8.4 Applications referred to the Licensing Sub-Committee will be determined on the individual merit of each case. The Licensing Sub-Committee have the power to impose specific conditions when considered necessary in respect of the Public Safety objective.

8.5 Following the grant of a premises licence, the London Fire and Emergency Planning Authority, Elected Members and/or the Enforcing Authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974 and/or interested parties such as local residents and businesses can apply to the Licensing Authority for a review of the licence if they consider that the Public Safety objective has not been met.

8.6 The Licensing Authority's Licensing Officers will conduct inspections of licensed premises to ensure that the approved safety standards are being maintained and that licence conditions are being complied with.

8.7 High risk or poorly managed premises will therefore be subject to a higher frequency of inspections than low risk and well managed premises. Some of these inspections will be unannounced and conducted whilst the premises are in use for the purpose of the licence.

8.8 The Council's Licensing Officers, Fire Safety Officers and Health & Safety Officers will work closely together to resolve matters relating to public safety in licensed premises.

9.0 Licensing Objectives - The Prevention of Public Nuisance

9.1 Licensing Sub Committees will be mindful that licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises. When addressing public nuisance the applicant should identify any particular issues that are likely to affect adversely the promotion of the licensing objective to prevent public nuisance. They should then include in the operating schedule how they will deal with those matters. The concerns mainly relate to noise nuisance from within the premises or from the use of any outside areas, light pollution, smoke and noxious smells. Due regard will be given to the impact these may have and the Licensing Authority will expect operating schedules to satisfactorily address these issues.

9.2 Appendix D provides a list of examples of activities which could give rise to public nuisance and measures which can be taken to prevent such nuisance occurring.

9.3 Applicants should give particular consideration to measures to reduce the occurrence of public nuisance associated with accommodating smokers outside the premises, following the introduction of smoke free areas in enclosed or substantially enclosed places.

9.4 In relation to smoking outside licensed premises, it is expected that:

- Suitable receptacles for customers will be provided and maintained to dispose of cigarette litter in areas used, or likely to be used, for smoking
- Licensees will take all reasonable steps to discourage smoking on the public highway close to residential premises, particularly after 10pm. This could include measures such as a ban on customers taking drinks outside on to the public highway, the use of door supervisors, or imposing a time after which re-admissions to the premises will not be permitted
- Garden areas to be cleared at a reasonable time where not doing so could cause nuisance to neighbouring residents.

9.5 Where an application includes provision of a smoking shelter then the Licensing Authority expects the shelter to be situated as far as possible from neighbouring residential premises.

- 9.6 If relevant representations are received from a Responsible Authority, Elected Members or interested parties, the application will be determined by a Licensing Sub-Committee.
- 9.7 Applications referred to the Licensing Sub-Committee will be determined on the individual merit of each case. The Licensing Sub-Committee have the power to impose specific conditions when considered necessary in respect of the Prevention of Public Nuisance objective.
- 9.8 Following the grant of a premises licence, the Council's Environmental Protection Unit, Elected Members and/or interested parties such as local residents and businesses can apply to the Licensing Authority for review of the licence if they consider that the Prevention of Public Nuisance objective has not been met.
- 9.9 The Licensing Authority's Licensing Officers will conduct inspections of licensed premises to ensure that the conditions relating to the prevention of public nuisance are being complied with.
- 9.10 High risk or poorly managed premises will therefore be subject to a higher frequency of inspections than low risk and well managed premises. Some of these inspections will be unannounced and conducted whilst the premises are in use for the purpose of the licence.
- 9.11 The Council's Licensing Officers will work closely with the Council's Anti-Social Behaviour Investigations Team, requesting monitoring visits of specific premises and receiving feedback regarding the witnessing of statutory noise and public nuisance or the breach of licence conditions.

10.0 Licensing Objectives - The Protection of Children from Harm

- 10.1 The range of 'licensed premises' under the Licensing Act 2003 is very broad. It includes pubs, cinemas, theatres, restaurants, off licences etc.
- 10.2 Under the Licensing Act 2003, unaccompanied children under the age of 16 are not allowed on premises such as public houses which are used exclusively or primarily for the supply of alcohol for consumption on the premises.
- 10.3 This restriction does not apply to premises such as restaurants and bowling alleys etc. where the supply of alcohol is not the principal use of the premises. However, unaccompanied children under the age of sixteen are not permitted in such premises between the hours of midnight and 5 a.m. Admission of children will always be at the discretion of those managing the premises unless specifically prohibited by way of licence conditions.

- 10.4 Applicants and licence holders are encouraged to be mindful of the adult nature of licensed premises and to make adequate provision for the protection of children from harm in their operating schedules. Applicants are advised to contact the Safeguarding Children and Quality Assurance team directly to seek advice prior to submitting their application.
- 10.5 The Licensing Authority 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 the presence of children under certain ages when particular specified activities are taking place.
 - Limitations on the parts of premises to which children might be given access.
 - Limitations on ages below eighteen.
 - Requirements for an accompanying adult.
 - Full exclusion of people under eighteen from the premises when any licensable activities are taking place.
- 10.6 If relevant representations are received from a Responsible Authority, Elected Members or interested parties the application will be determined by a Licensing Sub-Committee.
- 10.7 Applications referred to the Licensing Sub-Committee will be determined on the individual merit of each case. The Licensing Sub-Committee have the power to impose specific conditions when considered necessary in respect of the Protection of Children from Harm objective.
- 10.8 Following the grant of a premises licence, the Council's Safeguarding Children and Quality Assurance team, Elected Members and/or interested parties such as local residents and businesses can apply to the Licensing Authority for a review of the licence if they consider that the Protection of Children from Harm objective has not been met.
- 10.9 The Licensing Authority's Licensing Officers will conduct inspections of licensed premises to ensure that the conditions relating to the protection of children from harm are being complied with.
- 10.10 High risk or poorly managed premises will therefore be subject to a higher frequency of inspections than low risk and well managed premises. Some of these inspections will be unannounced and conducted whilst the premises are in use for the purpose of the licence.

- 10.11 The Licensing Authority will expect that each operator dealing in the sale and supply of alcohol implements a proof of age policy in line with the Mandatory Licence conditions. The Authority expects premises licence holders to ensure that their staff are adequately trained and in every case where there is any doubt as to whether the customer is aged eighteen or over: 'No ID- No sale'.
- 10.12 Trading Standards Officers and Police Officers will carry out test purchases of alcohol using young volunteers. Where sales are made, enforcement action will be taken against all responsible persons.

Children's access to cinemas

- 10.13 The Licensing Authority accepts that the British Board of Film Classification (BBFC) is the recognised authority in categorising films. It therefore accepts the BBFC classifications with respect of children's films. The Licensing Authority will expect applicants to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to BBFC recommendations.

Children and Regulated Entertainment

- 10.14 There are many kinds of regulated entertainment which are specifically arranged for children, such as plays, concerts, film shows, some of which may be school based. When it is proposed to present an entertainment specifically for children, then additional safety measures may need to be considered. The Council's Licensing Officers and the Safeguarding Children and Quality Assurance team are able to offer advice and guidance in respect of such presentations and organisers of such events are encouraged to seek such advice.

11.0 Public Health & Licensing

- 11.1 The Director of Public Health in Hillingdon is a responsible authority under the Licensing Act 2003, and may; make representations in respect of premise licence applications and club premise certificates, and may also apply to review premise licences and certificates.
- 11.2 At the time of writing, there is no licensing objective correlating purely to public health, and as such any representations or applications made by the Director for Public Health must be based upon one or more of the current licensing objectives. Representations relating solely to public health issues are not relevant under the Act.
- 11.3 A range of public health issues may relate directly to one or more of the Licensing Objectives; for example, violent assaults, cases of alcohol poisoning at licensed premises, issues with loud noise emanating from premises. The Licensing Authority will work with the Director of Public Health and his staff in order to identify and utilise relevant public health data within the licensing process.

12.0 Licensing Committee

- 12.1 A Licensing Committee consisting of at least ten, but not more than fifteen Councillors has been appointed. The Licensing Committee will be kept informed by way of reports from officers on a wide range of matters which may impact on their role.
- 12.2 The Licensing Act 2003 dictates that uncontested applications shall be granted and that such applications should be dealt with by specific officers who have been so delegated by the Licensing Authority.
- 12.3 Whenever relevant representations have been received from Responsible Authorities; Elected Members and/or Interested Parties in respect of an application, that application will be referred to a Licensing Sub-Committee for determination.
- 12.4 Although the Licensing Authority welcomes views from all members of the community, Government guidance states that the Council as the Licensing Authority should be aware that the views of vocal minorities should not be allowed to predominate over the general interests of the community that the Licensing Committee represents.

13.0 Authorisations and Applications

- 13.1 There are a number of authorisations relating to:

- Sale/Supply of alcohol
- Regulated entertainment
- Late Night Refreshment

These are;

Premises Licences

- 13.2 Any person aged eighteen years or over who is carrying on, or who proposes to carry on, a business that involves the use of premises for licensable activities may apply for a premises licence either on a permanent basis or for a time-limited period. 'A person' in this context includes a business or partnership.
- 13.3 A premises licence lasts indefinitely and may be transferred or varied at any time.
- 13.4 The premises licence application form and operating schedule should be completed clearly and concisely to reflect the exact nature of the business and how the four licensing objectives will be addressed. All sections of the application form must be completed. Guidance as to what type of information should be included in the operating schedule is given in the appendices to this Policy.

- 13.5 Applications which are incomplete or illegible will be returned to the applicant with an explanation for the return. Reasons may include incomplete or missing forms, the absence of the fee, absence of required plans or insufficient information detailed on the plans, as required under Statutory Instrument 42 and the operating schedule. For personal licences also the absence of certificates or photographs.
- 13.6 Applicants are advised to seek advice from the Council's Licensing Officers and the Responsible Authorities concerning the licensing requirements for premises and/or licensable activities being applied for prior to completing their operating schedule. Large or unusual events need particular consideration and applicants are advised to consult the Council's Licensing Officers for guidance and to submit applications as far in advance as possible. When required, the Council's Licensing Officers will provide all applicants with advice and guidance in respect of completing their application forms and, in particular, how they should address each one of the four licensing objectives in their operating schedules.
- 13.7 Notwithstanding 13.6 above, it is the applicant's responsibility to complete the application to a satisfactory standard and they should seek professional legal advice as necessary.

Members Clubs

- 13.8 Some activities carried out by clubs need to be licensed under the Act but generally, members clubs are treated differently to proprietary clubs and commercial premises. A club is an organisation where members have joined together for a particular reason i.e. social, sporting or political and have combined to buy alcohol in bulk as members of the organisation for supply to members. In order to apply for a Club Premises Certificate the club needs to be a 'Qualifying Club'.
- 13.9 Where there is doubt about the eligibility for a club premises certificate, the Licensing Authority will seek assurances and evidence from applicants that they are a qualifying club for the purposes of the Act. Such evidence may include membership records, minutes of committee meetings etc.

Temporary Event Notices

- 13.10 Anyone may give the Licensing Authority a Temporary Event Notice (TEN). This procedure allows people to hold an event involving licensable activities without having to apply for a Premises Licence or Club Premises Certificate.

13.11 The Act provides a system for the temporary carrying on of any licensable activity outside of the terms of a premises licence or club premises certificate. Under this system no authorisation as such is required from the licensing authority. Instead a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event.

Personal Licences

13.12 To sell alcohol in licensed premises at least one person needs to hold a ‘Personal Licence’ which has been granted by the Licensing Authority where they live. This requirement does not apply to ‘qualifying clubs’.

13.13 In some premises there may be more than one person holding a ‘Personal Licence’ and it is important that one person is named as being in control, this person is called the ‘Designated Premises Supervisor’.

13.14 There is one exemption from the need for a personal licence holder and “Designated Premise Supervisor” in line with the mandatory requirements of the Licensing Act 2003 section 19(2) and 19(3). That is in the case where a community premises (church, community and village halls etc.) has applied for and been granted an application to disapply these mandatory conditions.

13.15 In determining applications for personal licences the Licensing Authority will have regard to the guidelines issued by the Secretary of State under section 182 of the Licensing Act 2003 and any secondary legislation. The promotion of the four licensing objectives applies to the consideration of applications for personal licences equally as it does to applications for premises licences.

14.0 Representations

14.1 This policy will not seek to exclude any rights enshrined in the Act or any other legislation for applicants or those making representations against applications. Each application and representation will be treated on its merits taking into account the legislation, the Guidance issued under section 182 of the Licensing Act 2003 and this policy.

14.2 Representations can be made to the Council, as Licensing Authority, by a ‘Responsible Authority’ or by ‘Interested Parties’ which include bodies or individuals who live in the vicinity of such a premises, and residents association, trade associations and other businesses operating in the vicinity. Representations can be made concerning:-

- Applications for new premises licences or club premises certificates
- Applications to vary premises licences or club premises certificates
- Personal licence applications on criminal grounds (only by the Police)

- 14.3 Responsible Authorities are the public authorities specifically designated under the Licensing Act 2003 to be consulted on all licence applications and are also entitled to make representations. A full list of Responsible Authorities is attached as Appendix F.
- 14.4 The Licensing Act 2003 also permits Elected Members to make representations on their own behalf as well as on behalf of their constituents. Members of the public who are making representations may also request that their Ward Councillor speaks on their behalf at public hearings to determine applications.
- 14.5 Representations about an application must be made in writing to the Council's Regulatory Services Team within the statutory time limits.
- 14.6 Written representations include letters and emails. Representations received after the end of the public consultation period cannot legally be accepted and will not be considered by the Licensing Authority.
- 14.7 Representations must contain;
- a) The name, full address & post code, of the person making them;
 - b) The reasons for their representation;
 - c) Which of the four Licensing Objectives the representation relates to i.e. Crime and disorder; Public Nuisance; Public safety; Protection of children from harm.
- 14.8 Representations which do not meet this requirement may be rejected as being irrelevant or frivolous or vexatious.
- 14.9 Representations based on 'Need' for licensed premises, concerns the commercial demand for another pub, restaurant, off licence or hotel. This is not a matter for the licensing authority in discharging its licensing functions. 'Need' is a matter for planning committees and for the market. Representations made on the basis of need are likely to be rejected.
- 14.10 All valid representations will form part of a committee report that will become a public document. It will be given to the applicant, their agent, responsible authorities, other persons making representations and any other party requesting a copy as well as the Licensing Sub-committee 10 working days prior to the hearing. Anonymous representations will not be accepted.
- 14.11 Petitions may be submitted but are not as informative as individual correspondence and as such may be given less weight when considered by a Licensing Sub Committee.
- 14.12 Petitions will only be accepted if on each sheet it clearly shows
- The name and address of the application site
 - Reasons for the representation and
 - Which of the four Licensing Objectives are relevant

- 14.13 Each petitioner must give their name, full address including post code.
- 14.14 Failure to comply with any of the above requirements could lead to the petition being rejected.
- 14.15 The Licensing Authority follows the guidance of the Secretary of State concerning the judgments of representation as being irrelevant, vexatious and frivolous. A representation would be 'irrelevant' if it does not relate to the application or to the promotion of the licensing objectives in the context of the application.
- 14.16 In considering whether or not a representation is 'vexatious or frivolous' the Licensing Authority must determine whether any ordinary and reasonable person would consider the matter to be vexatious or frivolous. Vexation may arise where, for example, there is a dispute between rival businesses. Frivolous representations would be categorised by a lack of seriousness.
- 14.17 Where a representation is found to be irrelevant, vexatious or frivolous, the person making it will be informed and that representation will be disregarded.

15.0 The Role of the Ward Councillor

- 15.1 Ward Councillors play an important role in the local community. They can make representations in writing and speak at the hearing on behalf of an interested party such as a local resident or local business if specifically requested to do so. They can also make representations as an interested party in their own right
- 15.2 For example, ward Councillors may apply for a review of a licence if problems at specific premises, which justify intervention, are brought to their attention.
- 15.3 Ward Councillors are informed of all new applications and any application to vary a licence in their ward. Individual Councillors may publicise an application locally in addition to the statutory publication carried out by the applicant.
- 15.4 Local residents and businesses may wish to contact their local ward Councillors in respect of a licence application. Details on how to contact Ward Councillors may be obtained from the Council's Website.
- 15.5 Ward Councillors may attend hearings of licensing Sub Committees considering applications and speak on behalf of local residents and businesses, but only if;
- They have made a personal representation;
 - They have made a representation on behalf of local residents or businesses as 'community advocates'

- They have been nominated by (an objector) who cannot attend the hearing or prefers to be represented at the hearing.

16.0 Decision Making and Licensing Hearings

- 16.1 Applications for premises licences, club premises certificates, interim authorities, provisional statements, variation of designated premises supervisors and personal licences that do not attract representations will be issued as applied for; any conditions, apart from mandatory conditions, will reflect the applicant's operating schedule.
- 16.2 The Licensing Authority will form Sub-Committees consisting of three elected members led by one Chairman.
- 16.3 The full Licensing Committee will sit when it is considered appropriate to comply with any requirements of the Licensing Act 2003 or accompanying Regulations.
- 16.4 A Licensing Sub-Committee will sit to hear all applications for premises licences, club premises certificates, interim authorities, provisional statements, designated premises supervisors and personal licences which have attracted relevant representations from either a 'responsible authority' or 'other person'. A full scheme of delegations can be found at Appendix A
- 16.5 A Licensing Sub-Committee will also sit to hear cases where the police and/or the Council's Noise and Nuisance officers have opposed a Temporary Event Notice on the basis that, should the event go ahead, one or more of the licensing objectives would not be promoted.
- 16.6 Any decisions made by the Licensing Sub Committee will be announced verbally at the end of the hearing where possible, and will be sent in writing to the applicant and any person who has made a valid representation within five working days.

17.0 Licence Conditions

- 17.1 Conditions on premises licences and club certificates are determined by:
- The measures put forward on the Operating Schedule
 - Mandatory conditions within the Act (current list included as Appendix G)
 - Measures decided at a hearing by the Licensing Sub Committee
- 17.2 Any conditions attached to licences following relevant representations will focus on matters within the control of the Premises Licence Holder or Club Management Committees. They will address matters which have a direct impact on those living, working or engaged in normal activities in the vicinity, as well as patrons of the licensed premises.

They will not be used as a means of attempting to attach responsibility to Premises Licence Holders or Club Management Committees for matters outside their reasonable control, such as anti-social behaviour once away from the premises or licensable activity.

- 17.3 The Licensing Authority will not impose standard conditions upon every licence issued, however it may have regard to model conditions produced by the Government and/or the Institute of Licensing and it may choose to impose these in appropriate circumstances.

18.0 Enforcement

- 18.1 Any enforcement action taken in relation to the duties of this Licensing Authority under the Licensing Act 2003 will comply with the current Residents Services Enforcement Policy.
- 18.2 The Council also supports the 'Hampton Principles' of avoiding duplication when carrying out inspections and will endeavour to carry out its inspections of licensed premises in accordance with those principles.
- 18.3 Officers will also comply with the 'Regulators Code', which can be accessed at: <https://www.gov.uk/government/publications/regulators-code>
- 18.4 The Licensing Authority's Officers may carry out joint enforcement inspections with Metropolitan Police officers.

19.0 Reviews

- 19.1 At any stage following the grant of a premises licence or a club premises certificate, an application for a review application can be submitted to the Licensing Authority by a Responsible Authority, any Elected Member or an Interested Party in connection with any of the four licensing objectives.
- 19.2 The Council, as Licensing Authority, will reject an application for review where it considers that the complaint is:
- Not relevant to any of the Licensing Objectives
 - Vexatious, frivolous or repetitious
- 19.3 The Licensing Authority will be prepared to facilitate mediation between the licensee and those who may be intending to review the licence, depending upon the severity of the individual circumstances.
- 19.4 It is recommended that applications for review of premises licences are not made until at least six months after the grant of a licence in order to allow time for evidence to be gathered on the grounds for review.

- 19.5 Premises subject to review must display a statutory notice so that it is visible to passers-by, stating the ground for review and advising those who wish to make a representation to write to the Licensing Authority.
- 19.6 The Licensing Authority will also place similar notices at the Civic Centre and on the Council's website.
- 19.7 The Violent Crime Reduction Act 2006 gives the police power to review a premises licence with immediate effect where a senior police officer considers there is the risk of serious crime or disorder at the premises. This is known as an 'expedited review'.
- 19.8 Where an 'expedited review' has been applied for by the Police, the Licensing Authority will convene a Licensing Sub-Committee who will consider any interim immediate steps that may include modifying the licence conditions, suspending the licence or removing the designated premises supervisor (DPS). Interim steps will be imposed by the Licensing Sub-Committee within two working days from receipt of the application.
- 19.9 The Licensing Sub-Committee may impose interim steps without consulting with the licence holder, however, every effort will be made to contact the licence holder and inform him of the review. If interim steps are imposed, the Licensing Authority shall immediately notify the licence holder and the police. The licence holder is entitled to make representations at this stage and a hearing will be held to facilitate this.

20.0 Cumulative Effect

- 20.1 Whilst the London Borough of Hillingdon does not have a concentration of licensed premises as found in central London boroughs, it nevertheless has a relatively large number of pubs and restaurants in Town Centre areas. Most of these Town Centre areas are also home to many residents. However, the Council, as the Licensing Authority, does not propose, at this stage, to set quotas for particular types of licences.
- 22.2 Applications will be considered on their individual merit thus ensuring that the characteristics of the many different types of licensable activity are fully considered. If crime and disorder or general disturbance/nuisance do prove to be linked to the concentration of customers of licensed premises in any particular areas, then the Licensing Authority will consider introducing controls over the issue of new licences through a 'Special Policy' (to limit the number of licensed premises).
- 22.3 It would first be necessary to establish that, because of the number and density of licensed premises selling alcohol in a particular area, there are exceptional problems of nuisance, disturbance and or disorder outside or away from those licensed premises as a result of their combined effect. Where particular premises are identified as being responsible for the problems it may be possible to take specific

measures against those individual Premises Licence Holders or Club Management Committees following relevant representations.

- 20.4 Where there is public disorder from a minority of people who display anti-social behaviour away from licensed premises, there are other measures available to the Police Authority to address such issues.
- 20.5 Before deciding whether to adopt a Special Policy (to limit the number of licensed premises), the Council as the Licensing Authority must be sure that the imposition of individual conditions to particular premises would not solve the problem. The Council as the Licensing Authority has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder. It must be sure it has met its obligations under the Crime and Disorder Act 1998 and in terms of its promotion of the licensing objectives under the Licensing Act 2003.
- 20.6 If objector representations are made as to the cumulative effect of a new application and hence the need for a Special Policy (to limit the number of licensed premises), the onus will be on the objector to provide the evidence that the additional premises would produce the impact claimed.
- 20.7 If a Special Policy (to limit the number of licensed premises) is introduced it will be reviewed regularly to assess whether or not it is still needed.

21.0 Licensing Hours

- 21.1 Prior to the introduction of the Licensing Act 2003, it was believed that fixed and artificially early closing times (established under the Licensing Act 1964) were one of the key causes of rapid binge drinking prior to closing times and one of the causes of disorder and disturbance when large number of customers were required to leave the premises simultaneously.
- 21.2 The aim through promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times.
- 21.3 Arbitrary restrictions that would undermine the principle of flexibility will therefore be avoided. The four licensing objectives will be paramount at all times and the Council will always consider the individual merits of each case.
- 21.4 In accordance with guidance there is no fixed restriction on terminal hours for any particular areas of the borough. Such a restriction could cause the migration of patrons from one area to another and create the circumstances that the legislation is attempting to avoid. Each application will be dealt with on its merits. It is for the applicants to detail in their Operating Schedule exactly what times they intend to

open and close the premises and what measures they will take to ensure that they do not cause nuisance or disturbance to their neighbours in the vicinity. The later the terminal hour applied for, the greater will be the need to address the issues of disturbance and nuisance.

- 21.5 Shops, stores and supermarkets licensed to sell alcohol will normally be allowed to do so for the full duration of their trading hours. Restrictions may be applied, for example where representations are made indicating the particular premises or patrons of the premises are linked to disorder and or disturbance.

22.0 Exemptions

- 22.1 There are a number of circumstances where entertainment related activities are exempt from regulation. These activities are specifically addressed in detail in the Section 182 Guidance. In summary, these are:

- Live Music
- Recorded Music
- Plays
- Performances of Dance
- Indoor Sport
- Any entertainment provided by a local authority, school or hospital
- Community exhibitions of film

- 22.2 The exemption for entertainment is subject to certain conditions relating to the timings of the entertainment and maximum audience numbers, i.e. between the hours of 08.00 and 23.00 and for audiences of no more than 500 people.

- 22.3 In licensed premises, where the exemptions apply, any conditions relating to entertainment would be suspended between the hours of 08.00 and 23.00. However, the Licensing Authority is empowered to lift the suspension of licence conditions upon a licence review where there are demonstrable effects on one or more of the licensing objectives.

- 22.4 It should be noted that any dance performances of an adult nature, involving nudity, are still regulated under the Local Government (Miscellaneous Provisions) Act 1982 and separate permission would apply.

Appendix A

TABLE OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	SUB-COMMITTEE	OFFICERS
Application for a personal licence	If a Police objection	If no objection made
Application for personal licence, with unspent convictions	If a Police objection	If no objection made
Application for premises licence/club premises certificate	If a relevant representation made	If no representation made
Application for provisional statement	If a relevant representation made	If no representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no representation made
Application to vary designated premises supervisor	If a Police objection	All other cases
Request to be removed as designated premises supervisor		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 certificate	All cases	
Decision on whether a representation/objection is irrelevant, frivolous, vexatious, etc.		All cases
Decision to object when local authority is a consultee and not the lead authority	All cases	
Determination of an objection to a Temporary Event Notice	All cases	
Revocation of Personal Licence where convictions come to light after grant	All cases	
Determination of application by Community Premises to include alternative licence condition	If a Police objection	All other cases
Decision whether to consult other responsible authorities on minor variation applications		All cases
Determination of minor variation applications		All cases

APPENDIX B – PREVENTION OF CRIME AND DISORDER

Examples of measures to prevent crime and disorder which applicants are encouraged to give when completing their Operating Schedules:

- The setting of a safe capacity limit – While often necessary on public safety grounds, this is equally important in order to prevent overcrowding giving rise to risk of crime and disorder
- Use of crime prevention notices – For use in circumstances where it would be helpful to warn customers of prevalence of crime which may target them, for instance, to warn of pickpockets or bag snatchers
- Publicising details of the premises operation – Display details of the premises opening and closing times
- Installing CCTV – The presence of CCTV cameras can be an important means of deterring crime both inside and outside of the premises. It can also help to provide valuable evidence in the event that an incident does occur. CCTV should be maintained in good working order and used at all times with a thirty one day library of recordings maintained at all times
- Removing low cost high strength alcohol from offer – To help reduce street crime and violence and anti-social behaviour from public drunkenness
- Developing a drugs policy in conjunction with the police – Establish a clear written anti-drugs policy and publicise this to customers
- Preventing counterfeit products, such as alcohol, tobacco, DVDs, CDs and other goods from being offered for sale upon the premises
- Exercising control over the removal of open drink containers – To prevent the use of containers as weapons in the street
- Using plastic containers and toughened glass – Consideration should be given to the use of safer alternatives to glass which would inflict less severe injuries if used as weapons. Note: That any glass alternatives used for measuring draft beer and cider must be lawful for trade use under weights and measures legislation.
- Introducing bottle bans – Decant drinks into glasses before being handed across a bar
- Providing seating for customers – sufficient to ensure that the majority of customers do not have to stand
- Ensuring good availability of soft drinks and food

- Employing an appropriate number of SIA registered door supervisors – Valuable for maintaining orderly behaviour in queues; searching and excluding those suspected of carrying offensive weapons, or illegal drugs; keeping out banned individuals; or controlling admissions and departures
- Making personal searches by door supervisors a condition of entry – Including the provision of signage and female SIA for personal searches conducted on female customers and performers
- Providing door supervisors with search wands / search arches – Maintained in good working order and used on all occasions
- Providing a drugs and weapons box – Kept under the direct control of premises management with all seized drugs and weapons to be handed over to the police in accordance with the police code of practice
- Installing ID scanning and recording equipment – Requiring all patrons to provide ID and agree to being recorded. Provide notices to this effect in conjunction
- Establishing a last admissions policy – For both admissions and readmissions. Publicise this at the premises
- Establishing a dispersals policy – Helping to reduce the potential for disturbance to local residents
- Co-operating with the police and Council on venue hire agreements – Providing good notice (at least one month) of all internal and external promoters engaged at the premises. Also comply with requests from the police not to engage a specific promoter where this is recommended by the police for crime and disorder

Premises Licence Holders and representatives from Clubs are encouraged to participate in Pub Watch, Club Watch, Business Watch and Radio Link and similar schemes.

Dispersal

The Licensing Authority considers the orderly dispersal of customers from licensed premises to be an important factor in promoting the licensing objectives. In considering any application for the grant or variation of a licence serious consideration will be given to the dispersal arrangements from the premises and the effect that granting the licence might have on the dispersal arrangements of other licensed premises in the area. The Licensing Authority will pay particular attention to an application which may delay orderly dispersal or is likely to encourage people to remain in the vicinity.

Drugs

The Licensing Authority recognises that drug misuse is not something that is relevant to all licensed premises however it is committed to the reduction and eradication where possible of drugs from licensed premises as part of its role in promoting the Crime and Disorder licensing objective.

If relevant representations are received to following an application for the grant or variation of a licence, special conditions may be imposed to support the prevention of the sale, supply and consumption of drugs.

In premises where drugs misuse is problematic and where the Police or others apply for a 'Review' of the licence, the Licensing Authority will consider this as being very serious and will give appropriate consideration to the full range of options available including the suspension and revocation of the licence. The Licensing Authority recognises that each case is individual and will be decided on the facts and its specific merits.

Nightclubs and other similar venues

Nightclubs and other similar venues should, when completing their operating schedule, consider including reference to the use of risk assessments for the different types of music and DJ's/MC's or similar that they propose to use.

In addition, if it is proposed, on occasions, to stage significant events or promotions, then applicants should also consider when completing their operating schedule, submitting a separate risk assessment for each individual event or promotion followed by the submission of a subsequent 'de-brief' report.

Detailed below are examples of conditions that applicants may wish to considering offering in their operating schedule:-

1. The premises licence holder shall undertake a risk assessment of any promotion or event (as defined over) using the MPS Promotion/Event Risk Assessment (Form 696) or an equivalent and provide a copy to the Metropolitan Police Service using the email as detailed below and the Licensing Authority not less than fourteen days before the event is due to take place.
2. Where an 'event' has taken place, the premises licence holder shall complete follow up feedback using form 696a and submit this to the Metropolitan Police by email as detailed below within three days of the conclusion of the event.

Licensing-xh@met.pnn.police.uk

ClubsFocusDesk-CO14@met.police.uk

Definition of an 'Event'

The recommended guidance to music event organisers, management of licensed premises or event promoter on when to complete Form 696 is where you hold an event that is –

- promoted / advertised to the public at any time before the event, and
- predominantly features DJs or MCs performing to a recorded backing track, and
- runs anytime between the hours of 22.00 hours and 04.00 hours, and
- is in a nightclub or a large public house.

APPENDIX C – PUBLIC SAFETY

Publications which applicants should consider when preparing their operating schedules:-

- British Standard 9999 - Code of Practice for Fire Safety
- Regulatory Reform (Fire Safety) Order 2005 – clause 14(2) (a)-(h)
- British Standard 7671 - Requirements for Electrical Installations (I.E.E. Wiring Regulations)
- British Standard 5266 - Code of Practice for emergency lighting systems
- British Standard 5839 - Fire detection and alarm systems for buildings
- Model National Standard Conditions for Places of Entertainment – Published by LDSA Publications, PO Box 266, Bromley, Kent, BR2 9ZN
- Technical Standards for Places of Entertainment - Published by LDSA Publications, PO Box 266, Bromley, Kent, BR2 9ZN
- Purple Guide - A guide to health, safety and welfare at large events <http://www.thepurpleguide.co.uk/>
- Managing Crowds Safely, HSG154 (ISBN 0-7176-1834-X)
- 5 Steps to Risk Assessment, Case Studies (HSE 1998) (ISBN 0-7176-1580-4)
- The Guide to Safety at Sports Grounds published by HMSO, The Green Guide (ISBN 0-11-341072-7)
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances, www.streetartsnetwork.org/pages/publications
- Home Office and London Drug Policy Forum guidance 'Safer Clubbing'

APPENDIX D – PREVENTION OF PUBLIC NUISANCE

Relevant issues might include:

- Preventing noise and vibration escaping from the premises, including music, noise from plant and patrons
- Preventing disturbance by patrons arriving at, gathering outside of, being admitted or re-admitted to or departing from the premises, particularly, but not exclusively between 11pm and 7am hours
- Preventing vehicle queues forming outside of the premises, or where some form of queuing is necessary, the steps to prevent disturbance or obstruction
- Ensuring clear up operations conducted by staff do not cause a nuisance and that staff leave the premises quietly
- Addressing arrangements made for parking by patrons
- Considering whether there is sufficient public transport provision and where licensed taxis or private hire vehicles are likely and any arrangements made to prevent disturbance to local residents
- Controlling disturbance that may be caused by the use of gardens / terraces / external and other open-air areas including the highway, particularly in relation to smoking and the passage of patrons between internal and external areas
- Preventing nuisance from the positioning and operation of plant and machinery such as kitchen extraction systems, ventilation plant, condensers
- Restricting delivery and collection times (waste, equipment and consumables) to between 8am and 8pm hours
- Limiting any nuisance or glare caused by the positioning of external lighting, including security lighting
- Preventing odour or pests from refuse storage and waste disposal and the accumulation of litter and smokers waste in the vicinity of the premises
- The need for regular patrols of the boundary of the premises and / or at the nearest residential to ensure nuisance impacts are not being experienced by neighbours.

Management controls should be considered for:

- The numbers of persons using any licensed external area at any one time
- The hours of operation of any licensed external area, requiring patrons to return back into the premises at a specific time. In residential areas, this is particularly important
- The numbers of smokers allowed outside of the premises at any one time
- The taking of drinks outside of the premises when patrons step outside to smoke. This can be assisted by providing a 'drinks safe' area for patrons who temporarily leave the premises
- Queues of patrons awaiting admission and how these are arranged
- The areas within which patrons may congregate outside of the premises, restricting them, for instance, to the curtilage or footprint of the premises
- The times within which live music and / or amplified sound may be played in any external area or marquees or relayed by external speakers (where permitted under the terms of the licence)
- The times within which barbecues or other cooking facilities may be provided within any external area
- Terminal hour for last admissions and readmissions to the premises
- The supervision of patrons using any external area so as to prevent nuisance and disturbance
- Arrangements made with local cab companies calling for customers, requiring that they call within the premises for their customers without sounding their horn in the street
- The reduction of music levels within the premises 30 minutes before closing so as to reduce levels of excitement among patrons upon leaving
- The display of notices at exit points asking patrons to ' please leave quietly' and be mindful of local neighbours when leaving the premises
- The supervision of patrons outside of the premises to ensure quick dispersal from the immediate area upon closing time

- The clearance of any litter created by the operation of the premises
- The hours during which external activities such as the handling and removal of waste or musical equipment or the delivery of goods
- Restricting the use of artificial lighting outside of the premises so as to reduce the potential for light nuisance
- Applicants are advised to seek advice from the Council's Environmental Health Officers contact details can be found in appendix F before preparing their plans and operating schedules. Where representations are received and upheld at a hearing the Licensing Authority will consider attaching conditions to licences and permissions to prevent public nuisance.

Publications which should be considered when preparing operating schedules:

- a) British Standard 4142 1997 - Method for rating industrial noise affecting mixed residential and industrial areas
- b) Good Practice Guide on the Control of Noise from Pubs and Clubs (Institute of Acoustics)
- c) Control of 'Noise' published by the British Beer and Pubs Association

APPENDIX E – PROTECTION OF CHILDREN FROM HARM

The following are examples of premises that will raise concern:

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

Examples of measures to protect children from harm which could be included in Operating Schedules:

- Limitations on the hours when children may be present.
- Age limitations (below eighteen).
- Limitations or exclusions when certain activities are taking place
- Requirements for accompanying adult.
- Full exclusion of people under eighteen from the premises when any licensable activities are taking place.

APPENDIX F

Responsible Authorities

<p>The Licensing Authority c/o Regulatory Services London Borough of Hillingdon Civic Centre 4W/01 High Street Uxbridge UB8 1UW licensing@hillington.gov.uk</p>	<p>Chief Officer of Police c/o Licensing Dept. Ruislip Police Station The Oaks Ruislip, HA4 7LE Attn A/Police Sergeant Ian Wares Licensing-xh@met.pnn.police.uk</p>
<p>Chief Officer of Police Heathrow Police Station Unit 3, Polar Park Bath Rd West Drayton Middlesex UB7 0DG Martin.baird@met.pnn.police.uk</p>	<p>London Fire and Emergency Planning Authority London Fire Brigade 169 Union Street London SE1 0LL Attn: North West Area Team fsrnorth@london-fire.gov.uk</p>
<p>Safeguarding Children and Quality Assurance Social Services London Borough Of Hillingdon Civic Centre Uxbridge UB8 1UW jaltenor@hillington.gov.uk</p>	<p>Public Nuisance Enforcing Authority Environmental Protection Unit London Borough Of Hillingdon Civic Centre Uxbridge UB8 1UW environmentalhealthcp@hillington.gov.uk</p>
<p>Weights and Measures Enforcing Authority Trading Standards Service London Borough of Hillingdon Civic Centre Uxbridge UB8 1UW tradingstandards@hillington.gov.uk</p>	<p>Planning Authority London Borough Of Hillingdon Civic Centre Uxbridge UB8 1UW Planning@hillington.gov.uk</p>
<p>Public Health Authority London Borough of Hillingdon Civic Centre Uxbridge UB8 1UW shajioff@hillington.gov.uk</p>	<p>Health & Safety Enforcing Authority London Borough of Hillingdon Civic Centre Uxbridge UB8 1UW environmentalhealthcp@hillington.gov.uk</p>
<p>Canal & River Trust (where applicable) Docklands Office 420 Manchester Road London E14 9ST enquiries.london@canalrivertrust.org.uk</p>	

Appendix G - Current Mandatory Conditions under the Licensing Act 2003

All Premises Licence authorising supply of alcohol

1. No supply of alcohol may be made under the Premises Licence –
 - (a) At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
 - (b) At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under the Premises Licence must be made, or authorised by a person who holds a Personal Licence.
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
 - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
 - (a) a holographic mark or
 - (b) an ultraviolet feature.
6. The responsible person shall ensure that –
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
 - (b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

Where—

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence-

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(7).

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

If the Premises Licence allows Exhibition of Films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3) (b) applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where
 - (a) The film classification body is not specified in the licence, or
 - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4. In this section “children” means any person aged under 18; and “film classification body” means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984(c39) (authority to determine suitability of video works for classification).

If the Premises Licence has conditions in respect of Door Supervision except theatres, cinemas, bingo halls and casinos

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:
 - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of section 4 of the Act.

2. But nothing in subsection (1) requires such a condition to be imposed:
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or
 - (b) in respect of premises in relation to:
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section:
 - (a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

This page is intentionally left blank



HILLINGDON

LONDON

Statement of Gambling Policy The Gambling Act 2005

Effective – January 2016 to January 2019

Draft

Contents	Page
PART 1: The Gambling Act 2005	
Introduction	1
Consultation	2
Declaration	3
Authorised Activities	3
Licensing Authority Functions	4
Responsible Authorities	5
Designated Body Protecting Children from Harm	5
Interested Parties	6
Exchange of Information	8
Enforcement	9
PART 2: Promoting the Licensing Objectives	
Preventing gambling from being a source of crime or disorder	11
Ensuring that gambling is conducted in a fair and open way	12
Protecting children and vulnerable persons from being harmed	13
PART 3: Integrating Strategies and Other Regulatory Regimes	
Integrating Strategies	16
PART 4: Local Risk Assessments and Local Area Profiles	
Local Risk Assessments	18
Local Area Profiles	19
PART 5: Premises Licences	
General Principles	20
Definition of Premises	21
Provisional Statements	22
Location	23
Conditions	23
Door Supervisors	24
Casino Premises	24
Bingo Premises	25
Members Clubs and Commercial Clubs	26
Betting Premises	26
Tracks	27
Adult Gaming Centres	29
(Licensed) Family Entertainment Centres	30
Travelling Fairs	31
Review of Premises Licences	32
PART 6: Gaming and Gaming Machine Permits	

Introduction to Permits	33
Gaming Machines	33
(Unlicensed) Family Entertainment Centre Gaming Machine Permits	36
Club Gaming and Club Machine Permits	38
Alcohol Licensed Premises Gaming Machine Permits	38
Prize Gaming Permits	40
PART 7: Notices	
Temporary Use Notices	42
Occasional Use Notices	43
PART 8: Registration of Small Society Lotteries	
Definition of Small Society Lottery	44
Licensing and Registration Scheme	44
PART 9: Decision Making	
The Licensing Committee	47
Delegation of decision-making responsibilities	47
PART 10: Appendices	
Appendix A: Schedule of Consultees	49
Appendix B: Schedule of Responsible Authorities and Contact details	51
Appendix C: Summary of Delegations	52

PART 1 THE GAMBLING ACT 2005

INTRODUCTION

1.1 London Borough of Hillingdon Council is the Licensing Authority under the Gambling Act 2005. This means that the Council is responsible for granting Premises Licences in respect of betting premises, bingo premises, casino premises, adult gaming centres and family entertainment centres as well as issuing a range of gaming permits and other authorisations for gambling within the Borough. As Licensing Authority, we are also empowered under the Act to impose conditions and review licences, as well as take enforcement action when an offence under the Act has been committed or when premises or activities are unlicensed, or licence conditions are not complied with. This is coupled with powers of entry and inspection to ensure compliance.

The Licensing Framework

1.2 In exercising most of our decision-making functions we **must** have regard to the three Licensing Objectives set out in Section 1 of the Gambling Act, namely:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

1.3 We are also bound by section 153 of the Act, which requires us, in making decisions concerning Premises Licences and Temporary Use Notices, to aim to permit the use of premises for gambling insofar as we think fit, subject to such decisions being:

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives; and
- In accordance with this Statement of Licensing Principles

The Policy

1.4 Section 349 of the Act requires us to publish a *Statement of Principles* (or policy) that we will apply when exercising our various functions under the Act. This Statement of Principles fulfils that statutory requirement and details throughout the document the Council's general approach to the making of licensing decisions.

- 1.5 Nothing in this policy will override the right of any person to make an application under the Act and have that application considered on its individual merits. Equally, nothing in this policy will undermine the right of any person to make representations on an application, or seek a review of a licence where there is a legal power to do so.
- 1.6 This document should be read in conjunction with the Act, Regulations made under the Act and Guidance issued by the Gambling Commission. Our Statement of Principles is designed to be a strategic (Gambling) Licensing Policy, not an operational guide to the Gambling Act or a guide to the application process.
- 1.7 This policy is supplemented by guidance documents for residents and the trade on the application and licensing process. These documents will assist applicants and objectors in understanding their rights and responsibilities under the Act in respect of:
- Applying for licenses and other gambling permissions.
 - Making representations.
 - Complaints about a premises licensed under the Act and review rights.
 - Committee hearings and the decision making process.
 - The information is available on the Council's website or on request by contacting the Hillingdon Licensing Service.

CONSULTATION

- 1.8 The Council has, in accordance with the section 349(3) of the Gambling Act, consulted with:
- i) London Borough of Hillingdon Council Licensing Authority
 - ii) The Gambling Commission
 - iii) The Chief Officer of Police for the London Borough of Hillingdon (where relevant, Chief Officer of Police for Heathrow)
 - iv) London Fire & Emergency Planning Authority, Hillingdon Fire Station
 - v) London Borough of Hillingdon Council Planning Authority
 - vi) London Borough of Hillingdon Council Environmental Protection Unit (*i.e. authority responsible for pollution and harm to human health*)
 - vii) Hillingdon Local Safeguarding Board
 - viii) HM Revenue and Customs
 - ix) Authority for Vulnerable Adults
 - x) A Licensing Authority in whose area the premises is situated (*i.e. the Council itself and also any adjoining Council where premises straddle the boundaries between the two*).
- (i) Persons who appear to this authority to represent the interests of persons carrying on gambling businesses in the borough of Hillingdon and neighbouring boroughs

- (ii) Persons who appear to us to represent the interests of persons who are likely to be affected by the exercise of this authority's functions under the Gambling Act 2005
- 1.9 A comprehensive list of the persons and/or bodies we have consulted is attached at Appendix A. A summary of the consultation responses can be found on the Council's website. The full list of comments made and consideration given to those responses is available on request by contacting the Authority's Licensing Service.
- 1.10 Our consultation took place between XXX and XXX and we followed the HM Government Code of Practice on Consultation (published July 2008).**
- 1.11 This Policy was approved by Council on XXX(target date January 2016). It was published on our website on XXX(date to be confirmed). Copies are available from the Council's Regulatory Services Team. (check address to be provided)**

DECLARATION

- 1.12 In producing the final Statement of Principles, this Licensing Authority declares that it has had regard to the Licensing Objectives and the Gambling Act 2005, the Guidance issued by the Gambling Commission and responses from those consulted on the policy statement.

AUTHORISED ACTIVITIES

- 1.13 Gambling' is defined in the Act as either gaming, betting or taking part in a lottery:
- (i) Gaming means playing a game of chance for a prize
 - (ii) Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true
 - (iii) A Lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process that relies wholly on chance.
- 1.14 Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access. Domestic betting between inhabitants of the same premises or between employees of the same employer is also exempt.

1.15 Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the Council's Licensing Service where appropriate.

LICENSING AUTHORITY FUNCTIONS

1.16 Under the Act, the Council will be responsible for:

- Licensing of premises where gambling activities are to take place by issuing premises licences.
- Issuing Provisional Statements.
- Regulating Members' Clubs and Miners' Welfare Institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits.
- Issuing Club Machine Permits to commercial clubs.
- Granting permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres.
- Receiving Notifications from Alcohol Licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines.
- Granting licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required.
- Registering Small Society Lotteries below prescribed thresholds.
- Issuing Prize Gaming Permits.
- Receiving and endorsing Temporary Use Notices.
- Receiving Occasional Use Notices.
- Providing information to Gambling Commission regarding details of Licenses issued (see section on Information Exchange).
- Maintaining Register of Licenses and Permits issued under these functions.

Exercising its powers of enforcement under the Act in partnership with the Gambling Commission and other relevant responsible Authorities.

1.17 It should be noted that licensing authorities are not involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licenses.

RESPONSIBLE AUTHORITIES

1.18 These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Council if they are relevant to the licensing objectives.

1.19 Within the meaning of Section 157 of the Act, those authorities are:

- a) London Borough of Hillingdon Council Licensing Authority.
- b) The Gambling Commission.
- c) The Chief Officer of Police for the London Borough of Hillingdon (where relevant, Chief Officer of Police for Heathrow).
- d) London Fire & Emergency Planning Authority, Hillingdon Fire Station.

- e) London Borough of Hillingdon Council Planning Authority.
- f) London Borough of Hillingdon Council Environmental Protection Unit (*i.e. authority responsible for pollution and harm to human health*).
- g) Hillingdon Local Safeguarding Board.
- h) HM Revenue and Customs.
- i) Authority for Vulnerable Adults.
- j) A Licensing Authority in whose area the premises is situated (*i.e. the Council itself and also any adjoining Council where premises straddle the boundaries between the two*).

For Vessels only:

- (xi) Section 211(4) of the Act provides that the following are Responsible Authorities in addition to the authorities listed under section 157 of the Act:
 - (a) The Navigation Authority (*whose statutory functions are in relation to waters where the vessel is usually moored or berthed*)
 - (b) The Environment Agency,
 - (c) British Waterways and
 - (d) The Secretary of State for Culture, Media and Sport (DCMS).

1.20 Subject to any other person being prescribed in Regulations by the Secretary of State. The contact addresses for these authorities are illustrated at Appendix C, or available via the Council's website.

DESIGNATED BODY PROTECTING CHILDREN FROM HARM

1.21 The Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Licensing Authority about the protection of children from harm.

1.22 The principles are that:

- (i) The designated body must be responsible for an area covering the whole of the Licensing Authority's area.
- (ii) The designated body must be answerable to democratically elected persons, rather than any particular vested interest group etc.

1.23 In accordance with the Gambling Commission's Guidance for local authorities this authority designates the Local Safeguarding Children Board for this purpose.

1.24 The remit of the Board is to co-ordinate and scrutinise arrangements for safeguarding and promoting the welfare of Hillingdon's children. It operates throughout the Borough, is responsible for the area covered by the Licensing

Authority and this Policy; and has specialist knowledge and experience in the protection of children to fulfil this role.

INTERESTED PARTIES

1.25 Interested parties can make representations about licence applications, or apply for a review of an existing licence. For the purposes of the Gambling Act 2005 interested parties will include persons who:

- (i) Live sufficiently close to premises carrying out gambling activities.
- (ii) Have business interests that might be affected; and
- (iii) Represent persons listed above.

1.26 We are required by regulations to state the principles we will apply in exercising our powers under the Gambling Act 2005 to determine whether a person is an interested party. This Licensing Authority's principles are set out in the following paragraphs:

Statement of Principles

1.27 Each case will be decided upon its merits. We will not apply a rigid rule to our decision-making. In the case of doubt, the benefit will be given to the party making the representation until the contrary can be shown.

1.28 Interested parties can include trade associations and unions; and residents' or tenants' associations, providing that they can show they represent someone who would be classed as an interested party in their own right. Within the meaning of the Act, interested parties can also be persons who are democratically elected such as Councillors and MPs.

1.29 Generally, the principles we will apply when deciding whether or not a person is an interested party will include looking at the size of the premises where larger premises may be considered to affect people over a broader geographical area compared to smaller premises offering similar facilities and the nature of the activities being conducted on the premises. As to the different elements of the definition of "Interested Party", the Licensing Authority will take into account the following specific matters of principle:

1.30 Persons living "Sufficiently Close"

The Licensing Authority recognises "sufficiently close to be likely to be affected" could have a different meaning for, for instance, a private resident, a residential school for children with problems and a residential hostel for vulnerable adults and will therefore deal with each representation on its individual merits.

1.31 In determining whether someone lives sufficiently close to a particular premises as to likely to be affected by the authorised activities the Council may take account of the:

- (i) Size of the premises.
- (ii) Nature of the premises.
- (iii) Nature of the authorised activities being proposed.
- (iv) Distance of the premises from the person making the representation.
- (v) Characteristics of the complainant.
- (vi) Potential impact of the premises.

1.32 Persons with business interests likely to be affected

With regard to those persons with business interests that could be affected, the Licensing Authority will (in addition to factors set out in paragraph 1.38 above) need to be satisfied that the relevant business is indeed likely to be affected and the following factors will therefore be taken into account:

- i) The 'catchment' area of the premises (i.e. how far people travel to visit);
- ii) Whether the person making the representation has business interests in that catchment area that might be affected.
- iii) Whether or not the representation is purely based on 'competition' as the Licensing Authority does not consider this to be a relevant representation.

1.33 Persons/bodies representing persons named above

With regard to persons representing persons living sufficiently close and persons having business interests that may be affected, the Licensing Authority will include trade associations and unions.

1.34 Where a Councillor represents an interested party, in order to avoid conflict of interest, the Councillor cannot be part of the Licensing Committee dealing with the licence application. When in doubt, Councillors are asked to contact the Council's Legal Services to gain further advice.

1.35 Other than Councillors and MPs, this authority will require written evidence that a person represents someone who either lives sufficiently close to the premises to be likely to be affected by authorised activities and/or business interests that might be likewise affected. A letter from one of these persons confirming their wish to be represented will be sufficient.

Exchange of Information

1.36 Under the Gambling Act, we will have a key role in providing information to the Gambling Commission to assist it in carrying out its functions. This Licensing Authority recognises the need to work closely with the Gambling Commission in exchanging information as and when required.

- 1.37 As Licensing Authority we are required to include in our policy statement the principles we intend to apply in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between us and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between us and the other persons listed in Schedule 6 to the Act.

Statement of Principles

- 1.38 This Licensing Authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 1.39 Details of applications and representations which are referred to a Licensing Sub-Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of personal safety where the Licensing Authority is asked to do so.
- 1.40 The Licensing Authority will normally share the information it holds about licensed premises with the Gambling Commission, Local Police Enforcement in Hillingdon; and with other Responsible Authorities where there is a need for exchange of information on specific premises.
- 1.41 We are aware that the Gambling Commission recommends in its Guidance to Local Authorities that a Protocol for the sharing of such information should be established between, us, the Licensing Authority, the Gambling Commission itself and relevant Responsible Authorities in order to target agreed problem and high risk premises that require greater attention while providing a lighter touch in respect of well-run, low risk premises.

Enforcement

- 1.42 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 1.43 This Licensing Authority's principles are that:

- (i) It will be guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be:
- Proportionate: we will only intervene when necessary, remedies will be appropriate to the risk posed, and costs identified and minimised.
 - Accountable, with decisions being justifiable, and be subject to public scrutiny.
 - Consistent: rules and standards will be joined up and implemented fairly.
 - Transparent and Open: Licence conditions will be kept simple and user friendly.
 - Targeted: regulation will be focused on the problem, and minimise side effects.
- (ii) The Council will avoid duplication with other regulatory regimes so far as possible.
- (iii) This licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- (iv) We note the Gambling Commission's guidance that: in order to ensure compliance with the law, this Licensing Authority must prepare a Risk - based Inspection Programme and that we carry out regular 'routine' day time programmed inspections, based on risk assessment in the categories High, Medium and Low; and that we also carry out 'non routine' evening programmed inspections. Where one-off events are taking place under a Temporary Use Notice or Occasional Use Notice, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted.
- (v) High-risk premises are those premises that require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.
- 1.44 Enforcement may include test purchasing activities to measure compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchase activities, this licensing authority will undertake to liaise with the Gambling Commission and the operator to determine what other, if any, test purchasing schemes may already be in place. Irrespective of the actions of an operator on their overall estate, test purchasing may be deemed an appropriate course of action.
- 1.45 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which is authorised.

- 1.46 The Gambling Commission will be the enforcement body for the Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission. This authority also understands from LACORS that the Gambling Commission will be responsible for compliance as regards unlicensed premises.
- 1.47 In considering enforcement action, the Licensing Authority will bear in mind the Human Rights Act 1998, in particular:
- i) Article 1, of the First Protocol: that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
 - ii) Article 6: that in the determination of civil rights and obligations everyone is entitled to a fair hearing within a reasonable time by an independent and impartial tribunal established by law.
 - iii) Article 8: that everyone has the right to respect for his or her home and private family life.
 - iv) Article 10: that everyone has the right to freedom of expression within the law.
- 1.48 Any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.

PART 2 PROMOTING THE LICENSING OBJECTIVES

- 2.1 In exercising its functions under the Gambling Act 2005, London Borough of Hillingdon Council will have regard to the three statutory licensing objectives, which are:
- (i) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
 - (ii) Ensuring that gambling is conducted in a fair and open way.
 - (iii) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.2 In promoting these objectives, the Council has considered the Gambling Commission's Guidance to Local Authorities and makes the following observations as to the principles it intends to apply when considering the three objectives:

PREVENTING GAMBLING FROM BEING A SOURCE OF CRIME OR DISORDER, BEING ASSOCIATED WITH CRIME OR DISORDER OR BEING USED TO SUPPORT CRIME.

- 2.3 The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.
- 2.4 Anyone applying to the Council for a Premises Licence will have to hold an Operating Licence from the Gambling Commission before a licence can be issued. Therefore, the Council will not generally be concerned with the suitability of an applicant. However, if during the course of considering a Premises Licence application or at any other time, the Licensing Authority receives such information that causes it to question the suitability of the applicant; those concerns will be brought to the immediate attention of the Gambling Commission.
- 2.5 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime or crime directly associated with gambling premises, the Council will, in consultation with the Police and other relevant Responsible Authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. In appropriate circumstances, the Licensing Authority may consider appropriate conditions to be attached to the Licence, such as Door Supervisors.

- 2.6 Issues of disorder should only be dealt with under the Act if the disorder amount to a form of activity, which is more serious and disruptive than mere nuisance and it, can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police or ambulance assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 2.7 The Licensing Authority recognises that disorder may be focused on premises and therefore recommends an applicant takes such controls as necessary to prevent such disorder and nuisance. Examples may include thought given to the way that gambling is conducted on the premises, sighting of large payout machines, levels of noise from public address systems that should ideally be sited at the back of the premises away from residential areas.
- 2.8 Where there are persistent levels of disorder, the Licensing Authority will liaise closely with the Gambling Commission to consider the suitability of the applicant as an operator. In addition, the Licensing Authority will strive to have a good working relationship with the Police in accordance with any protocol that is currently in place.

ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY

- 2.9 All gambling should be fair in the way it is played with transparent rules such that players know what to expect. Examples may include easily understandable information being made available on the rules and probability of winning/losing, ensuring the rules are fair and that advertising is not misleading. Further recommendations would be to ensure that the results of competitions/events are made public; and that machines, equipment and software meet the required standards set by the Gambling Commission.
- 2.10 Generally, it is for the Gambling Commission to ensure this Licensing Objective is complied with through the Operating and Personal Licence regime covering the management of a gambling business and the suitability and actions of an individual.
- 2.11 However, with regard to Race Tracks, where Betting Track Operators do not need an Operator's Licence from the Gambling Commission, the role of the Licensing Authority is more significant. The Licensing Authority, in certain circumstances, may seek to impose conditions to ensure that the environment in which betting takes place is suitable. The Licensing Authority may wish to know the nature of the venue, have sight of a plan of the track which would include access to the tent where gambling is to take place, where the operators will conduct on course betting and whether or not there are any off course betting operators.

PROTECTING CHILDREN AND OTHER VULNERABLE PERSONS FROM BEING HARMED OR EXPLOITED BY GAMBLING

- 2.12 Apart from one or two limited exceptions, the intention of the Act is that children and young person's should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.
- 2.13 This Authority notes and endorses the Gambling Commission statement that: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".
- 2.14 In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling especially with regard to premises situated in areas where there may be a high rate of reported truancy. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children. In relation to casinos only, the Gambling Commission will be issuing a code of practice about access to casino premises for children and young persons.
- 2.15 When considering whether to grant a premises licence or permit the Council will consider whether any measures are necessary to protect children or vulnerable young persons from being harmed or exploited by gambling, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc. These measures will be particularly relevant on mixed use premises, tracks where children have freedom of movement in betting areas on race days and in particular to the non-gambling areas of casinos. Other such measures may include appropriate signage, location of machines and numbers of staff on duty.
- 2.16 Whilst the Gambling Act does not prohibit vulnerable groups in the same manner as children and young persons, with regard to vulnerable people, the Licensing Authority will consider whether or not any measures have been taken to protect such a group. Any such considerations will be balanced against the Licensing Authority's aim to permit the use of premises for gambling; each application will be treated on its own merit. The term "vulnerable persons" has not been defined under the Act, but in seeking to protect vulnerable people the Council will consider that "vulnerable persons" include (but not limited to):
- (i) People who gamble more than they want to.
 - (ii) People who gamble beyond their means, and
 - (iii) People who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

- 2.17 Children (defined in the Act as under 16s) and young persons (16-17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over. In summary:
- i) Betting Shops cannot admit anyone under the age of 18.
 - ii) Bingo Clubs may admit those under the age of 18 but must have policies to ensure they do not gamble, except on category D machines.
 - iii) Adult Entertainment Centres cannot admit those under the age of 18.
 - iv) Family Entertainment Centres and premises with an alcohol premises licence such as pubs) can admit under-18s, but they may not play category C machines which are restricted to those over the age 18.
 - v) Clubs with a Club Premises Certificate can admit under-18s, but they must have policies to ensure those under the age 18 do not play machines other than category D machines.
 - vi) Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.
- 2.18 With this Licensing Objective in mind, the Licensing Authority will take particular care when considering applications for more than one licence for a building and those relating to a discrete part of a building used for other non-gambling purposes, such as shopping malls. Where relevant, applicants will be expected to take measures to ensure young persons, and children are not in close proximity to gambling. Such measures could include sighting machines at the back of a premises so as to ensure young children do not have sight of such machines, not advertising gambling so as to encourage children and ensuring there is no accidental access to observe or enter premises used for gambling.
- 2.19 The Licensing Authority recommends that measures are taken to ensure entrances and exits from parts of a building covered by one or more licences are separate and identifiable so that people do not drift into a gambling area in error. Such measures could include appropriate signage, physically separating Family Entertainment Centres and Adult Gaming Centres, and supervision of entrances.
- 2.20 The Licensing Authority will pay particular attention to applications where access to the licensed premises is through another premises and will consider whether or not children can gain access; the compatibility of the two establishments and its ability to comply with requirements of the Gambling Act. The Licensing Authority will also consider whether the co-location of the licensed premises with other facilities will create an arrangement that is likely to be prohibited under the Act.

- 2.21 The Licensing Authority will consider multiple licences carefully and applicants are recommended to configure these buildings carefully if they seek to develop multipurpose developments and in particular consider how they will protect children from being harmed by gambling as well as preventing children from being in close proximity to gambling. Applicants are also requested to consider entrances and exits from parts of the building covered by one or more licences. These exits and entrances should be separate and identifiable to ensure children do not 'drift' into a gambling area.
- 2.22 The Licensing Authority recommends that all staff are suitably trained and aware of the Gambling laws, social responsibility and statutory requirements related to age restrictions on gaming machines. Appropriate measures should be taken to prevent under age use of such machines, including clear and appropriate signage, an approved Proof of Age scheme, a requirement for staff to be vigilant and aware at all times and ensuring the Adult Gaming area is not visible from the street.
- 2.23 The Council will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people it will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.
- 2.24 When determining the location of proposed gambling facilities, this Licensing Authority in appropriate circumstances, will consider very carefully the following factors when considering applications for Premises Licences, permits and other permissions:
- i) Proximity of premises to local schools.
 - ii) Proximity of premises to centres that pose a high risk to vulnerable and young persons.
 - iii) Proximity of premises to residential areas where there is a high concentration of children and young people.
 - iv) Proximity of premises to places of worship, particularly where Sunday Schools are in operation.

PART 3
INTEGRATING STRATEGIES AND OTHER REGULATORY REGIMES

INTEGRATING STRATEGIES

- 3.1 The Council considers that the Licensing Statement of Principles should provide clear indications of how we, as Licensing Authority, will secure the proper integration of this policy with local crime prevention, planning, transport, tourism, equalities and diversity schemes together with other Council plans introduced for the management of town centres and the night-time leisure economy. Many of these strategies are not directly related to the promotion of the three licensing objectives, but indirectly impact upon them. Coordination and integration of such policies, strategies and initiatives, so far as is possible and consistent with the licensing objectives, is therefore important to us. We will liaise with the relevant authorities or its directorates with regard to this and in doing so adopt a multi-disciplinary approach to ensure proper integration of local and national strategies to promote the licensing objectives, including making arrangements for the Council's Licensing Committee to receive reports from time to time on the:
- i) Needs of the local tourist economy;
 - ii) Cultural strategy for the area;
 - iii) Employment situation in the area and the need for new investment and employment where appropriate;
 - iv) Local Crime Prevention Strategies;
 - v) Race Equality Schemes;
 - vi) Enforcement Policy.
- 3.2 Reports to the Licensing Committee from other relevant departments should enable the various agencies or departments with their own strategies, aims and objectives to keep the Licensing Committee aware of the wider picture in pursuance of the licensing objectives. It is our intention that we will, through the Council's Licensing Committee, monitor how the matters above set out impact on the licensing of gambling activities and facilities and other functions in order to achieve seamless integration of our licensing function with other relevant strategies and initiatives.
- 3.3 In order to avoid duplication with other statutory regimes, the Licensing Authority will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.
- 3.4 Similarly, where other legislation confers powers on inspection and enforcement agencies in relation to separate activities and concerns relating to licensed premises, this policy does not affect the continued use of such powers by the relevant agency.
- 3.5 This authority will seek to avoid any duplication with other statutory or regulatory systems where possible, including the statutory planning regime.

- 3.6 We emphasise that under section 210 of the Act this Licensing Authority is not entitled to have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building control.
- 3.7 The Planning Department are a Responsible Authority under this Act and have the opportunity to make representations should they desire so to do. The Licensing Authority will therefore consider relevant representations from the local planning authority about the effect of the grant of a premises licence on an extant planning permission where this relates to the licensing objectives, a Commission code of practice, or this Statement of Policy. This authority will also listen to, and consider carefully, any concerns about conditions that cannot be met by licensees due to planning restrictions, should such a situation arise. Otherwise the two regimes will be treated as completely separate.

PART 4
LOCAL RISK ASSESSMENTS
AND
LOCAL AREA PROFILE

Local Risk Assessments

- 4.1 The Gambling Commission's Licence Conditions and Code of Practice (LCCP) which were revised and published in February 2015 formalised the need for operators to consider local risks.
- 4.2 Social Responsibility (SR) code 10.1.1 requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate the risks. In undertaking the risk assessments, they must take into account the relevant matters identified in this policy statement.
- 4.3 Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:
- When applying for the variation of a premises licence.
 - To take account of significant changes in local circumstances, including those identified in this policy statement.
 - Where there are significant changes licensee's premises that may affect their mitigation of local risks.
- 4.4 The SR provision is supplemented by an ordinary code provision that requires licensees to share their risk assessment with the licensing authority when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the licensing authority. Both provisions take effect from 8 May 2015
- 4.5 Where concerns do exist, perhaps prompted by new or existing risks, the licensing authority will request that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns. This practice should reduce occasions on which a premises review and the imposition of licence conditions are required.
- 4.6 Where this policy statement sets out its approach to regulation with clear reference to local risks, the licensing authority will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence.

Local Area Profile

- 4.7 The licensing authority can complete their own assessment of the local environment as a means of 'mapping out' local areas of concern, which will be reviewed and updated to reflect changes to the local landscape. Such an assessment is known as the local area profile. There is no statutory duty on the licensing authority to complete a local area profile; however benefits for both licensing authority and operators would be in having a better awareness the local area and risks. Importantly, risk in this context includes potential and actual risk, thereby taking into account possible future emerging risks, rather than reflecting current risks only.
- 4.8 There is no mandatory requirement to have a local area profile and the licensing authority will, where appropriate, engage with responsible authorities ensure any new or variation application assessed taking the local area profile and any risks into account.

PART 5 PREMISES LICENCES

GENERAL PRINCIPLES

- 5.1 Premises Licences authorise the provision of gambling facilities on the following:
- i) Casino Premises.
 - ii) Bingo Premises.
 - iii) Betting Premises, including race tracks used by betting intermediaries
 - iv) Adult Gaming Centres.
 - v) Family Entertainment Centres.
- 5.2 Except in the case of Tracks (where the occupier may not be the person offering gambling), Premises Licences will only be issued to people with the relevant Operating Licences.
- 5.3 Premises Licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State.
- 5.4 We as the Licensing Authority will be able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.
- 5.5 Under the Act the Hillingdon Council has no discretion to grant Premises Licences in circumstances where that would mean departing from the Gambling Commission Guidance and Codes of Practice and this Licensing Authority's own Statement of Licensing Principles. Therefore, our primary focus shall be to aim to permit the use of premises for gambling in so far as we think it is:
- i) In accordance with any relevant Code of Practice issued by the Gambling Commission.
 - ii) In accordance with any relevant Guidance issued by the Gambling Commission.
 - iii) Consistent with the Licensing Objectives.
 - iv) In accordance with this Statement of Licensing Principles.
- 5.6 The Council appreciates that gambling can be an emotive subject but acknowledges and endorses the Gambling Commission Guidance that "moral objections to gambling are not a valid reason to reject applications for premises licences " (except as regards any "no casino resolution") and also that unmet demand is not a criterion for a Licensing Authority.
- 5.7 We recognise that the responsibility for an individual's gambling is his or her own and that the responsibility to exercise a duty of care lies with the site operator. However, the Licensing Authority recommend applicants for Adult Gaming and Family Entertainment Centres to consider adopting BACTA's *Code of Social*

Responsibility and Good Practice and where gaming machines are concerned, applicants are recommended to adopt BACTA's *Code of Practice for AWP*s in Family Entertainment Centres and Adult Gaming Centres.

- 5.8 Where there are age restrictions on entry to certain premises, the Licensing Authority recommends applicants consider and adopt BACTA's and GamCare's joint training initiative on a *Site Age-of-Entry Control Policy*.
- 5.9 We also recognise that most customers are able to enjoy and control their gambling, however, where there are those who are unable to control gambling, the Licensing Authority recommends that applicants adopt BACTA's and GamCare's *Site Self-Exclusion Policy* for those particular clients to request their exclusion for a fixed period.

Definition of Premises

- 5.10 The Council will act in accordance with the gambling commission guidance on ensuring the primary activity of the licensed premises. Gaming machine may be available in licensed betting premises only at times when there are also sufficient facilities or betting operators. They will also need to demonstrate that betting will continue to be the primary activity of a premise when seeking variations to licences.

In making this determination, the licensing authority will have regard to the six indicators on betting as a primary gambling activity:

- The offer of established core product (including live events pictures and its range).
- The provision of information on products and events.
- The promotion of gambling opportunities and products.
- The actual use made of inspecting facilities.
- The size of premises.
- The delivery of betting facilities.

- 5.11 Premises are defined in the Act as "any place". Different premises licences cannot apply in respect of a single premise at different times. It is however possible for a single building to be subject to more than one premises licence, providing that each licence is for a different part of the building and such different parts can reasonably be regarded as different premises.

- 5.12 The Council will judge each case on its individual merits to decide as a matter of fact, whether different parts of a building can be properly regarded as being separate premises.

In addition to other relevant factors, the Council will have regard to the Gambling Commission guidance which lists the following factors which may be taken into account:

- Do the premises have a separate registration for business rates?
 - Is the premises' neighbouring premises owned by the same person or someone else?
 - Can each of the premises be accessed from the street or public passageway?
 - Can the premises only be accessed from another gambling premises?
- 5.13 We note that the Gambling Commission, in their guidance, do not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises. We support this view.
- 5.14 This licensing authority takes particular note of the Gambling Commission's Guidance for Local Authorities, which states that:
- i) Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.
 - ii) Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and the ability to comply with the requirements of the Act. But in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

Provisional Statement

- 5.15 Under the Act an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to the term, "the premises" are to the premises in which gambling may now take place. Therefore a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling.
- 5.16 It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the Licensing Authority can, if necessary, inspect it fully, as can other responsible authorities, with inspection rights under the Act.

- 5.17 In deciding whether a premises licence can be granted where there are construction works, at existing premises, the Council will determine applications on their merits, applying a two-stage consideration process:
- First, whether the premises ought to be permitted to be used for gambling.
 - Second, whether appropriate conditions can be put in place to cater for that situation.
- 5.18 Applicants should note that the Council is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

Location

- 5.19 The Gambling Commission Guidance stipulates that demand issues cannot be considered in relation to the location of premises but that considerations made in terms of the licensing objectives can.
- 5.20 In accordance with the Gambling Commission's Guidance for Local Authorities, this Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 5.21 This authority has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such policy be decided upon, this policy statement will be updated accordingly. It should be noted that any such future policy will not preclude any application being made with the onus upon the applicant showing how any potential concerns can be overcome.
- 5.22 Each case will be decided on its merits and will depend, to a large extent, on the type of gambling that it is proposed will be offered on the premises.
- 5.23 If an applicant can demonstrate appropriate measures to overcome concerns, that will be taken into account by the Council.

Duplication with other regulatory regimes

****** Sections 5.23, 5.24, 5.25 and 5.26 have been removed and inserted at the end of Part 4 ******

Conditions

- 5.24 Any conditions attached to licences will be proportionate and will be:
- i) Relevant to the need to make the proposed building suitable as a gambling facility.
 - ii) Directly related to the premises and the type of licence applied for;
 - iii) Fairly and reasonably related to the scale and type of premises: and
 - iv) Reasonable in all other respects.

- 5.28 Decisions upon individual conditions will be made on a case-by-case basis, although there will be a number of control measures this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult-only areas etc. There are specific comments made in this regard under each of the licence types below.
- 5.29 This policy acknowledges that there are conditions that the licensing authority cannot attach to premises licences:
- i) Any condition on the premises licence which makes it impossible to comply with an operating licence condition.
 - ii) Conditions relating to gaming machine categories, numbers, or method of operation.
 - iii) Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated).
 - iv) Conditions in relation to stakes, fees, winning or prizes.

Door Supervisors

- 5.30 The Gambling Commission advises in its Guidance for local authorities that Licensing Authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.
- 5.31 This policy recognises that door supervisors at bingo or casino premises cannot be licensed by the Security Industry Authority (SIA). This Licensing Authority does not have specific requirements for door supervisors working at bingo or casino premises. Each case will be determined on its individual merits.
- 5.32 It is noted that for premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances or machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

CASINO PREMISES

- 5.33 To date, the Licensing Authority has chosen not to pass a resolution under section 166 (5) of the Gambling Act to prohibit casinos in the Borough.
- 5.34 Should the Council choose to make such a resolution, this will be a resolution of full Council following considered debate and the reasons for making the resolution will be given.

BINGO PREMISES

- 5.35 Bingo is a class of equal chance gaming and is permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.
- 5.36 The holder of a Bingo Operating Licence will be able to provide any type of bingo game including cash and prize bingo. Where bingo is permitted in alcohol licensed and non-gambling premises, this must not become a predominant commercial activity; otherwise a bingo operating licence will be required.
- 5.37 Commercial bingo halls will require a bingo premises licence from the Council. Amusement arcades providing prize bingo will require a prize gaming permit from the Council.
- 5.38 In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game, other than on category D machines. When considering applications of this type the Council will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.
- 5.39 The Licensing Authority recognises that there is no ban on children or young people having access to Bingo premises, that it is illegal for Under 18s to play or use Category B and C machines and that they cannot be employed in providing facilities for gambling or bingo premises. In any event, children under 16 cannot be employed in any capacity at a time when facilities for playing bingo are being offered. 16 and 17 year olds may be employed while bingo is taking place provided the activities on which they are employed are not connected with the gaming or gaming machines. Where children aged 16 and 17 are employed in bingo premises, the Licensing Authority would expect to see sufficient controls restricting access to Category B and C machines.
- 5.40 A limited number of gaming machines may also be made available at Bingo licensed premises. A list of categories of gaming machines is on page 32. Where category C or above machines are available in premises to which children are admitted, the licensing authority will seek to ensure that:
- i) All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance.
 - ii) Only adults are admitted to the area where these machines are located.
 - iii) Access to the area where the machines are located is supervised.
 - iv) The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder and
 - v) At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under the age of 18.

- 5.41 With regard to segregation of Category B and C machines from Category D machines, there is a requirement that there must be clear segregation between these types of machine so that children do not have access to Category B or C machines and the Licensing Authority will take into account any guidance issued by the Gambling Commission in the light of any regulations made by the Secretary of State.

Members' Clubs and Commercial Clubs

- 5.42 Bingo may be provided at clubs and institutes either in accordance with a permit or providing that the limits in section 275 of the Act are complied with. These restrictions limit the aggregate stake or prizes within any seven days to £2000, and require the Commission to be notified as soon as is reasonably practicable if that limit is breached. Stakes or prizes above that limit will require a Bingo Operators Licence and the corresponding Personal and Premises licences.
- 5.43 With regard to turnover, where the Licensing Authority is suspicious that a licensee or club exceeds the turnover in the required 7-day period, the Licensing Authority will inform the Gambling Commission accordingly.
- 5.44 The Licensing Authority will take into account any additional guidance issued by the Gambling Commission in relation to the suitability and layout of bingo premises.

BETTING PREMISES

- 5.45 The Licensing Authority is responsible for issuing and monitoring Premises Licences for all betting premises. Anyone wishing to operate a betting office will require a Betting Premises Licence from the Council.
- 5.46 Children and young people will not be able to enter premises with a betting premises licence.
- 5.47 Betting premises will be able to provide a limited number of gaming machines and some betting machines. A table showing the number and category of gaming machines permitted in betting premises is on page 33.
- 5.48 **In premises licensed for alcohol consumption**, the Council has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things: the size of the premises, the level of management, supervision and ability of staff to monitor the use of machines especially where children and young or vulnerable people are concerned; and the number of counter positions available for person-to-person transactions.

TRACKS

- 5.49 Only one Premises Licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.
- 5.50 Track operators are not required to hold an 'Operators Licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.
- 5.51 Although there will primarily be a betting premises licence for the track, there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 5.52 Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. When considering whether to exercise its power to restrict the number of betting machines at a track the Council will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.
- 5.53 This Licensing Authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the Guidance from the Gambling Commission which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.
- 5.54 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young person's will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

- 5.55 Measures such as the use of self-barring schemes, provision of information leaflets and helpline numbers for organisations such as GamCare will be considered suitable in relation to the protection of children and vulnerable people.
- 5.56 Where appropriate, in order for the Licensing Authority to gain a proper understanding of what it is being asked to licence, applicants will be asked to:
- i) Provide a detailed plan of the grounds indicating where the betting is to take place and the location of the race track;
 - ii) In the case of dog tracks and horse racecourses, indicate the location of any fixed and mobile pool betting facilities operated by the Tote or track operator as well as any other proposed gambling facilities;
 - iii) Evidence measures taken to ensure the third Licensing Objective will be complied with;
 - iv) Indicate what arrangements are being proposed for the administration of the betting; the Gambling Commission and Licensing Authority recommend that betting takes place in areas reserved for, and identified as being for, that purpose.
 - v) Define the areas of the track that will be used by on course operators visiting the track on race days.
 - vi) Define any temporary structures erected on the track for providing facilities for betting.
 - vii) Define the location of any gaming machines (if any).
- 5.57 Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

Betting Machines at Tracks

- 5.58 In addition to the comments above at betting machines in betting premises, similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. The licensing authority may consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

- 5.59 This licensing authority notes the Commission's view, that it would be preferable for all self-contained premises operated by off-course betting operators on tracks to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

Condition on rules being displayed

- 5.60 In line with guidance from the Gambling Commission the Council will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

ADULT GAMING CENTRES

- 5.61 As no one under the age of 18 is permitted to enter an Adult Gaming Centre, this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Applicants are recommended to consider this Licensing Objective very carefully when applying for an Adult Gaming Centre.

- 5.62 The Council will expect applicants to offer their own measures to meet licensing objectives however appropriate measures / licensing conditions may cover issues such as:

- Proof of age schemes.
- CCTV – this should be of sufficient quality that it will use evidence.
- the provision of entrances/machine areas
- physical separation areas
- location of entry
- notices/signage
- specific opening hours
- self exclusion schemes - these are schemes whereby individuals who acknowledge they have a gambling problem ask be barred from certain premises
- provision of information leaflets/helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures that the Council can consider implementing.

- 5.63 Where the **Adult** Gaming Centre is situated in a complex such as an airport, shopping area or motorway services station, the Licensing Authority will pay particular attention to the location of entry so as to minimise opportunities for children gaining access.
- 5.64 A table showing the number and category of gaming machines permitted in adult gaming centres is on page 33.

FAMILY ENTERTAINMENT CENTRES (FECs)

- 5.65 There are two classes of family entertainment Centres. Licensed FECs provide Category C and D machines and require a Premises Licence. Unlicensed FECs provide Category D machines only and are regulated through FEC Gaming Machine Permits.

(Licensed) Family Entertainment Centres

- 5.66 Children and young persons may enter FECs but are not permitted to play Category C machines. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to ensure that there will be sufficient measures to prevent under 18 year olds having access to the adult only gaming machine areas.
- 5.67 With regard to vulnerable persons, the Licensing Authority will consider measures such as the use of self barring schemes, provision of information leaflets/help line numbers for organizations such as GamCare as appropriate measures.
- 5.68 With regard to segregation of Category C machines in licensed FECs, there is a requirement that there must be clear segregation between the two types of machine so that children do not have access to Category C machines and the Licensing Authority will take into account any guidance issued by the Gambling Commission in the light of any regulations made by the Secretary of State.
- 5.69 Applicants are recommended to visit the Gambling Commission's web site in order to familiarise themselves with the conditions applicable to these premises.

Statement of Principles

5.70 As these premises are open to children and young persons, the Licensing Authority will wish to see additional information, such as:

- i) A plan of the premises showing clear segregation of Category C and D machines.
- ii) Clear Notices excluding under 18 year olds from the designated areas where Category C machines are located;
- iii) Age Restriction Policy;
- iv) Evidence of ongoing staff training in administering all aspects of age restriction policy;
- v) Solid physical barriers separating adult gaming area from the main floor, i.e. the barriers to be a min. of 1 metre in height from the floor;
- vi) Completion of a training programme in social awareness in respect of gambling
- vii) Evidence of compliance with BACTA's Code of Practice

TRAVELLING FAIRS

5.71 Travelling fairs do not require any permit to provide gaming machines but must comply with the legal requirements on the way the machine operates. They may provide an unlimited number of Category D gaming machines and it will fall to the licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

5.72 The Licensing Authority will consider whether or not a travelling fair falls within the statutory definition of a travelling fair and recognises that the 27 day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will work with the neighbouring authorities to ensure that land that crosses joint boundaries is monitored so that the statutory limits are not exceeded.

REVIEW OF PREMISES LICENCES

5.73 A premises licence may be reviewed by the Licensing Authority of its own volition or following receipt of an application for a review, which is essentially a request by a third party to the Licensing Authority to review a particular licence.

5.74 However, it is for the Licensing Authority to decide whether or not the review is to be carried out. This will be on the basis of whether the request for the

review is relevant to the matters listed below as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause the Authority to wish to alter/revoke/suspend the licence or whether it is substantially the same as previous requests for review.

5.75 The review will be:

- i) In accordance with any relevant Code of Practice issued by the Gambling Commission.
- ii) In accordance with any relevant Guidance issued by the Gambling Commission.
- iii) Reasonably consistent with the Licensing Objectives and
- iv) In accordance with the Licensing Policy Statement.

5.76 Licensing Authority officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution before a full review is conducted. An application for review must be granted, unless it decides to reject the application in accordance with the act.

5.77 The Licensing Authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate with regard to the licensing objectives. This can extend to a review of a class of licences where it considers particular issues have arisen.

PART 6 GAMING PERMITS

INTRODUCTION TO PERMITS

- 6.1 Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises.
- 6.2 The Licensing Authority is responsible for issuing the following permits:
- Family Entertainment Centre (FEC) Gaming Permits
 - Club Gaming Permits and Club Machine Permits
 - Alcohol –licensed Premises Gaming Machine Permits
 - Prize Gaming permits
- 6.3 The Licensing Authority may only grant or reject an application for a permit and cannot impose or attach any conditions.
- 6.4 There are different considerations to be taken into account when considering the different types of permit applications. Please refer to the relevant parts of this below.

GAMING MACHINES

- 6.5 A gaming machine can cover all types of gambling activity, which can take place on a machine, including betting on virtual events. A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of chance imparted by the action of the machine would cause it to be a gaming machine.
- 6.6 Where the Licensing Authority is uncertain of whether or not a machine is a gaming machine as defined under the Act, it will seek the advice of the Gambling Commission.
- 6.7 There are four classes of gaming machines: Categories A, B, C and D, with category B further divided in sub-categories B1, B2, B3, B3A and B4. The table below sets out the current maximum stakes and prizes that apply to each category:

CATEGORIES OF GAMING MACHINES

CATEGORY	MAXIMUM STAKE	MAXIMUM PRIZE
A	Unlimited	Unlimited
B1	£5	£10,000*
B2	£100 (in multiples of £10)	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D**	-	-
D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize (other than a coin pusher or penny falls machine)	10p	£5
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)

*** Category B1 where the prize value available through its use is wholly or partly determined by reference to use made of one or more other sub-category B1 machines, no more than £20,000**

****Category D machines with a 10p stake are entitled to offer prizes of up to £5 in cash, or up to £5 in cash and £3 in non-monetary prizes. Category D machines with a 30p stake can offer £8 in non-monetary prizes only.**

- 5.8 The Gambling Act also prescribes the maximum number and category of gaming machines that are permitted in each type of gambling premises. This includes premises with permit entitlements, as well as licensed premises (see table on page 37):

NUMBER OF GAMING MACHINES BY PREMISES TYPE

TYPE	GAMING MACHINES
BINGO PREMISES	<p>MAXIMUM OF 20% OF THE TOTAL NUMBER OF GAMING MACHINES WHICH ARE AVAILABLE FOR USE ON THE PREMISES FOR CATEGORIES B3 AND B4.</p> <p>NO LIMIT ON CATEGORY C AND CATEGORY D MACHINES</p>
BETTING PREMISES	MAXIMUM OF 4 GAMING MACHINES CATEGORIES B2 TO D (EXCEPT B3A MACHINES)
TRACK BETTING PREMISES WHERE POOL BETTING LICENCE HELD	MAXIMUM OF 4 GAMING MACHINES CATEGORIES B2 TO D (EXCEPT B3A MACHINES)
ADULT GAMING CENTRE	<p>MAXIMUM OF 20% OF THE TOTAL NUMBER OF GAMING MACHINES WHICH ARE AVAILABLE FOR USE ON THE PREMISES FOR CATEGORIES B3 AND B4.</p> <p>NO LIMIT ON CATEGORY C AND CATEGORY D MACHINES</p>
FAMILY ENTERTAINMENT CENTRE WITH PREMISES LICENCE	NO LIMIT ON CATEGORY C AND CATEGORY D MACHINES
FAMILY ENTERTAINMENT CENTRE WITH GAMING PERMIT	NO LIMIT ON CATEGORY D MACHINES
MEMBERS CLUB PREMISES	MAXIMUM OF 3 GAMING MACHINES IN CATEGORIES B3A OR B4 TO D (ONLY ONE B3A MACHINE CAN BE SITED AS PART OF THIS ENTITLEMENT)
COMMERCIAL CLUBS	MAXIMUM OF THREE GAMING MACHINES IN CATEGORIES B4 TO D
ON SALES ALCOHOL LICENSED PREMISES	MAXIMUM OF 2 GAMING MACHINES IN CATEGORIES C TO D BY NOTIFICATION NUMBER OF
ON SALES ALCOHOL LICENSED PREMISES WITH GAMING MACHINE PERMIT	CATEGORY C TO D MACHINES AS SPECIFIED ON PERMIT

(UNLICENSED) FEC GAMING MACHINE PERMITS

- 6.9 Where Premises do not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that under section 238 the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 6.10 The Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit. In preparing that statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25.
- 6.11 A FEC gaming machine permit may be granted only satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application. The Licensing Authority may grant or refuse a permit but cannot impose conditions upon the grant of a permit. Therefore the licensing authority will wish to be satisfied as to the applicant's suitability before granting a permit. Unlicensed FECs, by definition, will not be subject to scrutiny by the Gambling Commission as no operating (or other) licences will be applied for and issued.

Statement of Principles

- 6.12 Applicants will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include background checks on staff, training for staff in dealing with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.
- 6.13 Applicants will be expected to demonstrate:
- i) A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs.
 - ii) That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act).
 - iii) That staff are trained to have a full understanding of the maximum stakes and prizes; and
 - iv) An awareness of local school holiday times and how to identify the local education office should truants be identified.

- 6.14 Compliance with the Code of Practice in relation to FECs, issued by BACTA, will be taken by the Licensing Authority as evidence that (apart from the criteria relating to criminal convictions) the applicant has met the above.
- 6.15 As these premises are open to children and young persons, the Licensing Authority will require additional information when an applicant applies for this Permit, as follows:
- (i) A plan of the premises to a scale of 1:100. **If a 1:100 scaled plan cannot be submitted the plans must be clear and legible in all material respects. All plans must show** the exits/entrances to the premises, location of gaming machines, and the location of safety equipment such as fire extinguishers and indicating the location of appropriate clear and prominent notices and barriers, such Notices to state:
 - (a) That no unaccompanied child will be permitted to remain on the premises if that person is required by law to attend school;
 - (b) Highlighting the need to play responsibly;
 - (c) The number and location of Category D machines;
 - (ii) Evidence of staff training by way of a Premises Log Book, covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises;
 - (iii) The amount of space around gaming machines to prevent jostling of players or intimidation;
 - (iv) Location and supervision of Automated Teller Machines;
 - (v) Proof of Age scheme;
 - (vi) Evidence that the applicant has complied with Health and Safety and Fire Safety legislation;
 - (vii) Details of opening hours;
 - (viii) Details of external appearance of premises;
 - (ix) Numbers of staff employed;
 - (x) Insurance documents and any other such information the Licensing Authority will from time to time require;
 - (xi) Any other policies or procedures in place to protect children from harm.
- 6.16 The above statement of principles will apply in relation to initial applications only and not to renewals.
- 6.17 With regard to renewals, the Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

- 6.18 Where an applicant fails to comply with the above requirements, the Licensing Authority may refuse the application. Where there is such a refusal, the Licensing Authority will notify the applicant of its intention to refuse and the reasons for the refusal. The applicant will then have an opportunity to make representations orally, in writing or both and will have a right of appeal against any decision made.
- 6.19 Where the Permit has been granted the Licensing Authority will issue the permit as soon as is reasonably practicable and in any event in line with the Regulations issued by the Secretary of State. The permit will then remain in effect for 10 years unless surrendered or lapsed.
- 6.20 As these premises particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues and will also consider an applicant's suitability for FEC permits and factors taken into account will include the Applicant's criminal record and previous history and experience of running similar premises, if any.

CLUB GAMING AND CLUB MACHINES PERMITS

- 6.21 Members Clubs and Miners' Welfare Institutes (not Commercial Clubs) may apply for a Club Gaming Permit or Club Gaming Machine Permit.
- 6.22 **Club Gaming Permit**
Club gaming permits allow the premises to provide:
- i) Up to three machines of categories B, C or D.
 - ii) Equal chance gaming; and
 - iii) Games of chance as set out in regulations.
- 6.23 **Club Gaming Machine Permit**
A club gaming machine permit will enable the premises to provide up to three machines of categories B, C or D.
- 6.24 Before granting a permit, the Licensing Authority will wish to be satisfied that applicants for these permits meet the statutory criteria for members' clubs contained in sections 266 and 267 of the Gambling Act and may grant the permit provided the majority of members are over 18 years of age.
- 6.25 The Licensing Authority recognises that there is a 'fast track' procedure for premises holding a Club Premises Certificate under the Licensing Act 2003 and that there is no opportunity for objections to be made by the Commission or the Police and the grounds upon which the Licensing Authority can refuse a permit are reduced.

ALCOHOL LICENSED PREMISES GAMING MACHINE PERMITS

- 6.26 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of categories C and/or D. The premises licence holders merely need to notify the Licensing Authority that they intend to exercise their automatic entitlement to gaming machines in their premises.
- 6.27 Under section 284 the Licensing Authority can remove the automatic authorisation in respect of any particular premises if:
- i) Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives.
 - ii) Gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with).
 - iii) The premises are mainly used for gaming; or
 - iv) An offence under the Gambling Act has been committed on the premises.
- 6.28 Should it necessary to issue section 284 order, the licence-holder will be given at least twenty-one days' notice of the intention to make the order, and consider any representations which might be made. The authority will hold a hearing if the licensee requests it.
- 6.29 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "such matters as they think relevant."

Statement of Principles

- 6.30 This Licensing Authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not have access to the adult-only gaming machines.
- 6.31 Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be help.

As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

- 6.32 The Licensing Authority will usually expect holders of gaming machine permits to ensure that the gaming machines are sited in accordance with any relevant code of practice issued by the Gambling Commission and to ensure that they can be adequately supervised whilst in use.
- 6.33 It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an adult entertainment centre premises licence.
- 6.34 It should be noted that the Licensing Authority is empowered to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than those restricting the number or category of machines) cannot be attached.
- 6.35 It should also be noted that the holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

PRIZE GAMING PERMITS

- 6.37 The licensing authority may prepare a statement of principles which they propose to apply in exercising their functions which may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit.
- 6.38 Prize gaming may be provided in bingo premises as a consequence of their bingo operating licence. Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs providing none of the gambling facilities at the fair amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.
- 6.39 In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 6.40 Applicant should set out the types of gaming they are intending to offer and should be able to demonstrate:
- i) That they understand the limits to stakes and prizes that are set out in Regulations; and
 - ii) That the gaming offered is within the law.

- 6.41 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the Licensing authority cannot attach conditions. The conditions in the Act are:
- i) The limits on participation fees, as set out in regulations, must be complied with.
 - ii) All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played.
 - iii) The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
 - iv) Participation in the gaming must not entitle the player to take part in any other gambling.
- 6.42 Applications may only be made by people who occupy or plan to occupy the premises, are aged 18 or over (if an individual), and no premises licence or club gaming permit under the Gambling Act 2005 may be in force.

Statement of Principles

- 6.43 This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not have access to unequal chances prize gaming.
- 6.44 A plan must accompany applications indicating where, and what type, of prize gaming is to be provided.
- 6.45 The grounds for decision making as regards renewals are the same as for initial applications.
- 6.46 Where the Licensing Authority intends to refuse the application for a permit, it will notify the applicant of its intention to refuse it stating the reasons and offering the applicant an opportunity to make representations orally or in writing or both.

PART 7 TEMPORARY AND OCCASIONAL USE NOTICES

TEMPORARY USE NOTICES (TUN)

- 7.1 A Temporary Use Notice (“TUN”) is a notice which authorises a person or an organisation to conduct gaming activities for a temporary period of time, at a particular premises. However, a TUN may only be granted if the premises user is already in possession of a relevant Operating Licence. The London Borough of Hillingdon is bound by a number of statutory limits as regards TUNs. Section 218 of the Act refers to a ‘set of premises’ and provides that a set of premises is the subject of a temporary use notice if ‘any part’ of the premises is the subject to a TUN.
- 7.2 The reference to a ‘set of premises’ prevents one large premise from having a temporary use notice in effect for more than 21 days in a year by giving notification in relation to different parts of the premises and re-setting the clock.
- 7.3 The Licensing Authority will decide what constitutes a ‘set of premises’ where Temporary Use Notices are received relating to the same building/site.
- 7.4 In considering whether a place falls within the definition of a ‘set of premises’ the Licensing Authority will look at the ownership/occupation and control of the premises and the Licensing Authority will consider whether different units are in fact different ‘sets of premises’. An example would be a large exhibition centre with different exhibition halls. This would be considered properly as one premise and would not be granted a temporary use notice for each of its exhibition halls.
- 7.5 A TUN must be lodged with the Licensing Authority not less than three (3) months and one (1) day before the day on which the gambling event will begin. The person who is giving the TUN must ensure that the notice and copies are with the Licensing Authority and named responsible authorities within seven (7) days of the date of the notice.
- 7.6 On receipt of a TUN the Licensing Authority will send a written acknowledgement as soon as is reasonably practicable and this may be by way of e-mail.
- 7.7 If no objections are made within 14 days of the date of the temporary use notice, the Licensing Authority will grant and return the notice with an endorsement of validity.
- 7.8 If objections are received within 14 days of the date of notice, a hearing will be held to consider the issue of a TUN. Those who raise objections may offer modifications to the notice that will resolve their objections.

If all participants to a hearing agree that a hearing is unnecessary, the hearing may be dispensed with.

- 7.9 The Licensing Authority may object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises. The Licensing Authority and other bodies to which the notice is copied may give notice of objection but they must have regard to the Licensing Objectives and where there are such objections, they must give a notice of objection to the person who gave the TUN, such notice will be copied to the Licensing Authority.

OCCASIONAL USE NOTICES (OUN)

- 7.10 An Occasional Use Notice may be used where there is betting on a track on 8 days or less in a calendar year. The OUN dispenses with the need for a Betting Premises Licence for a track and the Licensing Authority will maintain a register of all applications.
- 7.11 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will though need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.
- 7.12 Tracks are normally thought of as permanent race courses, but the meaning of track not only covers horse racecourses or dog tracks, but also any other premises on any part of which a race or other sporting event takes place or is intended to take place. Although the track need not be a permanent fixture, land used temporarily as a track providing races or sporting events may qualify.

PART 8 REGISTRATION OF SMALL SOCIETY LOTTERIES

DEFINITION OF SMALL SOCIETY LOTTERY

8.1 The Gambling Act repeals the Lotteries and Amusements Act 1976. The Licensing Authority will register and administer smaller non-commercial lotteries. Promoting or facilitating a lottery will fall within 2 categories:

- i) Licensed Lotteries (requiring an Operating Licence from the Gambling Commission); and
- ii) Exempt Lotteries (registered by the Licensing Authority).

8.2 Exempt Lotteries are lotteries permitted to run without a licence from the Gambling Commission and these are:

- i) Small Society Lotteries;
- ii) Incidental Non-Commercial Lotteries;
- iii) Private Lotteries;
- iv) Private Society Lottery;
- v) Work Lottery;
- vi) Residents' Lottery;
- vii) Customer Lotteries.

8.3 Societies may organise lotteries if they are licensed by the Gambling Commission or fall within the exempt category, and therefore registered by the Licensing Authority, because their proceeds are below specified levels. The Licensing Authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. However, guidance notes with regard to all lotteries, limits placed on small society lotteries and information setting out financial limits will be made available on the Council's website or by contacting the Licensing Authority.

THE LICENSING AND REGISTRATION SCHEME

8.4 Applicants for lottery licences must apply to the Licensing Authority in the area where their principal office is located. Where the Licensing Authority believes that the Society's principal office is situated in another area it will inform the Society as soon as possible and where possible, will inform the other Licensing Authority.

8.5 Lotteries will be regulated through a licensing and registration scheme, conditions imposed on licences by the Gambling Commission, Codes of Practice and any Guidance issued by the Gambling Commission. In exercising its functions with regard to small society and exempt lotteries, the Licensing Authority will have due regard to the Gambling Commission's Guidance.

- 8.6 The Licensing Authority will keep a Public Register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority. As soon as the entry on the Register is completed, the Licensing Authority will notify the applicant of his registration. In addition, the Licensing Authority will make available for inspection by the public; the financial statements/returns submitted by societies in the preceding 18 months and will monitor the cumulative totals for each society to ensure the annual monetary limit is not breached. If there is any doubt, the Licensing Authority will notify the Gambling Commission in writing, copying this to the Society concerned.
- 8.7 The Licensing Authority will refuse applications for registration if in the previous five years, either an Operating Licence held by the applicant for registration has been revoked, or an application for an Operating Licence made by the applicant for registration has been refused. Where the Licensing Authority is uncertain as to whether or not an application has been refused, it will contact the Gambling Commission to seek advice.
- 8.8 The Licensing Authority may refuse an application for registration if in their opinion:
- i) The applicant is not a non-commercial society;
 - ii) A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
 - iii) Information provided in or with the application for registration is false or misleading.
- 8.9 The Licensing Authority will ask applicants to set out the purposes for which the Society is established and will ask the Society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The Licensing Authority may, however, seek further information from the Society.
- 8.10 Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration and supply evidence on which it has reached that preliminary conclusion. In any event, the Licensing Authority will make available on its website its procedures on how it handles representations.
- 8.11 The Licensing Authority may revoke the registered status of a society if it thinks that they would have had to, or would be entitled to; refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been given the opportunity to make representations. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.

- 8.12 Where a Society employs an external lottery manager, they will need to satisfy themselves that they hold an Operator's Licence issued by the Gambling Commission and the Licensing Authority will expect this to be verified by the Society.
- 8.13 The Licensing Authority will expect registered small society lottery societies to renew their registrations each year. It is not the responsibility of the Licensing Authority to issue reminders to small society lottery societies to advice of renewals. Registrations will expire if they are not renewed in a timely way. Cancellation of a small society lottery will be confirmed in writing by the Licensing Authority.

PART 9 DECISION MAKING

THE LICENSING COMMITTEE

- 9.1 The Licensing Committee will consist of at least 10 Members. Licensing Sub-committees consisting of 3 Committee Members will hear any relevant representations from Responsible Authorities and interested parties. Any of these individuals or groups may specifically request a representative to make representations on the applicant's behalf. This could be a legal representative, a friend, an MP or a Ward Councillor.
- 9.2 Where a Councillor who is a member of the Licensing **Sub-Committee** is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.
- 9.3 Licensing Authorities must have regard to the licensing objectives when exercising their functions in relations to premises licences, temporary use notices and some permits.
- 9.4 The decision determined by the Sub-Committee will be accompanied with clear, cogent reasons for that decision, having had due regard to being reasonably consistent with the Licensing Objectives; the Human Rights Act 1998; any relevant code of practice under Section 24 of the Gambling Act 2005; any relevant guidance issued by the Commission under Section 25 of the Gambling Act 2005; and this Statement of Policy. The decision and the reasons for that decision will be sent to the Applicant and those who have made relevant representations as soon as practicable.

DELEGATION OF DECISION MAKING RESPONSIBILITIES

- 9.6 The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.
- 9.7 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, decisions on all licensing matters will be taken in accordance with an approved scheme of delegation, as attached at Appendix D.
- 9.8 Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example, those licences and permits where no representations have been made, will be delegated to Council Officers.

PART 10

APPENDIX A

SCHEDULE OF CONSULTEES TO DRAFT POLICY

PERSONS OR BODIES REPRESENTING THE INTERESTS OF THOSE CARRYING ON GAMBLING BUSINESSES IN THE BOROUGH

Association of British Bookmakers
Association of Licensed Multiple Retailers
British Amusement Catering Association
British Beer and Pub Association
National Casino Industry Forum
British Holiday & Home Parks Association
Greyhound Board of Great Britain
British Institute of Inn keeping
Business in Sport and Leisure Ltd
Casino Operators Association, UK
Community Trade Union
Federation of Licensed Victuallers
Gamcare
AGE UK
Hillingdon Chamber of Commerce
Remote Gambling Association
Responsibility in Gambling Trust
Rugby Football Union
The Bingo Association
The Football Association
The Lotteries Council
The Working Men's Club & Institute Union

PERSONS OR BODIES REPRESENTING THE INTERESTS OF THOSE WHO ARE LIKELY TO BE AFFECTED BY THE EXERCISE OF THE AUTHORITY'S FUNCTIONS

All Elected (Ward) Councillors,
London Borough of Hillingdon
Council

All "Responsible Authorities" as defined under the Gambling Act
(see *Appendix C for list and contact details*)

Alcoholics Anonymous (AA)
Gamblers Anonymous
Government Organisations: (LGA, ODPM, LACORS)
Hillingdon Action Group for Addiction Management (HAGAM)
Hillingdon Association of Voluntary Services
Hillingdon's Children and Young People's Partnership Board (CYPSPB)
Hillingdon Community and Police Consultative Group
Hillingdon Drug and Alcohol Services
Hillingdon Law Centre
Hillingdon Mind
Hillingdon NHS
Hillingdon Salvation Army
Hillingdon Samaritans
Hillingdon Youth Offending Service
Hillingdon Tenants and Residents Associations
Hillingdon Federation of Community Associations & similar bodies
Local Licensing Solicitors in Hillingdon
Local Strategic Partnership
Uxbridge Initiative
Uxbridge Magistrates Court

NEIGHBOURING LONDON, COUNTY AND DISTRICT COUNCIL'S

London Boroughs of: Brent, Ealing, Hammersmith & Fulham, Harrow and Hounslow

(West London Alliance Members)

And:

Slough Borough Council

Spelthorne Borough Council

Hertfordshire County Council

South Bucks District Council

Three Rivers District Council

Note: This list was not intended to be exhaustive. Comments and observations were welcomed from anyone affected by this policy.

APPENDIX B

SCHEDULE OF RESPONSIBLE AUTHORITIES

For the purposes of the Act, Responsible Authorities are public bodies that must be notified of all applications and who are entitled to make representation in relation to Premises

Hillingdon Licensing Authority
c/o Regulatory Services
Residents Services
London Borough of Hillingdon
Civic Centre, Uxbridge
UB8 1UW

Hillingdon Planning Authority
Head of Planning and Enforcement
Residents Services
London Borough of Hillingdon
Civic Centre, Uxbridge
UB8 1UW

The Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Authority for Pollution & Harm to
Human Health
c/o Divisional Environmental Health
Officer
Environmental Protection Unit
London Borough of Hillingdon
Civic Centre, Uxbridge
UB8 1UW

Chief Officer of Police, London
Borough of Hillingdon
c/o Licensing Sergeant
Ruislip Police Station
The Oaks
High Street
Ruislip
HA4 7LE

Local Safeguarding Children Board
c/o Director of Children Services
London Borough of Hillingdon
Civic Centre, Uxbridge
UB8 1UW

Chief Officer of Police, Heathrow
Metropolitan Police,
East Ramp
London Heathrow Airport
TW6 2DG

HM Revenue & Customs
Betting and Gambling Department
Portcullis House
21 India Street
Glasgow
G2 4PZ

London Fire and Emergency
Planning Authority
Hillingdon Fire Safety Team
Hillingdon Fire Station
Uxbridge Road
Hillingdon
UB10 0PH

Authorities for Vessels:
Navigation Authority
The Enforcement Agency
The Canal and River Trust
The Secretary of State

APPENDIX C

SUMMARY OF DELEGATION OF POWERS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			X (to be approved by Executive Councillor)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Notifications and applications for two or three gaming machines			X
Applications for four to five gaming machines			Officers in consultation with the Chairman of the Licensing Sub-Committee
Applications for more than five gaming machines		By way of a report	
Decision to give a counter notice to a temporary use notice		X	
Section 284 Order to revoke the automatic entitlement for 2 gaming machine		X	

notifications			
---------------	--	--	--

SCRAP METAL DEALERS ACT - UPDATE & ANALYSIS

Committee	Licensing Committee
Officer Contact	Stephanie Waterford, Residents Services Ian Meens, Residents Services
Papers with report	None
Ward(s) affected	All

HEADLINE

This report gives the Committee an update and an analysis of the Scrap Metal Dealers Act 2013, explaining the effects of the legislation since its introduction in October 2013.

RECOMMENDATION

That the Committee note the update.

SUPPORTING INFORMATION

1 Background

1.1 The Scrap Metal Dealers Bill had its first reading on 20th June 2012, being introduced by Sir Richard Ottaway. The Bill was drafted in response to a rise in metal related thefts in the UK and proposed to repeal the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crime) Act 2001. The Bill received Royal assent on 28th February 2013, coming into effect on 1st October 2013.

2 Rationale for reform

2.2 Prior to 2012, the number of offences relating to scrap metal were steadily increasing year on year with the Home Office estimating between 80,000 and 100,000 reported thefts in 2010 / 2011. This was estimated to cost the economy £700 million per year (as estimated by the Association of Chief Police Officers in 2010).

2.3 The effect of the increased thefts were felt across a range of sectors including; electricity and communications; transportation infrastructure; residential and commercial buildings; heritage; religious buildings and memorials; street furniture and Highway Authority installations.

2.4 This in turn, highlighted the ineffectiveness of the existing regulatory regime and called for more effective, robust legislation.

3 The Scrap Metal Dealers Act 2013

3.1 The new Act was formed with the intention of raising standards in the trading of scrap metal across the industry, protecting those with legitimate business interests and

giving tougher sanctions against those with criminal motivation. In doing so, new rules were prescribed requiring more detailed and accurate records to be kept, cashless transactions and better identity checks on persons buying and selling scrap.

3.2 Keeping Local Authorities as the primary regulator, the new Act provided a system of licences for sites and individual dealers each containing a comprehensive list of conditions and rules which the licence holder is required to uphold.

4 Summary of Powers

4.1 Any person/body concerned with the trade of scrap metal or motor salvage, whether or not for profit, must obtain a scrap metal dealers licence.

4.2 The Local Licensing Authority may issue licences for individual itinerant scrap dealers, as well as fixed sites. Each application must be accompanied by a fee and the applicant must demonstrate that they are suitable to hold a licence.

4.3 The rules of operation attached to licences include;

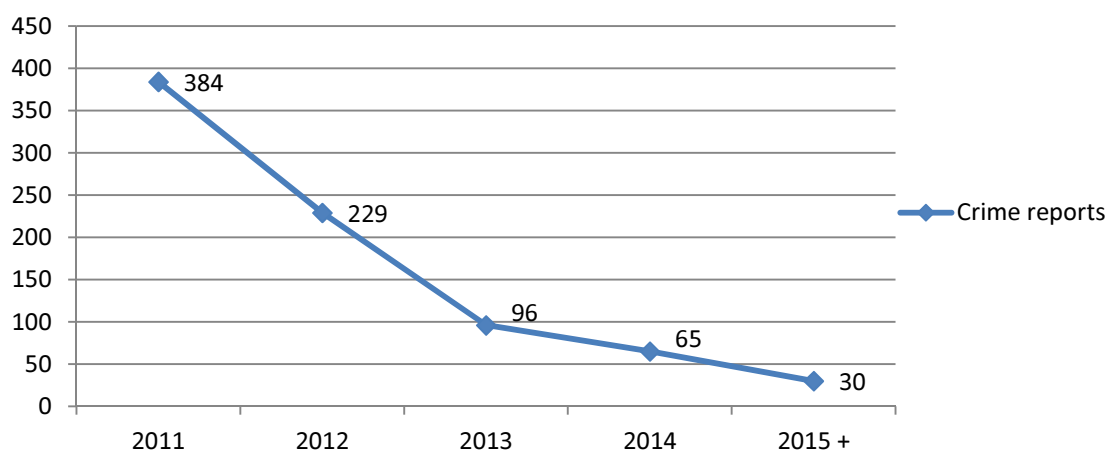
- The dealer cannot trade in cash - all transactions must be electronic or via cheque
- Scrap vehicles cannot be bought for cash
- Records must be kept by all scrap dealers identifying the origin of the scrap, a description of the scrap; the person to whom goods were sold to/bought from; full details of the transaction and amounts paid.

4.4 The Licensing Authority has enforcement powers to take legal action where these matters are not being complied with.

5 Effect of the reformed legislation in Hillingdon

5.1 Since the Act came into force in 2013, there has been a noticeable decline in metal thefts around the Borough.

5.2 Colleagues in the Police have provided us with the following statistics showing the number of crimes reported for stolen copper/lead/brass/aluminium for each yearly period set out below:



5.3 Colleagues in the Hillingdon Highway Service have provided us with the following statistics demonstrating the number of Highway installations which were stolen for each period:

<i>Yearly period</i>	<i>Number of Installations Stolen</i>	<i>Cost to the Taxpayer</i>
2011	250	£25,000
2012	200	£20,000
2013	70	£7,000
2014	0	£0
2015 to date	0	£0

5.4 These figures relate to highway drainage road gully grates, each costing the Council approx £100 each.

6 Operations and investigations since the Act was introduced

6.1 Hillingdon Licensing Officers work closely with colleagues in the Metropolitan Police to ensure that licence holders are complying with the conditions in the Act and also responding to complaints about rogue traders in the Borough. Ian Meens, Hillingdon Licensing Officer and Emly Mitchell, Metropolitan Police will provide a verbal update to Committee Members at the meeting regarding recent and current operations.

7 Conclusion

7.1 The introduction of tighter rules and greater accountability for licence holders has been a major contributing factor to the significant improvement in the number of thefts and damage resulting from the scrap metal trade in Hillingdon.

7.2 The Council, together with the Police are able to demonstrate marked improvements in crime rates and this has generated savings to the Council's highways budgets in replacement drain covers.

7.3 Licensing Officers will continue to work with Police colleagues to ensure that the regulations are being enforced.

Legal implications

None directly arising from this report.

Financial Implications

None directly arising from this report.

Background Papers / Further Reading Material

- The Scrap Metal Dealers Act 2013
- Home Office Guidance on the Scrap Metal Dealers Act 2013
- Get in on the Act - LGA Publication

This page is intentionally left blank

PRIVATE MEMBER'S BILL - *FIXED ODDS BETTING TERMINALS*

Committee	Licensing Committee
Officer Contact	Stephanie Waterford, Residents Services
Papers with report	Appendix 1 - Draft Private Member's Bill
Ward(s) affected	All

HEADLINE

This report provides an update for Committee Members on a Private Member's Bill to reduce the maximum stake for Fixed Odds Betting Terminals (FOBT's).

RECOMMENDATION

That the Committee note the update.

SUPPORTING INFORMATION

- 1.1 In January 2015, Licensing Committee Members were made aware of the campaign led by London Borough of Newham, to reduce the maximum stake of £100 to £2 on FOBT's.
- 1.2 A total of 93 Councils supported the campaign (including LB Hillingdon) which urged central Government to change the law to help promote the 'sustainability of local communities'.
- 1.3 On 17th July 2015, the Government rejected the request explaining that tighter controls had been introduced in April 2015, including an end to unsupervised stakes above £50 on FOBT's, and that the Government will continue to monitor the effectiveness of existing controls.
- 1.4 On 3rd June 2015, a Private Members Bill promoted by Lord Clement-Jones had its first reading. The Bill 'The Gambling (Categorisation and Use of B2 Gaming Machines) Bill, seeks to restrict the maximum stake of FOBT's to £2.
- 1.5 A second reading is yet to be scheduled and Members will be kept up to date on progress.
- 1.6 A copy of the Bill is attached as Appendix 1.
- 1.7 The Local Government Association has also recently published a new Councillor Handbook on Gambling Regulation. A copy of the handbook will be provided to Members at the meeting.

Implications on related Council policies

None at this stage - Officers will follow the progress of the Bill through Parliament and keep Members informed of any implications.

Legal implications

None at this stage.

Financial Implications

None at this stage.

Background Papers / Further Reading Material

NIL

A
B I L L

TO

Make provision about the categorisation and use of B2 gaming machines; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Categorisation of B2 gaming machines

- (1) The Categories of Gaming Machine Regulations 2007 (S.I. 2007/2158) are amended as follows.
- (2) In regulation 5(5)(a) (definition of Category B gaming machines), for “£100” substitute “£2”. 5
- (3) After regulation 5 insert—

“5A Additional special provision for Category B2 machines

The maximum charge for use for a Category B2 machine shall be reviewed every three years and may be amended in line with inflation.”

2 Use of B2 gaming machines 10

- (1) The Gaming Machine (Circumstances of Use) Regulations 2007 (S.I. 2007/2319) are amended as follows.
- (2) In regulation 7(1) (payment limits), for “regulations 9 and 11A” substitute “regulation 9”.
- (3) In regulation 9(1) (committed payment limits), for “regulations 11 and 11A” substitute “regulation 11”. 15
- (4) In regulation 11 (special provision for Category A and B2 machines), omit paragraph (1).
- (5) Omit regulation 11A (additional special provision for Category B2 machines in certain circumstances). 20

3 Extent, commencement and short title

- (1) This Act extends to England and Wales and Scotland.
- (2) Sections 1 and 2 come into force three months after the day on which this Act is passed.
- (3) This section comes into force on the day on which this Act is passed. 5
- (4) This Act may be cited as the Gambling (Categorisation and Use of B2 Gaming Machines) Act 2015.

Gambling (Categorisation and Use of B2 Gaming Machines) Bill [HL]

A

B I L L

To make provision about the categorisation and use of B2 gaming machines; and for connected purposes.

Lord Clement-Jones

Ordered to be Printed, 3rd June 2015

© Parliamentary copyright House of Lords 2015

This publication may be reproduced under the terms of the Open Parliament Licence, which is published at www.parliament.uk/site-information/copyright

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS
LONDON – THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by The Stationery Office Limited
£x.xx

HL Bill 24

(xxxxx)56/1

xxxbarxxx

This page is intentionally left blank

LEGISLATIVE UPDATE

Committee	Licensing Committee
Officer Contact	Beejal Soni, Legal Services
Papers with report	None
Ward(s) affected	All

HEADLINE

This report provides an update for Members on:

- Recent caselaw
- Relevant upcoming Legislation
- Guidance recently issued

RECOMMENDATION

That the Committee note the update.

CASELAW UPDATE (two cases)

Sharanjeet Lalli v Commissioner of Police for the Metropolis and LB Newham [2015] EWHC 14 (Admin)

The licensed premises, a public house ("PH") in Newham, the was licensed to Mrs Lalli was licence to Mrs Lalli and managed by her husband. On 27 July 2014 a serious incident occurred lowest the victim in a coma after two weeks. Mr Lalli was charged with assault and pleaded not guilty. The police were notified by staff of the incident the following day. Further investigation led to Summary Review proceedings under S53A as the police believed the premises were associated with Serious Crime or Serious Disorder.

At the summary review hearing, police led evidence that Mr Lalli had seriously assaulted the victim. CCTV footage shows the victim being punched and kicked in the head outside the club. Footage also showed someone placing the victim into the recovery position, and Mr Lalli "inappropriately" lifting him by his hands. Staff at the Pub failed to call for assistance from the Ambulance Service or the police. The Licensing Sub-Committee determined to suspend the licence until such time as the summary review was completed. A judicial review application was lodged by the Licence Holder on the basis that a single incident could not lead to a conclusion that the premises was associated with serious crime or serious disorder.

Finding in favour of the Metropolitan Police Service, the court emphasised:

- It was not for the local authority to question the validity of the certificate issued by the Commissioner of police; challenges to a certificate's lawfulness may only be made by means of a judicial review.
- To require licensed premises to be associated with more than one crime would frustrate the purpose of the summary review. There must be a link between the premises and such crime or disorder relevant to the management of the premises but it was up to the Senior police officer to decide whether such a link existed prior to issuing a certificate under the Summary Review process
- The purpose of a summary review is to enable swift action to be taken within the parameters of the legislation with a view to promoting licensing objectives.
- A judicial review against any interim steps can be lodged on the basis of unreasonableness or bias.
- Each application is case specific and it is reasonable that a licensing subcommittee may conclude that a single incident associates a premises or serious crime or serious disorder

Gold Kebab Ltd v Secretary of State for Communities and Local Government [2015] All ER (D) 48 (SEP)

The Claimant occupied the ground level of a three-storey building. Residential accommodation was located above the licensed premises. In 1998 a planning consent was granted for the premises to operate as a takeaway and restaurant, with conditions placed on the premises with regard to opening hours. Subsequently numerous planning applications were made to extend the opening hours of the premises. In 2008, separate licensing conditions extended opening hours of the premises beyond the opening hours specified on the planning permission

In 2013, a further planning application to extend the opening hours was refused on the grounds that the extended hours were inappropriate and disturbances were likely when people are trying to sleep in adjacent residential premises. Despite this refusal, the premises ignored the planning conditions and operated in accordance with the hours granted by the Licensing Act 2003. This resulted in enforcement action for breach of planning conditions. On appeal, the Planning Inspector refused an application to vary the planning conditions and enforcement notice. The Inspector's decision referenced the site's proximity to residential accommodation and the likely inconvenience that it would cause. This led to an application to the High Court under S288 of the Town & Country Planning Act 1990 to quash the Inspector's decision.

During this application, the company accepted the distinction between licensing and planning regimes but argued that the licensing regime had taken into account the prevention of nuisance when granting extended operating hours. The Court found in favour of the Planning Inspector's decision, highlighting that planning and licensing took into account a differing considerations when addressing matters of nuisance. Consequently the Inspector was entitled to conclude that he was not bound by a separate licensing regime when determining opening hours for the premises.

The key outcome is that even where statutory schemes overlap, such as in planning and licensing, compliance with and scheme may quite the lead to different incompatible outcomes under the other scheme.

UPCOMING LEGISLATION

Immigration Bill

The Immigration Bill 2015 received its first reading in Parliament on 17th September with its second reading due on 13th October 2015. Parts 2 and 3 of Schedule 1 of the legislation contain the implications in respect of amendments to the Licensing Act 2003.

The proposed legislation covers a lot of ground as it seeks to tackle immigration issues in this country including the provision of additional enforcement tools. There are specific amendments to the existing licensing legislation such that applicants for the granting of premises licences, transfers and interim authority notices must be "entitled to work in the UK".

The proposals would also see a premises licence lapse as it currently does on the death or insolvency of a Premises Licence Holder should such an individual no longer be entitled to work in the United Kingdom. There are also implications in respect of personal licences where the reference to "relevant and foreign offences" will be expanded to include "immigration offences and immigration penalties".

Similarly, a personal licence may lapse if an individual ceases to be entitled to work in the UK. The Bill if passed will also see a right of entry to licensed premises to investigate immigration offences together with amendments to the existing offences relating to the employment of illegal immigrants.

There is also the potential of illegal working closure notices which operate in a similar way to existing powers of closure but here relating specifically to immigration offences.

Officers will provide further updates as the Bill progresses.

GUIDANCE RECENTLY ISSUED

Gambling Act

On 30 September 2015, the Gambling Commission published its first edition of guidance to licensing authorities. According to information on the Gambling Commission's website, the Guidance emphasises the importance of partnership working between licensing authorities and operators. The Gambling Commission states that the Guidance will provide assistance to authorities on the requirement for operators to conduct a local risk assessment. The purpose of operator-led risk assessments is to ensure that operators understand the risks associated with the areas in which they have, or wish to have a gambling premises.

The requirement for operators to provide local risk assessment comes into force in April 2016. The Guidance provides operators an opportunity to review their existing risk assessments and address the issues outlined within the guidance. The guidance can be found on the following link online: <http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities-5th-edition.aspx>

Hard copies can be made available to any Member on request.

Licensing of Late Night Refreshment

On 01 October 2015, the Home Office issued guidance on the licensing of late night refreshment to reflect forthcoming changes to the Licensing Act 2003 made by the Deregulation Act 2015. The changes will allow Licensing Authorities to designate a particular description of premises as not requiring permission to sell hot food and drink after 23:00, that Licensing Authorities can designate areas where premises do not need a Premises Licence to sell hot food or drink after 23:00 and, finally, Licensing Authorities can stipulate that during periods between 23:00 and 05:00, premises may trade freely for the provision of hot food and drink without the need for a licence.

The Guidance lists the categories of premises which a Licensing Authority can decide are exempt from requiring a licence for hot food or drink after 23:00. The Guidance also makes it clear that whilst a Licensing Authority can use more than one type of exemption, it cannot use different forms of exemption in conjunction with one another, giving the example that a Licensing Authority is not permitted to change the times premises require permission to sell hot food and drink in one geographic area only. In other words, it would have to change the hours across the entire area for the Licensing Authority.

If a premises becomes exempt from the requirement to hold a Premises Licence for the sale of hot food, but does not surrender it, there is no requirement for the Licence Holder to continue to pay an annual fee, if the Premises Licence only permits late night refreshment. Any conditions on a licence relating solely to the provision of the late night refreshment, likewise, no longer have effect.

Members are advised that the guidance is not statutory. However, it is anticipated that it will be incorporated into the Section 182 guidance when it is next updated. Members are further advised that the changes covered within this guidance are expected to come into effect in November 2015 when regulations prescribing premises types come into force.

The guidance can be found on the following link:

<https://www.gov.uk/government/publications/guidance-on-the-licensing-of-late-night-refreshment> . Hard copies can be made available to any Member on request.

Implications on related Council policies

None at this stage - Officers will follow the progress of the Bill through Parliament and keep Members informed of any implications.

Legal implications

Legal comments are contained within this report.

Financial Implications

None at this stage

Background Papers / Further Reading Material

NIL

RECENT REPORTING CHANGES & CONSIDERATION OF A NEW UNIVERSAL HEARING PROTOCOL

Committee	Licensing Committee
Officer Contact	Mark Braddock, Democratic Services
Papers with report	Protocol
Ward(s) affected	N/A

HEADLINE

This report updates Members on a number of beneficial changes to reporting to the Licensing Committee and its sub-committees along with other recent officer actions. Primarily, the report seeks approval of a universal protocol for Licensing Sub-Committees.

RECOMMENDATION

That the Committee:

- 1) Gives their views on the reporting and other changes outlined in this report.**
- 2) Agrees the new Hearing Protocol with immediate effect as official guidance for Members, Applicants, Responsible Authorities and Interested Parties in respect of matters being considered under the Licensing Act 2003 and the Gambling Act 2005.**

SUPPORTING INFORMATION

The Chairman of the Committee has made a number of useful suggestions to officers about ways to improve the presentation of information, guidance and reporting to Members in undertaking their important licensing duties. Whilst these positive changes have been implemented, Members' views are sought on them before they are fully embedded.

Licensing Committee

- 1. *A Forward Planner / broader agenda*** - By including a Forward Planner on each agenda, this will assist the Committee and officers to plan ahead and get the most value out of meetings, including possible themed meetings if this is something Members would welcome. More importantly, as part of this, officers will seek to broaden the role and value of the Committee across wider interrelated Council service areas such as Public Health.
- 2. *Ratification of sub-committee minutes*** - It is recommended that the Committee receives a set of the previous quarter's sub-committee minutes to ratify them after the Chairman has approved them following each meeting. This will avoid any situation arising where Members are asked to agree a previous set of minutes when they may not have all been present at the previous meeting. This is due to the fact that a sub-committee's membership is drawn from a wider pool of Members. Minutes will therefore not be included as a sub-committee agenda item going forward.

Licensing sub-committees

3. ***New report template*** - Members will have started to see some beneficial changes to the format of reports to the sub-committees. It has been agreed with the Chairman a new standard template in order to better structure and present the essential information Members need to make well-informed decisions. As well as this giving the report refreshed layout based upon good practice elsewhere, the new template also includes a day/time grid to easily digest timings along with improved use of maps, plans and photos to aid visual understanding.
4. ***Addendum sheet*** - as is used in Planning Committees and at Cabinet, if any last minute information is presented - or changes are required to an already published agenda, then officers will make use of an Addendum Sheet.
5. ***A 'formal' officer recommendation*** - similarly as at other meetings, it has been agreed with the Chairman to trial putting forward in reports an officer recommendation from the neutral reporting licensing officer, where this is appropriate to do so based upon the evidence received. However, it is clearly open to Members to disagree with this after considering the information and evidence presented at a meeting by relevant parties; and in doing so Members will need to give adequate reasons for any departure from the officer recommendation. The Legal Advisor present at the meeting can assist Members on this during the deliberation stage.
6. ***New Universal Hearing Protocol for decisions under the Licensing and Gambling Acts (attached)*** - Members will be aware of the different protocols that are included on agendas relating to the type of licensing / gambling application or matter under review. Additionally, these protocols require updating. Legal Services have produced a revised version which incorporates procedures for hearings held pursuant to the Licensing Act 2003 and the Gambling Act 2005. Although the content of the protocol is largely the same as the previous versions it has been consolidated and updated where necessary. It is also presented in a different format to the previous versions to make it more accessible for those who need to refer to it. If agreed by Members the intention is to send this protocol out with each agenda.

The other hearing protocols used by the Committee that do not fall under the above legislation (e.g. Scrap Metal, Sex Establishments and Street Trading) are also in the process of being reviewed before consideration by the Committee.

7. ***Other measures*** - a number of enhancements have been made to improve the experience of applicants and others attending, including meet and greet, improved notification about the pre-briefing prior to the meeting and a useful, plain-English letters accompanying agendas when sent out.
8. ***View on time limits for speaking*** - this is something that Members' initial steer and views are sought on. As with a Planning Committee, it is possible to impose time limits for speaking rights in Licensing Committee so long as all participants are provided with equal timings. It is possible for a time limit to be placed within the revised Hearing Protocol and in circumstances where longer amounts of time are required (for example where detailed criminal evidence needs to be discussed) the Chairman of the Sub-Committee could use his discretion to extend such timings. Members' views are sought on whether this is a runner or not.

Officer-level actions

9. **Training** - officer training has taken place led by Legal Services for all responsible authorities, including the Police, to ensure fuller understanding of the licensing rules, reporting and preparation of evidence to a sub-committee.
10. **Clearer delineation of Officer roles** - It can sometimes be beneficial for a sub-committee in making decisions to have the added weight of a representation from the Licensing Authority, which therefore results in the need to separate roles within the Regulatory Services Team. This has been a challenge with such a small team, however, officers have sought to recently improve the 'chinese wall' in terms of the role of the Licensing Authority (as a responsible authority); the neutral reporting licensing officer, and the 'other' licensing officers who provide information to the Licensing Authority for any representation.

When each application comes in, a conflict of interest test is carried out to ensure the most appropriate officer is allocated the application and they then become the neutral reporting licensing officer. The Licensing Authority will always be either Claire Freeman (Regulatory Services Team Manager), Shabeg Nagra (Public Protection Service Manager or Nigel Dicker (Deputy Director, Residents Services) as the only officers delegated to carry out this role. Other officers providing information to and supporting any representation from the Licensing Authority will be any other officers within the team that are not the neutral reporting licensing officer. To reassure Members, this enables any discussions to be restricted only to the relevant roles and is set out in internal procedure notes and the Officer Scheme of Delegations.

Member Training

11. A refresher training session has been arranged for Members on 9 November 2015 at 10am in the Council Chamber with Barrister Gary Grant from Kings Chambers. Gary is recognised as one of the country's leading specialist licensing barristers. This is mandatory for Licensing Committee Members and optional for other Members.

Implications on related Council policies

This report supports the effective operation of the Licensing Committee and its sub-committees, which ensures accordance with the Council's policies on Licensing, Gambling, Street Trading and Markets. Additionally, the report sets out that the Licensing Committee has a wider role in shaping other interrelated Council policies.

Legal implications

There are no specific legal implications stemming from this report beyond those issues mentioned in the body of the above text. Officers are asked to liaise with Legal Services prior to the implementation of any new measures.

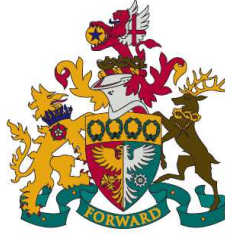
Financial Implications

None arising from the recommendations in this report.

Background Papers / Further Reading Material

NIL

This page is intentionally left blank



HILLINGDON
LONDON

Hearing Protocol

This protocol outlines the procedures that will be followed in relation to hearings held under the Licensing Act 2003 and the Gambling Act 2005

Contents

Paragraph	Subject	Page
1	Introduction	3
2	Timescales	3
3	Timescales for Notice of Hearing to be given	4
4	Persons who must be notified of a hearing	4
5	Information to be provided in a Notice of Hearing	4
6	Notice of Reply	5
7	Failure of parties to attend the hearing	6
8	Procedure at the hearing	6
9	Determination of the application and time limits	10
10	Record of proceedings	10
11	Irregularities	11
12	Notices	11
13	Appeals	11
14	Other information and contact details	11

1. Introduction

- 1.1 The Licensing Act 2003 (Hearings) Regulations 2005 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 ("together hereafter the Regulations") provide that a Licensing Authority shall, subject to the provisions of those Regulations, determine for itself the procedure to be followed at a hearing.
- 1.2 These procedures set out the way in which the Licensing Authority will conduct hearings under the Licensing Act 2003 ("hereinafter the 2003 Act") and the Gambling Act 2005 ("hereafter 2005 Act") and the associated Regulations.
- 1.3 Appendix 1 of this protocol includes the procedure that will be adopted by the Licensing Authority in the event that an interim hearing must be held following notice of a Summary Review pursuant to Section 53A of the Act.

2. Timescales

- 2.1 Most hearings under the 2003 Act must take place within 20 working days from the last date in which representations can be made.
- 2.2 Exceptions under the 2003 Act:
 - Within 10 working days from the day after the Authority receives the notice for a review of the premises licence following a Closure Order.
 - Within 7 working days from after the end of the period within which the police can object to:
A temporary event notice (the police must give notice of their objection within 3 working days of being given a copy of the notice); and
 - Within 5 working days beginning with the day after the end of the last date for the police to object to an interim authority notice (the police must give notice of their objection within 2 working days of being given a copy of the notice).
- 2.3 For applications made under the 2005 Act the Authority must commence a hearing as soon as reasonably practicable after the expiry of the statutory period where representations can be received.
- 2.4 These matters are more fully set out in the Regulations.
- 2.5 Where a hearing will take more than one working day, the Authority must arrange for the hearing to take place on consecutive working days.

3. Timescales for Notice of Hearing to be given

3.1 In most cases, the Authority shall give notice of a hearing no later than 10 working days before the first day on which the hearing is to be held.

3.2 Exceptions under the 2003 Act:

- Review of a premises licence following a Closure Order;
- Summary Review of premises licence

At least two working days notice must be given to the parties to a hearing for determination of:

- Police objection to an Interim Authority Notice;
- Police objection to a Temporary Event Notice.

4. Persons who must be notified of a hearing

4.1 The persons who must be notified of a hearing are set out below as a summary:

- Any applicant for any licence, provisional statement or review made under the 2003 Act and the 2005 Act;
- The premises user who submitted the temporary event notice under the 2003 Act;
- Any person who has made relevant representations about an application for a licence or provisional statement or review;
 - Any police officer who has given notice of objection under the 2003 Act to a person specified as a Designated Premises Supervisor;
 - An interim authority;
 - Transfer of a premises licence;
 - Transfer of a club premises licence;
 - Transfer of a club premises certificate;
 - A temporary event notice;
 - A personal licence.
 - Any holder of a premises licence or club premises certificate when an application is made for review.

5. Information to be provided in a Notice of Hearing

5.1 The information and documentation that must accompany the Notice of Hearing relating to an application or notice under the 2003 Act includes:

- The procedure to be followed at the hearing;
- The right of the party to attend and to be assisted or represented by any person whether legally qualified or not;

- The ability to give further information in support of their application where the Authority has sought clarification;
- The right to question any other party;
- The right to address the Authority;
- Notice of any particular on which the Authority will want clarification at the hearing;
- The consequences if a party does not attend or is not represented at the hearing;

5.2 The information and documentation that must accompany the Notice of Hearing relating to an application under the 2005 Act includes:

- The consequences where a party informs the Sub-Committee that he/she does not wish to attend or be represented at the hearing or fails to inform the Sub-Committee whether he/she will attend or be represented at the hearing;
- The requirements imposed on the Sub-Committee in conducting a hearing as set out in the Regulations;
- The consequences where a party has indicated that he/she wishes to attend or be represented at the hearing, but fails to attend or be represented at the hearing;
- The procedure to be followed at the hearing;
- The time limit and method by which a party should inform the Sub-Committee that he/she wishes to be assisted or represented by another person;
- The time limit and method by which a party should inform the Licensing Authority that he/she will want to call a witness to give evidence at the hearing, and the matters in relation to which he/she will want to call a witness to give evidence at the hearing and the matters in relation to which he/she wishes that witness to give evidence;
- The time limit and method by which a party should inform the Sub-Committee that he/she is willing to consent to the application being determined without a hearing;
- The matters on which the Sub-Committee considers at the time that it will want clarification at the hearing from a party.

5.3 The Notice of Hearing will ask all parties to attend a briefing session 20 minutes before the hearing begins. At this briefing the Council's Legal Advisor will be available to answer questions or provide any clarification.

6. Notice of Reply

6.1 On receipt of the Notice of Hearing, all parties must inform the Authority whether they:

- Intend to attend or be represented at the hearing;
- Consider a hearing to be unnecessary; and
- Wish to request that another person appear at the hearing (other than their representative) as a witness. If such a request is made, it should be accompanied by details of the name of that person and a brief description of the point or points about which that person may be able to assist the hearing.

6.2 In the case of a hearing under-

- Section 48(3)(a) cancellation of interim authority notice following police objection; or
 - Section 105(2)(a) counter notice following police objection to Temporary Event Notice
- The party must return the notice no later than one working day before the day of the hearing.
 - In the case of a hearing under-
 - Section 167(5)(a) review of a premises licence following a closure order ; or
 - Section 53C review of premises licence following review notice; or
 - Paragraph 4(3)(a) of Schedule 8 conversion of an existing licence; or
 - Paragraph 16(3)(a) of Schedule 8 conversion of an existing club licence; or
 - Paragraph 26(3)(a) of Schedule 8 determination of application by holder of justices' licence for grant of personal licence
 - The party must return the notice no later than two working days before the day of the hearing.
 - In any other case, the party must give no later than five working days before the day of the hearing.

7. Failure of parties to attend the hearing

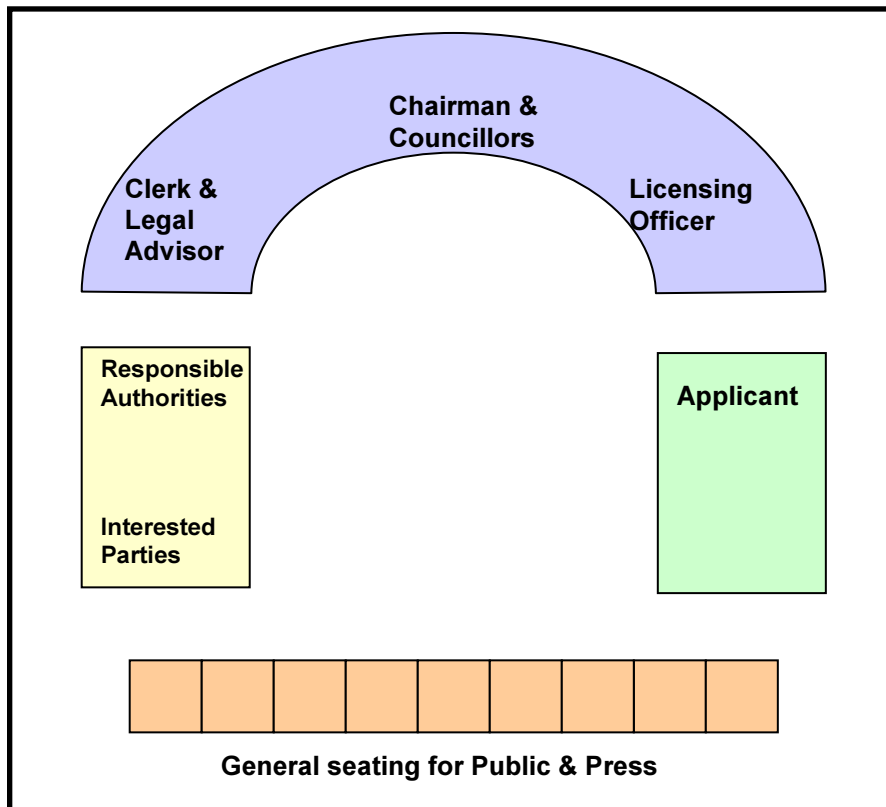
- 7.1 If a party has informed the Authority that they will not be attending or be represented at the hearing it may proceed in their absence.
- 7.2 If a party does not give notice that they will not be attending but fails to attend and is not represented the Authority may either:
- (a) Adjourn the hearing if it considers it to be necessary in the public interest; or
 - (b) Hold the hearing in the party's absence.
- 7.3 If the Authority holds the hearing in the absence of a party, it will consider at the hearing the application, the representation or notice given by the party.
- 7.4 If the Authority adjourns the hearing to a specified date it must forthwith (as soon as reasonably practicable under the Gambling Act regulations) notify the parties of the date, time and place to which the hearing has been adjourned.

8. Procedure at the hearing

- 8.1 Composition of Sub-Committee
- 8.2 The Sub-Committee will, usually consist of three members appointed from members of the Authority's Licensing Committee.

8.3 No business shall be transacted unless at least two members of the Sub-Committee are present and able to form a properly constituted Sub-Committee.

8.4 The usual room layout for the hearing will be as outlined below:



8.5 The usual order of proceedings will be as set out below:

Order of proceedings

The Chairman of the Sub-Committee will open the hearing by introducing the Councillors, explaining the purpose of the proceedings and the general procedure. The Chairman will then check that there are no additions or alterations to the list of those appearing at the hearing.

Introduction by the Council's Licensing Officer



The Applicant



Responsible Authorities (if present)



Interested Parties' Case (residents etc...)



DISCUSSION LED BY THE SUB-COMMITTEE

The Chairman will lead the discussion. This will be a chance for all parties to provide comments on any submissions that have been made to the Sub-Committee.



Closing remarks from each party



Sub-Committee deliberates



Chairman announces the decision

The Licensing Officer will introduce the report and will outline the matter before the Sub-Committee, giving any relevant background information. The Sub-Committee may ask questions of the officer.

The Applicant or the person representing him/her will be invited to address the Sub-Committee. The Applicant will normally be allowed [minutes] to present his/her case. The Sub-Committee may ask questions.

Responsible Authorities will be invited to address the Sub-Committee and will normally be allowed [minutes]. The Sub-Committee may ask questions of the Responsible Authorities.

Interested parties will be invited to address the Sub-Committee. Where there are a number of parties making similar representations the Chairman will expect the parties to nominate a spokesperson to make the representations and will be allowed [minutes]. The Sub-Committee may ask questions of the Interested Parties.

The Chairman will invite the Responsible Authorities and Interested Parties to make brief closing remarks on the application. The Applicant makes the final closing remarks.

The Sub-Committee will remain in the room to deliberate and make their decision, with only the Legal Advisor and the Clerk to the Sub-Committee remaining. All others present will be asked to leave the room.

Parties may return to the room when invited to do so and the Chairman will announce the decision. The Chairman will remind the Applicant that the decision will be sent to them in writing. There can be no further questions or statements.

- 8.6 The Sub-Committee may allow the parties to question any other party (if permission is given) and to address the Sub-Committee, but will seek in all cases to avoid repetition of matters (whether included in written material or otherwise) irrelevancy or any abuse of procedure.
- 8.7 The Sub-Committee will be guided by legal principles by determining whether evidence is relevant and fairly admissible. In particular, hearsay evidence may be admitted before the Sub-Committee but consideration will always be given to the degree of weight, if any, to be attached to such evidence in all the relevant circumstances.
- 8.8 When considering any representations or notice made by a party, the Authority may take into account documentary or other information produced by a party in support of their application, representation or notice, either:
- (a) Before the hearing; or
 - (b) With the consent of all other parties at the hearing.
- 8.9 If documentary or other evidence is submitted late or at the hearing, the Sub-Committee may decide to adjourn the hearing so as to allow Members and any other party time to consider the information and that may involve an adjournment of proceedings to another date. The Sub-Committee may decide not to consider the information if no satisfactory explanation is provided for its late submission.
- 8.10 Any party may withdraw their representations by contacting the Democratic Services Department by phone, letter or email, providing they give notice no later than 24 hours before the first day of the hearing. If, during the hearing, any party wishes to withdraw their representations they may do so orally by informing the Chairman.
- 8.11 The Sub-Committee when determining an application or notice under the provisions of the 2003 Act will disregard any information given by a party, or any other person appearing at the hearing which is not relevant to:
- (a) Their application, representation or notice;
 - (b) In the case of another person, the application representation or notice of the party requesting their appearance;
 - (c) The promotion of the licensing objectives; or
 - (d) In relation to a hearing to consider a notice given by the Police the crime prevention objective.
- 8.12 A hearing under the 2003 Act shall take place in public save that:
- (a) The Sub-Committee may exclude the public from all or part of a hearing where it considers that, on balance, it is in the public interest to do so;

- (b) The parties and any person representing them may be excluded in the same way as another member of the public.

8.13 A hearing under the 2005 Act shall take place in public save that:

- (a) The Sub-Committee may direct that all or part of a hearing must be in private if it is satisfied that it is necessary in all circumstances of the case, having regard to:

- Any unfairness to a party that is likely to result from a hearing in public; and
- The need to protect as far as possible, the commercial or other legitimate interests of a party.

8.14 The Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- (a) Refuse to permit the person to return; or
(b) Allow them to return only on such conditions as the Authority may specify.

8.15 Any person excluded may, before the end of the hearing, submit to the Sub-Committee in writing, any information which, they would have been entitled to give orally had they not been required to leave and the Sub-Committee will take that information into account in reaching a determination of the application or review.

9 Determination of the application and time limits

9.1 For applications determined under the 2003 Act the Sub-Committee must make its determination at the conclusion of the hearing where the application is for:

- (a) A review of a premises licence following a closure order;
(b) A summary review of a premises licence
(c) A personal licence by the holder of a justices licence;
(d) A counter notice following police objection to a temporary event notice.

9.2 In any other case, the Authority must make its determination within the period of five working days, beginning with the day or the last day on which the hearing was held.

9.3 Where a hearing has been dispensed with because all of the parties have agreed that a hearing is unnecessary (and the Authority has agreed, giving notice to the parties in writing) then the Authority must make its determination for the 2003 Act applications, reviews and notices within 10 working days beginning with the day the Authority gives such notices to the parties.

10 Record of Proceedings

10.1 The Authority must arrange for a record to be taken of the hearing in a permanent and intelligible form and for that record to be kept for six years from the date of determination.

Where an appeal is brought against a determination by the Authority, the record must be kept for six years from the date of disposal of the appeal.

11 Irregularities

11.1 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Regulations.

11.1 Where the Authority considers that any person may have been prejudiced as a result of an irregularity relating to the Regulations, it will take such steps, as it thinks fit to cure the irregularity, before reaching its determination.

11.2 Clerical mistakes in any document recording a determination of the Authority or errors arising in such a document as a result of an accidental slip or omission may be corrected by the Authority.

12 Notices

12.1 Any notices under these regulations will be given in writing. Such a notice may be sent electronically, providing:

- (a) It can be accessed by the recipient in a legible form;
- (b) It is capable of being reproduced as a document for future reference;
- (c) The recipient has agreed in advance to receive it in such form;
- (d) A copy is sent in documentary form forthwith to the recipient.

13 Appeals.

13.1 Either those that have made an application or those who have made representations on an application may have the right to appeal the Authorities decision to the Magistrates' Court.

13.1 An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the Licensing Authority of their decision.

13.2 Notice of appeal should also be sent to the Authority's Legal Services Department.

14. Other information and contact details.

14.1 The minutes of a hearing will be made available on the Council's website at:
www.hillingdon.gov.uk

14.2 Applicants for new premises licences, club premises certificates, applications for provisional statements and applications for variations of existing premises licences or club premises certificates must display a notice on the premises and advertise the application in a local newspaper.

14.3 All applications once they are lodged will be available for viewing on Hillingdon Council's website at www.hillingdon.gov.uk and in the Civic Centre Offices by appointment with the Regulatory Services Department during working hours.

14.4 The address and contact details for Democratic Services are:

Clerk to the Committee
Cabinet Office
3E/05
Civic Centre
Uxbridge
UB8 1UW

14.5 The address and contact details for Legal Services are:

Legal Services Department
3E/04
London Borough of Hillingdon
Civic Centre
Uxbridge
UB8 1UW

DX: 45101 Uxbridge

Appendix 1

Hearing Protocol for interim hearings held pursuant to Section 53A to 53C of the Licensing Act 2003.

1. Introduction.

- 1.1 The powers under Section 53A to 53C of Licensing Act 2003 ("the Act") are aimed at tackling serious crime and serious disorder.
- 1.2 The powers allow the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both) and the Licensing Authority to respond by taking interim steps quickly, where appropriate, pending a full review.

2. Triggering the expedited review.

- 2.1 The Chief Officer of Police for the area in which the premises are situated may apply to the Licensing Authority for an expedited licence review if a senior member of the force has issued a certificate that in his/her opinion a licensed premises is associated with serious crime and serious disorder (or both).

3. The Licensing Authority and the interim steps.

- 3.1 Within 48 hours of receipt of the chief officer's application, the licensing authority must give the premises licence holder and the responsible authorities a copy of the application for review and a copy of the certificate and must also consider whether it is necessary to take interim steps pending the determination of the review applied for. When calculating the 48 hour period any non-working day will be disregarded.
- 3.2 Consideration of the interim steps may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant Licensing Sub-Committee. There is no requirement to hold a formal hearing in order to take interim steps. This means that the relevant Sub-Committee members can communicate by telephone or other means in order to reach a decision. In such circumstances, a written record will always be produced as soon as possible after a decision is reached.
- 3.3 The interim steps that the Licensing Authority must consider taking are-
 - The modification of the conditions of the premises licence;
 - The exclusion of the sale of alcohol by retail from the scope of the licence;
 - The removal of the designated premises supervisor from the licence;
 - The suspension of the licence.
- 3.4 In the event that the Licensing Authority decides to take one or more such steps-
 - (a) Its decision takes effect immediately or as soon after that as the Licensing Authority directs; but
 - (b) It must give immediate notice of its decision and of its reasons for making it to-
 - (i) the holder of the premises licence; and

(ii) the Chief Officer of the Police for the area in which the premises are situated.

3.5 The Act does not specify that the immediate notice has to be in writing. Where the Licensing Authority decides that the decision should take immediate effect and the licence holder was not present for the decision, then it will approach the licence holder by telephone and the call will be followed up as soon as possible with a written version of the decision and the reasons which is identical to or not significantly different from the version given by telephone.

4. Making representations against the interim steps.

4.1 The holder of the premises licence may make representations against the interim steps taken by a Licensing Authority.

4.2 There is no time limit for the premises licence holder to make representations on the interim steps, although in practice this would at some point be superseded by the full review which has to be completed within 28 days of the application being received by the Licensing Authority.

4.3 On receipt of a representation the Licensing Authority must, if the representations are not withdrawn, hold a hearing to consider those representations within 48 hours of the time of its receipt.

4.4 The Licensing Authority must give advance notice of the hearing to-

- (a) the holder of the premises licence;
- (b) the chief officer of police for the area in which the premises are situated.

4.5 At the hearing, the Licensing Authority must -

- (a) consider whether interim steps are appropriate for the promotion of the licensing objectives; and
- (b) determine whether to withdraw or modify the steps taken.

4.6 The Licensing Authority cannot adjourn the hearing to a later date if the licence holder fails to attend at the scheduled time.

4.7 The licence holder does not need to be present for the hearing to take place.

4.8 There is no timescale for notifying the licence holder of the hearing under this process, providing the notification takes place before the hearing is held. However, the Licensing Authority will aim to provide the licence holder with as much notice as is possible in the circumstances to afford the holder a maximum opportunity to prepare for and attend the hearing.

4.9 There is no right of appeal to a Magistrates' Court against the Licensing Authority's decision at this stage.

5. The review of the premises licence.

5.1 Within 28 days of receipt of an application under section 53A of the Act, the Licensing Authority must:

- hold a Sub-Committee hearing to consider the application for review and any relevant representations;
- take such steps as it considers appropriate for the promotion of the licensing objectives;
- secure that, from the coming into effect of the decision made on the determination of the review, any interim steps having effect pending that determination cease to have effect.

5.2 Those steps are-

- (a) the modification of the conditions of the premises licence;
- (b) the exclusion of a licensable activity from the scope of the licence;
- (c) the removal of the designated premises supervisor from the licence;
- (d) the suspension of the licence for a period not exceeding three months; or
- (e) revocation of the licence.

5.3 The Licensing Authority must:

- advertise the review inviting representations from any persons for no less than seven consecutive days and if applicable on the Licensing Authority's website;
- advertise that any representations made by the premises licence holder, responsible authority and any other persons should be submitted to the Licensing Authority within 10 working days of the advertisement of the review appearing; and
- give formal notice of the hearing no later than five working days before the day or first day on which the hearing is to be held to the premises licence holder and to every responsible authority.

5.4 A party shall give to the Licensing Authority a notice no later than two working days before the day or first day of the hearing stating whether-

- he intends to attend or be represented at the hearing;
- he considers a hearing to be unnecessary
- he would like permission for any other person to appear at the hearing and if so, explain on which points that person will be able to contribute.

5.5 The regulations relating to hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005. They apply to final hearings under the section 53A(2)(b). The issues that these regulations deal with include who can make representations and what those representations can be about. It is therefore possible for responsible authorities or any other persons to make representations in relation to any of the licensing objectives, not just crime and disorder. Similarly where it is in the public interest, the regulations relating

to the exclusion of individuals from hearings, or conducting the hearing in private, will apply.

- 5.6 The Licensing Authority must notify the determination and its reasons for making it to-
- (a) the holder of the premises licence;
 - (b) any person who made relevant representations; and
 - (c) the chief officer of police for the area in which the premises are situated.
- 5.7 An appeal may be made to the Magistrates' Court within 21 days of the licence holder being notified of the Licensing Authority's determination on the review.
- 5.8 An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.
- 5.9 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the disposal of the appeal.

This page is intentionally left blank

LICENSING COMMITTEE - FORWARD PLANNER 2015/16

Committee	Licensing Committee
Officer Contact	Mark Braddock, Democratic Services
Ward(s) affected	N/A

RECOMMENDATION:

That the Committee note the Forward Planner and suggest any alterations or additional topics or business items.

15 October 2015 10am Committee Room 5	Agenda / Reports	Lead	Timings
	Policy discussion: <ul style="list-style-type: none"> Review of Licensing Policies 	CF / SW	Report deadline: 2nd October 2015 Agenda Published: 7th October 2015
	Informatives: <ul style="list-style-type: none"> Scrap Metal Act 2013 - Update Private Members Bill: Categorisation of Fixed Odds Betting Terminals Legislative Update 	SW / SW	
	Business Review: <ul style="list-style-type: none"> Update on recent reporting changes to Licensing Sub-Committees & consideration of a new Universal Protocol Forward Planner Sub-Committee Minutes 	MB	

9 November 2015
Mandatory Member Licensing Training Seminar
 10am, Council Chamber (morning only)

12 January 2016 10am Committee Room 6	Proposed Agenda / Reports	Lead	Timings
	Presentation: <ul style="list-style-type: none"> Public Health 	SH	Report deadline: 22 December 2015 Agenda Published: 4 January 2016
	Policy discussion: <ul style="list-style-type: none"> Planning policy / Betting Shops 	JR	
	Informatives: <ul style="list-style-type: none"> Legislative Update 	SW/ SW	
Business Review: <ul style="list-style-type: none"> Forward Planner Sub-Committee Minutes 	MB		

Continued overleaf...

14 April 2016 10am Committee Room 6	Proposed Agenda / Reports	Lead	Timings
	Presentation: <ul style="list-style-type: none"> Shisha Cafes / Smoke Free legislation 	SN	Report deadline: 1 April 2016 Agenda Published 6 April 2016
	Informatives: <ul style="list-style-type: none"> Legislative Update 	SW/ SW	
Business Review: <ul style="list-style-type: none"> Forward Planner Sub-Committee Minutes 	MB		

13 July 2016 * 10am Committee Room 6	Proposed Agenda / Reports	Lead	Timings
	Presentation: TBC		Report deadline: 30 June 2016 Agenda Published: 5 July 2016
	Informatives: <ul style="list-style-type: none"> Legislative Update 	SW/ SW	
Business Review: <ul style="list-style-type: none"> Forward Planner Sub-Committee Minutes 	MB		

* Provisional date - TBC by Council

Lead Officers:

SW - Sarah White / Stephanie Waterford
CF - Claire Freeman
MB - Mark Braddock
SH - Dr Steve Hajioff
SN - Shabeg Nagra
JR - James Rodger

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government (Access to Information) Act 1985 as amended.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government (Access to Information) Act 1985 as amended.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government (Access to Information) Act 1985 as amended.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government (Access to Information) Act 1985 as amended.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government (Access to Information) Act 1985 as amended.

Document is Restricted

This page is intentionally left blank