



HILLINGDON
LONDON



Licensing Committee

Date: THURSDAY, 13 APRIL 2017

Time: 10.00 AM

Venue: COMMITTEE ROOM 6 -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE UB8
1UW

Councillors on the Committee

Dominic Gilham (Chairman)

David Yarrow (Vice-Chairman)

Lynne Allen

Teji Barnes

Roy Chamdal

Jazz Dhillon

Janet Gardner

Patricia Jackson

John Morse

Brian Stead

Published:

Wednesday, 5 April 2017

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Putting our residents first

Lloyd White

Head of Democratic Services

London Borough of Hillingdon,

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www.hillingdon.gov.uk

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Agenda

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To agree the minutes of the meeting held on 10 January 2017 1 - 4
- 4 To confirm the items of business in Part 1 will be considered in public and any items Part 2, in private

Part 1 - Members, Press and Public

- 5 Presentation from the Gambling Commission

Jim Reynolds, Compliance Manager will give an overview of the controls for gaming machines, technical safeguards that may be built in, trends relating to machines in betting shops and some key gaming industry statistics. Members will have an opportunity to ask questions.

- 6 Alcohol related problems, Hayes Town & Reducing the Strength Update 5 - 12
- 7 Street Trading Hearing Protocol 13 - 24
- 8 Street Trading Policy 25 - 56
- 9 Legislative Update 57 - 64
- 10 House of Lords Select Committee on the Licensing Act 2003 - Update 65 - 72
- 11 Draft Forward Planner 2017/18 MY 73 - 74
- 12 Ratification of Sub-Committee Minutes 75 - 98

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Minutes

LICENSING COMMITTEE

10 January 2017

**Meeting held at Committee Room 6 - Civic Centre,
 High Street, Uxbridge UB8 1UW**

	<p>Committee Members Present: Councillors Dominic Gilham (Chairman), David Yarrow (Vice-Chairman), Lynne Allen, Teji Barnes, Roy Chamdal, Jazz Dhillon, Janet Gardner, Patricia Jackson, John Morse and Brian Stead</p> <p>LBH Officers Present: Mark Braddock (Democratic Services), Bill Hickson (Residents Services), Nathan Welch (ASBIT), Stephanie Waterford (Licensing), Ian Meens (Licensing).</p>
21.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>All Members were present.</p>
22.	<p>TO AGREE THE MINUTES OF THE MEETINGS HELD ON 10 NOVEMBER 2016 (<i>Agenda Item 2</i>)</p> <p>The minutes of the Licensing Committee held on 10 November 2016 were agreed as a correct record.</p>
23.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 3</i>)</p> <p>No interests were declared by Members present.</p>
24.	<p>TO CONFIRM THE ITEMS OF BUSINESS MARKED PART 1 WILL BE HELD IN PUBLIC AND ANY PART 2 WILL BE HELD IN PRIVATE (<i>Agenda Item 4</i>)</p> <p>It was confirmed all matters would be considered in public.</p>
25.	<p>PRESENTATION & OPEN DISCUSSION: ANTI-SOCIAL BEHAVIOUR & INVESTIGATIONS TEAM - POWERS TO TACKLE NOISE, NUISANCE AND ASB IN RELATION TO PROBLEM PREMISES AND PUBLIC AREAS. (<i>Agenda Item 5</i>)</p> <p>The Committee received a presentation from the Council's Anti-Social Behaviour Investigations Team (ASBIT) regarding their roles and responsibilities with respect to licensing matters.</p> <p>Managers of the service gave an overview of the Out of Hours element, their key duties under the Environmental Protection Act 1990 and how the recently acquired powers of Community Protection Notices (CPNs) and Public Spaces Protection Orders (PSPOs) were being used to protect residents.</p>

Key points raised included:

- Close partnership working with the licensing team;
- Recent joint work with the Police on problems in Hayes Town Centre, including licenced premises and street drinking;
- The role of CPNs, how they are issued and how they should relate to a group of people, rather than individuals;
- That Hillingdon was recognised as a national leader in implementing PSPOs and planned to further update them following public consultation; It was noted that PSPOs had taken over from Controlled Drinking Zones.
- That a letter had recently gone out to all off-licences setting out the Council and Police's clear expectations over trading activities and penalties for misuse.

During the presentation, Committee Members made the following comments and observations:

- The Committee was keen to be involved, via the Chairman, in responding to any consultation in respect of PSPOs.
- The visibility of ASBIT and their vehicles when they undertook site or unannounced visits;
- Clarity on the number of CPNs issued over the last year;
- That it is important for ASBIT, given that it is not a responsible authority, to provide comments on all applications under the Licensing Act that come before a sub-committee;
- The role of Fixed Penalty notices for street drinking and how they work;
- Incident numbers to the Out of Hours Service and how they were resourced, prioritised and responded to;
- Intelligence-led operations with the Police to target particular off-licenses and establishments that may be operating illegally;
- Street drinking and how the Police and Council should revisit the "reducing the strength" initiative with a joint briefing note to the April meeting. Reference was also made to a drink marking scheme in Slough and that this be included in the report back to the Committee;
- The importance of CCTV used in premises to provide evidence of malpractice in off-licences.

Following the presentation, Members welcomed the work of the team and thanked officers present for their comments and in answering the varied questions posed.

RESOLVED:

That the Committee:

- 1. Input into any upcoming consultation and review of PSPOs;**
- 2. Request that ASBIT provide comments on all applications under the Licensing Act that come before a sub-committee;**
- 3. Receive a breakdown of the number of CPNs issued over the last year;**
- 4. Receive a copy of the letter recently sent to off-licences across the Borough reminding them of good practices and penalties;**
- 5. Add to the Forward Planner for the April 2017 meeting, a joint briefing note by the Police and Council on taking forward the "reducing the strength" initiative with details of similar schemes, including drink marking scheme in Slough as part of the report.**

26.	<p>COMMITTEE FORWARD PLANNER 2016/17 (<i>Agenda Item 6</i>)</p> <p>Members reviewed upcoming business to the Committee.</p> <p>RESOLVED:</p> <p>That the Committee:</p> <ol style="list-style-type: none"> 1. Note the Forward Planner. 2. Add a joint Police/Council update on “reducing the strength” be added to the April meeting.
27.	<p>SUB-COMMITTEE DECISIONS AND RATIFICATION OF MINUTES (<i>Agenda Item 7</i>)</p> <p>Relevant Members of the Committee agreed the minutes of a previous Licensing Sub-Committee hearing as a correct record and the Committee then ratified the minutes of the meeting.</p> <p>RESOLVED:</p> <ol style="list-style-type: none"> 1) That the Committee note the decisions of the Licensing Sub-Committees since the last Licensing Committee meeting and; 2) That the Committee, and Members present at the following Sub-Committees, approve the following minutes as a correct record: <ol style="list-style-type: none"> a) 7 November 2016 (Part 1)
	<p>The meeting, which commenced at 10.00 am, closed at 11.10 am.</p>

These are the minutes of the above meeting. For more information on any of the resolutions please contact Democratic Services on 01895 250470 or email democratic@hillingdon.gov.uk. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

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ALCOHOL RELATED PROBLEMS - HAYES TOWN

Committee	Licensing Committee
Officer Contact	Ian Meens, Residents Services
Papers with report	<ul style="list-style-type: none">- Joint Letter to Hayes Alcohol Licence Traders.- Letter from the Police about street drinking
Ward(s) affected	Botwell and Townfield

HEADLINE

An update report to the Committee on 'Reducing the Strength' and street drinking.

RECOMMENDATION

That the Committee note the information.

SUPPORTING INFORMATION

Reducing the Strength, alcoholic drink marking scheme and street drinking

Activity in and around Hayes Town Centre regarding street drinkers and other anti-social behaviours have been seen to have a link to the consumption of alcohol mainly purchased from the off-licence trade.

The Committee has requested that the Licensing Team look at the problem in company with the Police and identify any solutions possible.

The problems are clearly seen to be linked to other anti-social behaviours and officers consider it viable and useful to look at the whole street scene environment and ASB in broader terms in certain areas of the Borough.

In that regard discussions were undertaken with the Police and the ASBIT team and some recent proactive work has been undertaken.

The component parts

Reducing the Strength

This is based on the concept that street drinkers prefer to purchase and consume very strong beer and cider and thus the purpose is to make such drink difficult to obtain.

This is a difficult task and one that cannot be bulldozed into an area using legislation. The law is complicated on this issue and, as such, most schemes that are up and running in other areas are on a voluntary basis. The level of alcohol content (ABV) for a can of beer/cider and similar beverages also varies around areas where this is being undertaken. In general 6.5 ABV is becoming a standard.

Classification: Public

Licensing Committee: 13 April 2017

Not selling single cans

This is based on the concept that it is a popular trait of street drinkers to buy single cans.

It is identified as a way of reducing the availability of alcohol to those persons who would fund their drinking habits on a very low budget, which can often involve begging.

Alcoholic drink marking

This is the viability of using a scheme in which retailers mark all cans of beer/cider that they sell. This would then allow the Police and other authorities to identify the retailer of the product should there be a problem with street drinking or underage purchasing.

This scheme was first muted in 2009 when the police secured a budget for £5,500 to trial this in Hillingdon. Following discussions with the Licensing Service there was a trial in Harefield. It was felt that Harefield, being relatively geographically independent, and having a low number of outlets, would be an ideal area to start the process. The scheme did not prove to be a success. It had to rely on the voluntary behaviour from retailers to mark all cans of alcohol products sold. It proved to be a serious burden on their time and not practicable or popular and was not taken up, despite Police pressure to assist with and progress the trial.

The London Borough of Bexley also tried this scheme and did claim some success at the time of the Hillingdon trial. A recent enquiry into the Bexley scheme established that they no longer apply this to retailers. They found it was largely unworkable and that retailers who choose to sell cans to underage children or to drunks would not sell the cans that were previously marked as this would give themselves away.

A holistic approach: Hayes Town Project

The above three control methods, and others, are all seen as having some benefit in dealing with modern anti-social behaviour, but it should be considered that any method/s taken up by the Council are both workable and cost effective. The balance between effort and resources applied to a scheme is equal or beneficial in its outcome.

Where the law exists it should be applied. Where it doesn't we should look for a voluntary behaviour based on good working practice and joint working. Not a 'flash in the pan' but something that can be maintained with little maintenance for the long term.

To this end, the Police have begun looking at new and variation alcohol licensing applications. Where necessary they have asked for and agreed conditions on licences around the sale of drug paraphernalia and the non-sale of high ABV (6.5) beer and cider, which are also covered in two recent letters issued, attached:

- Joint Police/Local Authority letters have been delivered to 18 off licence premises in Hayes.
- Police letter has also be delivered separate to the above

Licensing Officers have accompanied ASBIT officers on three occasions thus far with more visits planned. This joint approach has focussed on many aspects of licensing. Shop front licensing, street scene, special treatments licences and licensing offences. Special

treatments alone established nine unlicensed premises, many of whom are now in the process of application.

The Police have similarly conducted visits around the sale of alcohol to drunks, the sale of drug paraphernalia, producing their own letter (attached) for trader's information. The Police have made several immigration arrests at licensed premises and are now looking at offences around the illegal employment of the same both as a criminal matter and as a licensing issue.

Implications on related Council policies

None at this stage

Legal implications

None at this stage

Financial Implications

None at this stage

Background Papers / Further Reading Material

NIL

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To:
Designated Premises Supervisors,
Licence Holders and Off Licence staff
Hayes Town Centre

Date: 2nd December 2016

Reference: MET/LBH/16/

Dear Sir/Madam,

**THE PREVENTION OF CRIME AND DISORDER
THE LICENSING ACT 2003**

We, as the Police and Council Licensing Authority, are writing to you to make you aware of a number of issues concerning licensed premises and alcohol misuse, which have been reported to us over recent months.

We have received a number of complaints and concerns from the local community, businesses and community representatives, who have made us aware of increasing levels of antisocial behaviour, violence and intimidation around the Hayes Town area. These issues are also deterring visitors and shoppers from the area.

A summary of some of the ongoing issues include:

- Presence of street drinkers congregating in the street and intimidating local businesses;
- The presence of drug paraphernalia being sold by local retailers;
- Increasing levels of violence amongst the street drinking community;
- The availability of cheap, high strength alcohol

The Police and Council are taking action to address these issues, for example, the establishment of a dispersal zone to enable Officers to remove individuals from the area, and Licensing enforcement action taken against off licence premises who are found to be contravening the regulations.

Now, we need your assistance in being able to tackle these problems further and would like to remind you of your responsibilities as licence holders and hope that you will ensure that your businesses are operating according to the licensing regulations.

**Hillingdon Borough Police
Licensing Dept.
Uxbridge Police Station
1 Warwick Place
Uxbridge, UB8 1PG**

**Telephone: 020 8246 1933
Mobile: 07500 578106
Email: XH - Licensing@met.police.uk**

**Licensing Service
Residents Service
T.01895 277433 F.01895 250011
licensing@hillington.gov.uk www.hillingdon.gov.uk
London Borough of Hillington,
Civic Centre, High Street, Uxbridge, UB8 1UW**

You are reminded of the following:

1. It is an offence to sell to individuals who appear to be drunk and this may result in a criminal conviction and fine.
2. As licence holders and persons responsible for running licensed premises, you have a responsibility to ensure that crime and disorder is prevented. You can do this by ensuring that all shop staff are trained on licensing responsibilities and that you are not encouraging any illegal activity to take place in or away from your premises i.e. street drinking or drug taking.
3. You are required to comply with your premises licence conditions. We would advise that you check your premises licence document to see exactly what is required.
4. As responsible retailers, you should be reporting any incidents of crime, disorder or intimidation to the Council and/or Police Officers.

The Police and Council Licensing Officers will carry out checks on licensed premises to ensure that they are being run in the manner we would expect. When we visit your premises, we will need to be satisfied that you are doing all that you can to ensure that crime and disorder is prevented. If you are unsure of how to do this, please contact us for further advice.

You are reminded that your premises licence may be reviewed at any time and that enforcement action may be instigated by the Council, The Police or both and that both agencies will work together to address issues in the community.

If you are unsure of your responsibilities or would like advice on what you can do to address these issues, please contact either the Police Licensing Team or the Council Licensing Team, who can offer you assistance.

It is your community; please help to make it a safer place to live, work and visit.

***Police Licensing Team
Hillingdon Borough***

***Licensing Service
London Borough of Hillingdon***



Date:

**To all
Designated Premises Supervisors
and Staff members of
Licensed Premises**

**Hillingdon Borough
Licensing Dept.
Uxbridge Police Station
1 Warwick Place
Uxbridge
UB8 1PG**

**Telephone: 020 8246 1933
Mobile: 07500 578106
Email: XH - Licensing@met.police.uk**

Dear Sir/Madam,

Re: The Sale of Alcohol to People who are Drunk

This letter is being served to you to inform you that over the last few weeks Hillingdon Police have received large amount of complaints from the local community, who have concerns about the increase of Anti-Social Behaviour and violence in and around the Hayes Town Area.

It has been established that a majority of the people who are causing the problems in your area are street drinkers. They are congregating in Hayes Town Centre and in the area near the Canal outside the Old Crown Public House. These people are getting intoxicated through alcohol and are then starting to fight and are committing other crimes. This is causing concern to local residents, local businesses and passing members of the public.

This has caused police to put in a dispersal zone in this area so that they can deal with the people who are causing these problems, but as I have said the main problem is with people getting drunk and this is where the police licensing department gets involved.

I am sure that all Licensees, DPS and members of staff who are authorised to sell alcohol are aware that it is an offence to sell to drunks.

Sect 141 of the Licensing Act 2003.

**States any person who permits the sale of alcohol, or allowing the sale of alcohol, to a person who is drunk, commits an offence under this act.
This is a Level 3 offence and carries a fine of up to £1000.**

I must warn you that the local police will be monitoring the area and if any licensed premises are seen to be serving to drunks then a full investigation will be carried out by myself and you may find yourselves being prosecuted at Court and or your licence being brought under review.

It is your community; please help to make it a safer place to live, work and visit.

***Police Licensing Team
Hillingdon Borough***

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STREET TRADING HEARING PROTOCOL *LONDON LOCAL AUTHORITIES ACT 1990 (AS AMENDED)*

Committee	Licensing Committee
Officer Contact	Steven Dormer, Residents Services
Papers with report	Draft Street Trading Protocol
Ward(s) affected	All

HEADLINE

To deliver the outcome to the Committee of the consultation on the updated street trading hearing protocol, before final approval by the Committee for use in Licensing Sub-Committee hearings.

RECOMMENDATION

That the Committee approve the updated street trading hearing protocol.

Background

On 08 June 2011 the Licensing Committee approved urgent and non-urgent hearing procedures for Street Trading applications. In December 2015, Cabinet approved the updating of the Council's Street Trading and Markets Policies. Officers subsequently reviewed existing hearing procedures in order to ensure that no conflict existed with the newly revised policies. These were presented to the Committee in 2016, which agreed they go out for the required consultation.

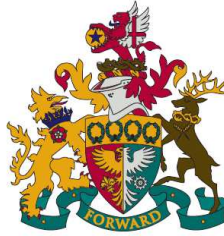
Consultation outcome

Consistent with local practice, licence holders, partner agencies and stake holders were consulted. A total number of 124 businesses and persons were consulted directly. The information of the Council's proposed changes were also made available to view on the website. The consultation period lasted for the required statutory 28 days. No representations or comments were made during the consultation period.

Summary of the changes in the revised protocol

1. Licensing Sub-Committees now comprise 3 rather than 5 Members;
2. Applications which were regarded as urgent are now subject to longer application timescales. It is therefore unlikely that the Sub-Committee will be required to hear Urgent Street Trading applications;
3. Together, the Street Trading Policy and Street Trading Hearing Protocol will provide a more efficient process, importantly for traders, but also the administration of this by Council officers.

The proposed draft hearing protocol for street trading is attached.



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Draft Street Trading Hearing Protocol

This protocol outlines the procedures that will be followed in relation to hearings held under the London Local Authorities Act 1990 to consider the grant or renewal or variation or revocation of a Street Trading Licence

Contents

1	Introduction	
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3	Persons who must be notified by a hearing	
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7	Determination of applications-time limits	
8	Record of proceedings	
9	Irregularities	
10	Notices	
11	Appeals	

1. Introduction

- 1.1 Part III of The London Local Authorities Act 1990 (hereinafter referred to as "the Act") provide that a Council shall determine for itself the procedure to be followed at a hearing.
- 1.2 These procedures set out the way in which the Licensing Authority (hereinafter referred to as "the Authority") will conduct hearings under the Act for the grant or renewal or revocation or variation of a permanent or temporary Street Trading Licence.

2. Timescales

- 2.1 A Licensing Sub-Committee may not refuse to grant or renew or vary or revoke a street trading licence unless at least 21 calendar days' notice has been given in writing to the trader that representation(s) has/have been received and advising the trader of the grounds on which the decision will be based.

3. Timescales for Notice of Hearing to be given

- 3.1 The Authority shall give Notice of Hearing no later than 21 calendar days before the first day on which the hearing is to be held.
- 3.2 Where a hearing will take more than one day, the Authority must arrange for the hearing to take place on consecutive days.

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:
 - The Trader or proposed trader in an application for the grant, renewal or variation of a licence;
 - Any applicant for the variation or revocation of a licence issued under Part III of the London Local Authorities Act 1990;
 - Any person who has made representations about an application for the grant or renewal or variation or revocation of a licence.

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 for the grant or renewal or variation or revocation of a licence includes:

- The procedure to be followed at the hearing;
- The method and time limit by which a party may inform the Sub-Committee of their intention to attend and/or to be assisted or represented by any person whether legally qualified or not;
- The right to question any other party;
- The right to address the Authority;
- The method and time limit by which a party may call witnesses to give evidence at the hearing
- The consequences if a party does not attend or is not represented at the hearing;

5.2 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.

5.3 The Authority's Licensing Officer will prepare a report for the consideration by the Committee. This will be sent to the Trader with the Notice of Hearing.

5.4 The report prepared by the Authority's Licensing Officer will contain details of any objections received related to an application for the grant or renewal or variation or revocation of a street trading licence. The report will also provide the grounds upon which the decision of the Sub-Committee will be based.

6. Notice of Reply

6.1 On receipt of the Notice of Hearing, all parties must inform the Authority no later than 5 working days before the date of the hearing whether they:

- Intend to attend or be represented at the hearing;
- 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 Each party should send the Notice of Reply to the Democratic Services Department, London Borough of Hillingdon, Civic Centre, Uxbridge, Middlesex, UB8 1UW. The Notice of Reply will specify the deadline for sending it back to the Council.

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 previously submitted by the party.
- 7.4 If the Authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

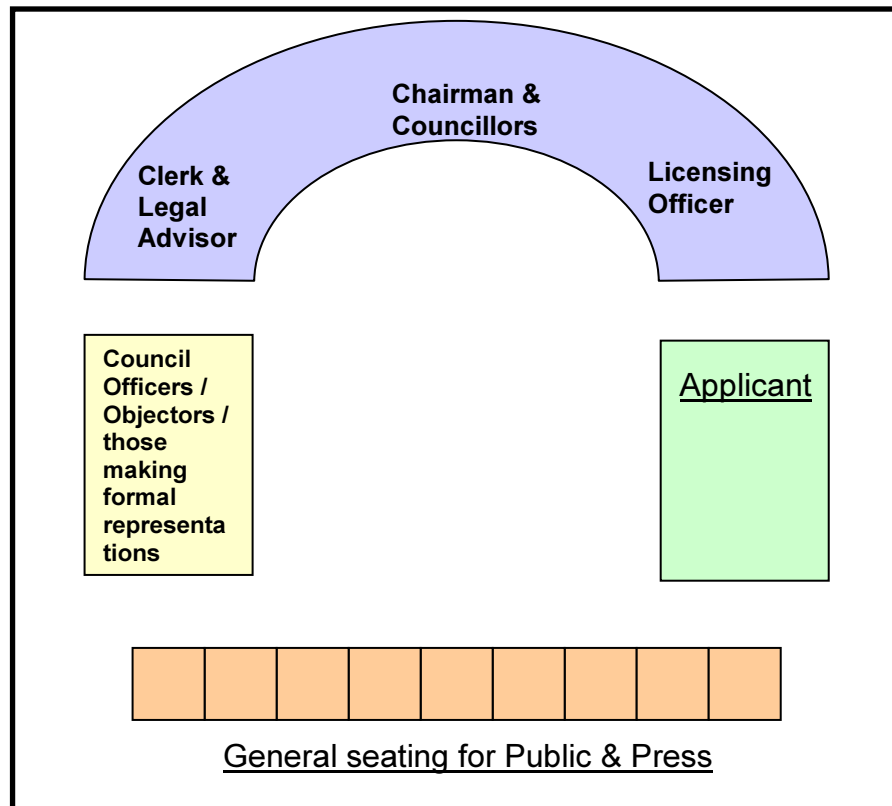
8. Procedure at the hearing

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 general 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
Regulatory Services**



The Applicant



**Any Officer who has
submitted representations**



**Residents / objectors etc..
who have submitted formal
representations**



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**



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

The Applicant or the person representing him/her will be invited to address the Sub-Committee. The Sub-Committee may ask questions.

Officers of the Council and/or any Officer who performs an enforcement function in relation to the Act will be invited to address the Sub-Committee. Councillors may ask questions of the Responsible Authorities.

Other people who have made formal representations 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. The Sub-Committee may ask questions.

The Chairman will invite the parties to the hearing, in reverse order, 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. **Chairman announces the decision** allow the parties to question any other party (if permission is relevant 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 A hearing under the 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.
 - (c) The Sub-Committee may exclude the public from all or part of a hearing where it is satisfied that there is a need to protect as far as possible, the commercial or other legitimate interests of a party to the hearing.
- 8.12 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.

- 8.13 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.
- 8.14 In order to ensure fairness to the Parties and/or in the interests of the proper consideration of the matter in question, the Sub-Committee may waive, vary or modify any part or the whole of these rules in any particular case.
- 8.15 The Chairman of the Sub-Committee has the power to extend time where it is appropriate to do so in the interests of the determination of the case.

9 Determination of the application and time limits

- 9.1 The Sub-Committee will endeavour to make its determination and provide a summary of the reasons for its decision at the conclusion of the hearing. A written decision notice shall be provided to all parties to the hearing within 5 working days of the last day of the hearing.
- 9.2 Where the Sub-Committee has not made a decision immediately following the conclusion of the hearing, the Sub-Committee will make its decision within 5 working days of the last day of the hearing. The Authority will notify the parties to the hearing of the decision in writing as soon as reasonably practicable after the decision has been made.

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.

13.2 An appeal must be commenced within twenty one days of receipt of the written decision notice following the outcome of the Sub-Committee hearing.

13.3 Appeals may only be submitted in relation to permanent street trading licences. There is no appeal process for applications for temporary street trading licences.

13.4 The 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 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.

14.3 The address and contact details for Democratic Services are:

Phase Two
Civic Centre
Uxbridge
UB8 1UW

14.4 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

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STREET TRADING POLICY

Committee	Licensing Committee
Officer Contact	Ian Meens, Residents Services
Papers with report	Current Street Trading Policy
Ward(s) affected	All

RECOMMENDATION

That the Committee provide views on the current policy.

Supporting information

Licensing officers are considering a minor review of the current Street Trading Policy, which is attached. They will provide a verbal update on some possible changes, in order to get the Committee's early steer before taking forward with the Cabinet portfolio holder and, if agreed, any changes to Cabinet for formal consultation.

Implications on related Council policies

None at this stage.

Legal implications

None at this stage

Financial Implications

None at this stage

Background Papers / Further Reading Material

NIL

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HILLINGDON

LONDON

Street Trading Policy
The London Local Authorities Act 1990
(As amended)

Approved by Cabinet - 17 December 2015

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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 aged seventeen or over 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 a 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.

6.8 In addition to the above, for applications for shop front and / or tables and chairs licences, consultation and advertisement will take the form of a "Notice of Application" which must be placed in the window of the relevant premises – so that it can be easily seen from outside. The notice will be at least A4 in size and must be in place and easily visible from the outside throughout the consultation period.

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 Council's discretionary decision making powers.

9.2 The Council will not consider any feedback or objections where they are determined to be; frivolous, vexatious or repetitious. Such objections are considered not 'relevant'. This decision in this respect will be delegated to the Deputy Chief Executive and Corporate Director for Residents Services who may sub delegate the matter to an appropriate senior officer.

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 made by Officers delegated for the purpose.

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 aesthetics of the street scene of an area. Guidance will be given to applicants regarding the standard expected by the Council.
- 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.

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 to 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 of 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.

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 Sections 34 & 38 of The Act outline 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 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 In addition to the above, for applications for the renewal of shop front and / or tables and chairs licences, consultation and advertisement will take the form of a “Notice of Application” which must be placed in the window of the relevant

premises – so that it can be easily seen from outside. The notice will be at least A4 in size and must be in place and easily visible from the outside throughout the consultation period.

- 19.5 Renewal applications are also subject to the same consultation requirements as new applications and the Council may identify grounds for refusal during that process.
- 19.6 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.
- 19.7 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. 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. 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
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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
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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.

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 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. 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 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 should be tested by a competent person at intervals recommended by the competent person. Records should be kept of all inspections and tests together with any defects and/or remedial works, so as to demonstrate compliance.

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.

17. 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.

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.

19. GAS CYLINDERS

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

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. Cooked or uncooked meat or fish of any kind
 - 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. i.e cooking.
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

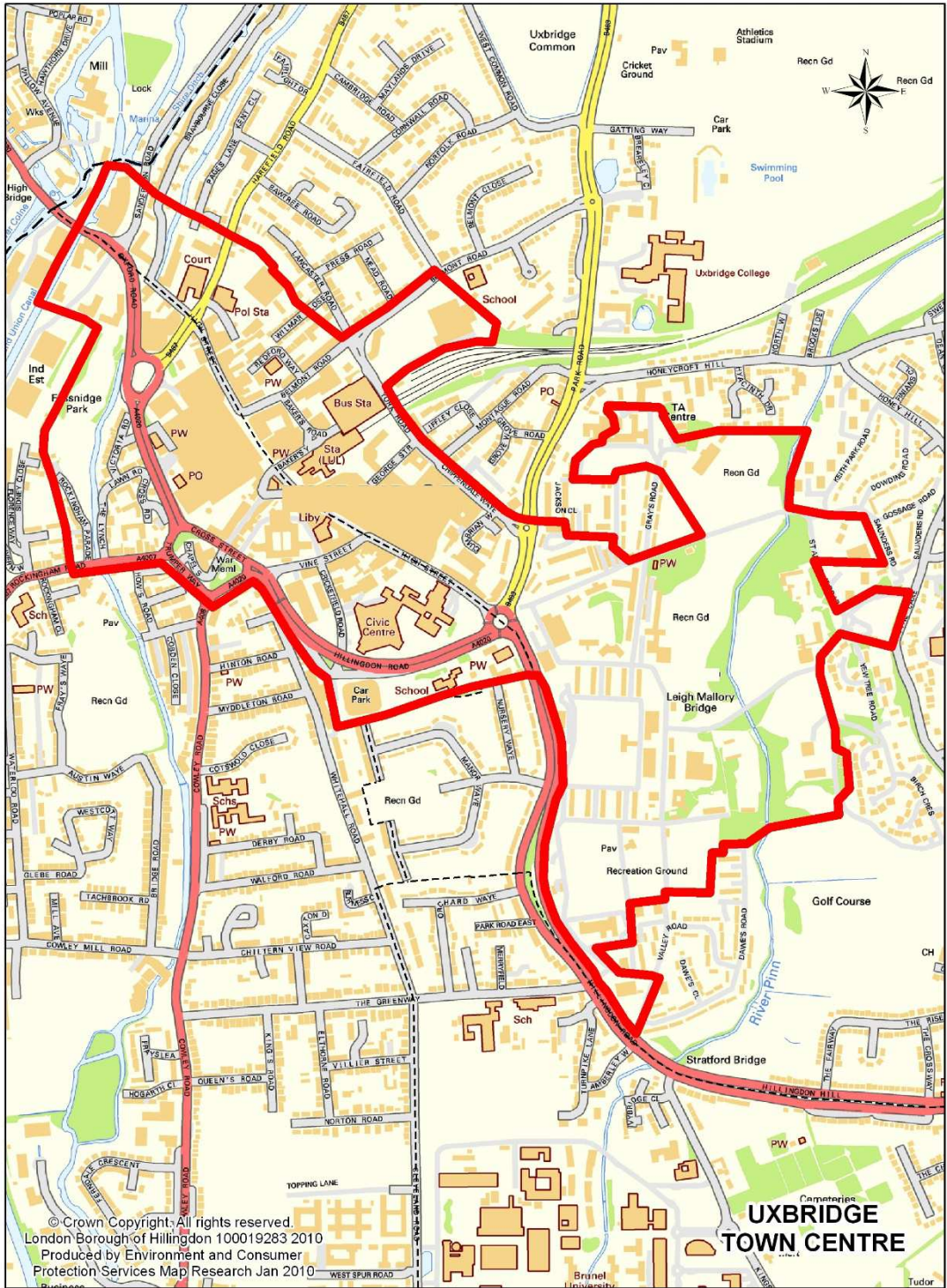
Prohibition of mobile or “itinerant” ice cream trading

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.*

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LEGISLATIVE UPDATE

Committee	Licensing Committee
Officer Reporting	Legal Services
Papers with report	Appendix 1 – List of Documents Demonstrating Entitlement to Work
Ward	All

SUMMARY

To advise the Licensing Committee on amendments to the Licensing Act 2003 (the "Act") brought about by the Policing and Crime Act 2017 ("PCA 17") and the Immigration Act 2016 ("IA 16").

RECOMMENDATIONS:

That the Committee:

- 1. Advise / determine whether new powers related to Personal Licences will be exercised by means of Sub-Committee hearing or by means of an application on paper;**
- 2. Note that consequential amendments to the Council's Licensing Policy and Sub-Committee Hearing Protocol will be tabled at future meetings.**

SUPPORTING INFORMATION

The Immigration Act 2016 received Royal Assent on 12 May 2016 and makes amendments to the Licensing Act 2003 in relation to:

- entitlement to work
- the Secretary of State becomes a new responsible authority
- prohibition on applying for or holding a premises licence
- restrictions on the use of Interim Authority Notices
- restrictions on Transfer of Premises Licence
- personal Licence Restrictions
- existing Personal Licence Alterations

A commencement order for the above was published on 14 March 2017 and comes into force on 6 April 2017 (Immigration Act 2016 (Commencement No. 3 and Transitional Provision) Regulations 2017/380).

The Policing and Crime Act 2017 received Royal Assent on 31 January 2017 and makes amendments to the Licensing Act 2003 as follows:

- amend the meaning of alcohol;
- amend the provisions for Summary Reviews;
- provide a new power for the Licensing Authority to suspend or revoke a personal

- licence when notified of a conviction for a relevant offence;
- expand the list of relevant offences for personal licences holders, and remove the need for the Secretary of State to lay statutory guidance before Parliament;
- simplify the process for issuing S182 guidance;
- place cumulative impact policies on a statutory footing;

1. Changes Introduced by the Immigration Act 2016

Entitlement to Work

A new section has been inserted into the Licensing Act 2003 which detail a person's entitlement to work. Individuals will not be able to apply for a premises licence unless they are entitled to work in the United Kingdom (UK). An individual is entitled to work in the UK if they have leave to enter or remain in the UK and are not subject to a condition preventing them from doing work relating to a licensable activity.

Personal Licences

A personal licence may not be issued to an individual who:

- Does not have the right to live and work in the UK; or
- Is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any personal licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have the right to work in the UK and that they are not subject to a condition preventing them from doing work relating to the carrying on of a licensing activity. They do this by providing with the application copies or scanned copies of the specified documents (which do not need to be certified). The documents which demonstrate entitlement to work in the UK are set out in the Appendix 1 to this report ("the Documents").

If the applicant has a UK passport, a scanned copy of this document is all that is needed. If not, the applicant must provide a copy of one of the other Documents. Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical policy, an EHIC card or an S1, S2 or S3 form. Originals of the Documents must not be sent to licensing authorities.

If the document copied is a passport, a copy of the following pages should be provided:

- Any page containing the holder's personal details including nationality;
- Any page containing the holder's photograph;
- Any page containing the holder's signature;
- Any page containing the date of expiry; and
- Any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

The offences in Schedule 4 of the Licensing Act 2003 are amended to add immigration offence and immigration penalty. A person who currently holds a Personal Licence must give notice of any immigration conviction or penalty to the Licensing Authority.

The Criminal Record Disclosure form is now renamed “Disclosure of Convictions and Civil Immigration Penalties and Declaration” form. As well as relevant and foreign offences, a personal licence holder is now asked to declare any civil immigration penalties received.

Premises Licence Applications

Individual applicants (including those in a partnership) must declare that they understand.

1. That the licence will not be issued if they do not have the entitlement to live and work in the UK; and
2. That the licence will become invalid if they cease to be entitled to live and work in the UK.

Further, the Applicant must declare:

1. That the DPS named in the application is entitled to work in the UK and is not subject to conditions preventing him or her from doing work relating to a licensable activity); and;
2. That the applicant has seen a copy of the DPS’s proof of entitlement to work, if appropriate.

Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensing activity. They do this by providing with this application copies or scanned copies of one of the Documents. If the change in work status results in the lapse of a premise licence, an Interim Authority Notice must be submitted within 28 days in order to reinstate the licence. A copy of the Notice must be served on the Home Office Immigration Enforcement service.

DPS Variations

The application form is amended to include nationality, place of birth and date of birth. The form contains a warning that civil penalties may be incurred by persons who work without the proper entitlement to work. The consent form for a Designated Premises Supervisor includes the following:

“I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.”

Transfer Applications

Applicants seeking a transfer of a Premises Licence will now have to supply a document listed in Appendix 1 as proof that they are able to work in the UK.

In addition, a copy of the transfer application must be served on the Secretary of State who is now a Responsible Authority. If satisfied that the exceptional circumstances of the case are such that granting the application would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must give the relevant licensing authority a notice,

within 14 days of having been notified of the application, stating the reasons for being so satisfied. Where the above notice is given, the Licensing Authority must reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so.

New Responsible Authority

The Secretary of State will be an additional Responsible Authority where the premises licence authorises the sale of alcohol or late night refreshment. Responsible Authorities under the Licensing Act are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority.

Restrictions on the Use of Interim Authority Notices

When a premises licence for alcohol sales or late night refreshment is in existence, it will lapse if the holder ceases to have the right to work in the UK (in the same way as on death, insolvency etc.).

2. Changes Introduced by the Policing and Crime Act 2016

Definition of “alcohol”

The definition of “alcohol” provided in the Licensing Act 2003 is expanded include alcohol “in any state.” This will mean powdered and vapourised alcohol will also be regulated under the Licensing Act 2003.

Summary Reviews: Representations Against Interim Steps

A summary review is a “fast-track” licence review process that can be applied for by the Police in the case where a licensed premises is associated with serious crime and disorder. Within 48 hours of receipt of a summary review application, the licensing authority must decide what interim steps, if any, to take pending the full review hearing, which must take place within 28 days.

Once the interim steps have been decided, a licence holder can make representations against the interim steps and the licensing authority then has to hold a hearing to consider these representations within 48 hours.

Currently there is no limit on the number of times a licence holder can make representations against the interim steps during the period before the full review hearing takes place. This means that the licensing authority could have to hold a hearing every 48 hours if a licence holder made repeated representations against the interim steps imposed by the licensing authority. Section 136 of the PCA 17 puts in place a restriction so that licence holders will only be able to make further representations after their initial representations have been considered, if there has been a material change in circumstances since the consideration hearing.

Summary Reviews of Premises Licences: Review of the Interim Steps

Following receipt of an application for a summary review, the full hearing to review the premises licence must take place within 28 days of receipt of the application. The decision taken at the review hearing only comes into effect once the time limit for appealing (21 days) has expired or

any appeal has been disposed of. There is ambiguity in the 2003 Act about whether the interim steps remain in place during this period. This has resulted in licensed premises, closed due to serious problems, re-opening pending the outcome of an appeal. There has been confusion for some time about the status of the interim steps imposed by the Licensing Authority after the full review hearing has taken place. Section 137 of the PCA 17 will amend the Licensing Act 2003 so as to require the Licensing Authority to determine at the review hearing what interim steps should be in place pending the outcome of any appeal, or the expiry of the time limit for making an appeal. Licensees and the police will be able to appeal the interim steps to a magistrates' court.

Personal Licences: Licensing Authority Powers in Relation to Convictions

Currently a personal licence may be suspended or forfeited by a court on conviction of a relevant offence. Relevant offences are listed in Schedule 4 to the 2003 Act and include violent and sexual offences, drugs offences and firearms offences. However, the evidence suggests that the courts are not routinely exercising their powers in this regard, often because they are not aware that an offender holds a personal licence.

Section 138 will allow licensing authorities to suspend or revoke a personal licence once they become aware that a personal licence holder has been convicted of a relevant offence. A Licensing Authority may not revoke a personal licence before the time for appeal against any conviction has expired, or, in the case where an appeal is lodged, before that appeal is determined. In addition, the Licensing Authority will have to give notice to the personal licence holder in order that he or she can make representations within 28 days of being notified that the Licensing Authority is to consider revoking the personal licence. There is no right to a hearing, so it appears that the matter will be decided on the papers and behind closed doors. If the Licensing Authority does not intend, following deliberation, to revoke or suspend the licence, it must inform police accordingly and police will then have 14 days to make their own representations. Again, there is no provision for any hearing but the Licensing Authority must then consider the matter further, reach a decision and notify the parties.

Whilst the Regulations do not make allowance for a hearing to take place with regard to the suspension of a personal licence or a further representations hearing, Section 7 of the Licensing Act 2003 permits the Licensing Authority to make its own arrangements for the discharge of its licensing functions. This means that the Licensing Committee is able to direct which matters are delegated to Sub-Committees. Accordingly, the Licensing Committee may wish to consider whether the revocation hearing and representation hearing for personal licences:

- should be delegated to a Sub-Committee or should remain a function of the full Licensing Committee; and
- whether the application should be determined on the papers or by means of a hearing

The personal licence holder will have the right to appeal against any suspension or revocation of the personal licence, following the standard appeals procedure to the Magistrates Court.

Further Relevant Offences

Conviction for a relevant offence can be grounds for refusing a new personal licence, or for suspending or revoking an existing licence. Currently, there are some serious offences which

are not included in the definition of “relevant offence”.

The following offences will be added to the definition by Section 139 of the PCA 17:

- the sexual offences listed in Schedule 3 to the Sexual Offences Act 2003;
- the violent offences listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003;
- the manufacture, importation and sale of realistic imitation firearms contrary to section 36 of the Violent Crime Reduction Act 2006;
- using someone to mind a weapon contrary to section 28 of the Violent Crime Reduction Act 2006; and
- the terrorism-related offences listed in section 41 of the Counter-terrorism Act 2008.

A full list of relevant offences will be provided to the Licensing Committee at the meeting.

Licensing Act 2003: S182 Guidance

Section 182 of the 2003 Act requires the Secretary of State to issue guidance to licensing authorities on the discharge of their functions under the Act, and that the guidance be laid before Parliament and be subject to the negative resolution procedure every time it is updated. The licensing framework has been in place for ten years, and in that time changes to the guidance have not been subject to parliamentary debate. The requirement to lay revised guidance before Parliament is therefore considered unnecessary and at odds with many other statutory guidance provisions. As a result of Section 140 of the PCA 17, the Secretary of State will no longer have to lay the Section 182 guidance before Parliament for approval before it comes into effect.

Implications on related Council policies

The Licensing Committee may wish to review its existing licensing policies in order to take into account the changes introduced by the IA16 and PCA 17.

Financial Implications

The changes introduce a requirement for greater enforcement and monitoring of licences by Council officers. This will have an effect on officer time and may affect staffing levels. Any financial implications arising from staffing levels and officer duties fall within the remit of the relevant Council Directorate.

Legal Implications

Legal implications are contained within this report.

BACKGROUND PAPERS

None

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British Citizen of the UK and Colonies having the right of abode in the UK [please see report above about which sections of the passport should be copied].
- An expired or current passport or national identity card showing the holder, or a person name in the passport as the child of the holder is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has not time limit on their stay in the UK.
- A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A full birth or adoption certificate issued in the UK, which includes the name(s) of at least one of the holder's parents or adoptive parents, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British Citizen, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is

allowed to work relation to the carrying on of a licensable activity.

- A current Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.

- A current Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

- A Certificate of Application, less than 6 months old, issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.

- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.

- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:

 - Evidence of the applicant's own identity – such as a passport,

 - Evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and

 - Evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:

 - Working e.g. employment contract, wage slips, letter from employer,
 - self-employed e.g. contracts, invoices, or audited accounts with a bank,
 - studying e.g. letter from the school, college or university and evidence of sufficient funds; or
 - self-sufficient e.g. bank statements.

HOUSE OF LORDS SELECT COMMITTEE REPORT

Committee	Licensing Committee
Officer Reporting	Legal Services
Papers with report	None
Ward	All

SUMMARY

To inform the Licensing Committee that the House of Lords has published its post-legislative scrutiny report (the "Report") on the Licensing Act 2003.

RECOMMENDATION:

That the Committee notes the contents of the report.

SUPPORTING INFORMATION

Committee Members were advised at a Licensing Committee Meeting on 13 July 2016 that the House of Lords had embarked on a post-legislative scrutiny of the Licensing Act 2003. On 04 April 2017 the House of Lords published the Report of its findings. The report and submissions to the House of Lords can be accessed via the following link:

<http://www.parliament.uk/business/committees/committees-a-z/lords-select/licensing-act-2003/news-parliament-2015/licensing-act-report-published/>

Her Majesty's Government is obliged to respond to this report.

The introduction to the Report suggests, amongst other matters that "A radical comprehensive overhaul is needed, and this is what our recommendations seek to achieve".

For ease of reference, the recommendations and conclusions contained in the Report have been reproduced below. Key considerations have been highlighted.

The Background to the Act

We think it unfortunate that in the 11 years since the full implementation of the Licensing Act there have been piecemeal amendments made by nine different Acts of Parliament, a large number of significant amendments made by other Acts and by secondary legislation, and further changes to licensing law and practice made by amendment of the section 182

Guidance. (Paragraph 54)

1. We regret that there will no longer be any opportunity for Parliament to scrutinise the Guidance in draft, nor even to ensure that there has been adequate consultation during its preparation. (Paragraph 55)
2. Assuming that minimum unit pricing is brought into force in Scotland, we recommend that once Scottish ministers have published their statutory assessment of the working of

MUP, if that assessment demonstrates that the policy is successful, **MUP should be introduced in England and Wales.** (Paragraph 86)

3. We urge the Government to continue to look at other ways in which taxation and pricing can be used to control excessive consumption. (Paragraph 87)

The Licensing Process

We appreciate that we are perhaps more likely to receive evidence critical of the way the licensing process operates than evidence saying it operates well or better. We believe — we certainly hope — that most members of licensing committees take their responsibilities seriously, adopt a procedure which is fair and seen to be fair, are well advised, and reach sensible conclusions. But clearly reform of the system is essential. (Paragraph 116)

1. **Sections 6–10 of the Licensing Act 2003 should be amended to transfer the functions of local authority licensing committees and sub-committees to the planning committees.** We recommend that this proposal should be trialled in a few pilot areas. (Paragraph 154)
2. We believe that the debate and the consultation on transferring the functions of licensing committees and sub-committees to the planning committees must start now, and the pilots must follow as soon as possible. (Paragraph 155)

Appeals

1. Licensing authorities should publicise the reasons which have led them to settle an appeal, and should hesitate to compromise if they are effectively reversing an earlier decision which residents and others intervening may have thought they could rely on. (Paragraph 173)
2. **We recommend that appeals from licensing authorities should no longer go to magistrates' courts, but should lie to the planning inspectorate, following the same course as appeals from planning committees.** This change is not dependent on the outcome of our recommendations on the licensing function, and should be made as soon as possible. (Paragraph 206)

Immediate Changes

1. The section 182 Guidance should be amended to make clear the responsibility of the chair of a licensing committee for enforcing standards of conduct of members of sub-committees, including deciding where necessary whether individual councillors should be disqualified from sitting, either in particular cases or at all. (Paragraph 213)
2. **We recommend that the Home Office discuss with the Local Government Association, licensing solicitors and other stakeholders the length and form of the minimum training a councillor should receive before first being allowed to sit as a member of a sub-committee, and the length, form and frequency of refresher training.** (Paragraph 218)
3. The section 182 Guidance should be amended to introduce a requirement that a councillor who is a member of a licensing committee must not take part in any proceedings of the committee or a sub-committee until they have received training to the standard set out in the Guidance. (Paragraph 220)
4. **We recommend that where there are no longer any matters in dispute between the parties, a sub-committee which believes that a hearing should nevertheless be held should provide the parties with reasons in writing.** (Paragraph 222)
5. The Hearings Regulations must be amended to state that the quorum of a subcommittee is three. (Paragraph 229)

6. Regulations 21 and 23 of the Hearings Regulations leave everything to the discretion of the committee. They regulate nothing. They should be revoked. (Paragraph 230)
7. The section 182 Guidance should indicate the degree of formality required, the structure of hearings, and the order in which the parties should normally speak. It should make clear that parties must be allowed sufficient time to make their representations. (Paragraph 231)
8. We recommend that where on a summary review a licence is revoked and the livelihood of the licensee is at stake, magistrates' courts should list appeals for hearing as soon as they are ready. (Paragraph 236)
9. **We recommend that notice of an application should not need to be given by an advertisement in a local paper. Notices should be given predominantly by online notification systems run by the local authority.** (Paragraph 242)
10. Local authorities should ensure that blue licensing notices, as for planning applications, should continue to be placed in shop windows and on street lights in prominent positions near the venue which is the subject of the application. (Paragraph 243)
11. **Coordination between the licensing and planning systems can and should begin immediately in all local authorities. The section 182 Guidance should be amended to make clear that a licensing committee, far from ignoring any relevant decision already taken by a planning committee, should take it into account and where appropriate follow it; and vice versa.** (Paragraph 246)

The Licensing Objectives

1. We have received submissions in both written and oral evidence that three further objectives should be added to the four already listed. Our consideration of them is based on our view that the objectives are not a list of matters which it would be desirable to achieve, but simply an exhaustive list of the grounds for refusing an application or imposing conditions. **There is therefore no point in including as an objective something which cannot be related back to particular premises.** (Paragraph 250)
2. **Promotion of health and well-being is a necessary and desirable objective for an alcohol strategy, but we accept that it is not appropriate as a licensing objective.** (Paragraph 261)
3. We do not recommend that "enjoyment of licensable activities", "the provision of social or cultural activities", or anything similar, should be added as a licensing objective. (Paragraph 265)
4. We do not recommend adding as a licensing objective "compliance with the Equality Act 2010" or "securing accessibility for disabled persons". (Paragraph 272)
5. We recommend that the law should be amended to require, as in Scotland, that an application for a premises licence should be accompanied by a disabled access and facilities statement. (Paragraph 277)

The Off-Trade

1. **We do not recommend that powers to ban super-strength alcohol across many premises simultaneously be granted to local authorities.** (Paragraph 309)
2. The Coalition Government's Responsibility Deal on alcohol did not achieve its objectives, and appears to have been suspended. **We believe much more still needs to be done to tackle the production of super-strength, low-cost alcoholic products.** If and when any similar schemes are developed in the future, there must be greater provision for monitoring and maintaining them, and greater collaboration between all parties involved, including both public health experts and manufacturers. They should also account for the realities of super-strength alcohol, with particular focus on, for example, ABV rather than the specificities of packaging. (Paragraph 310)

3. **We believe that proposed Group Review Intervention Powers, which would give local authorities the power to introduce mandatory blanket conditions on all premises in a particular area, should not be introduced. As a blanket approach to problems which can normally be traced back to particular premises, they are likely to suffer from the same problems as Early Morning Restriction Orders, and the same results can be achieved through existing means.** (Paragraph 316)
4. While there appears to be some merit to a few voluntary schemes, the majority, and in particular the Government's Responsibility Deal, are not working as intended. We believe there are limits to what can be achieved in this way, and many of the worst operators will probably never comply with voluntary agreements. We strongly believe that the Alcohol etc. (Scotland) Act 2010 offers a proportionate and practical basis for measures specifically regulating the off-trade. (Paragraph 321)
5. We recommend that legislation based on Part 1 of the Alcohol etc. (Scotland) Act 2010 should be introduced in England and Wales at the first available opportunity. In the meantime, the section 182 Guidance should be amended to encourage the adoption of these measures by the off-trade. (Paragraph 322)

Temporary Event Notices

1. Temporary Event Notices are used for a wide range of purposes, and the impact of a particular event on local residents cannot be reliably determined by whether they fall into broad 'community' and 'commercial' categories. We do not recommend the division of the current TENs system into 'community' and 'commercial'. (Paragraph 344)
2. **We recommend that licensing authorities be given the power to object to Temporary Event Notices, alongside police and environmental health officers. A system for notifying local councillors and local residents of TENs in a timely fashion should also be implemented.** (Paragraph 349)
3. We recommend that section 106(2) of the Licensing Act 2003 be amended, replacing the words "before a hearing" with "before or during a hearing", to enable TENs to be amended during a hearing if agreement is reached. (Paragraph 352)
4. Where it appears that notices are being given for TENs simultaneously on adjacent plots of land, resulting in effect in the maximum number attending exceeding the 500 person limit, we would expect the police or environmental health officers to object, and the licensing authority to issue a counter-notice. We recommend that the section 182 Guidance be amended to make this clear. (Paragraph 354)
5. Although it is difficult to know whether the inadequate recording of TENs is widespread among local councils, we recommend that the section 182 Guidance be strengthened and clarified with respect to the collection and retention of TENs. It should clarify what personal information should be retained and in which particular format. (Paragraph 357)
6. This information must be retained in a system allowing for its quick and easy retrieval, both by local authorities and by the public, and in such a way that local and national statistical data can be produced from them. The national GOV.UK platform should be used for receiving and processing TENs. (Paragraph 358)
7. We recommend that section 67 of the Deregulation Act 2015, relating to Community and Ancillary Sellers' Notices, should not be brought into force, and should be repealed in due course. (Paragraph 368)

Crime, Disorder and Public Safety

1. We are convinced that **licensing is a sufficiently specialist and technical area of policing, requiring a distinct and professional body of police licensing specialists.** Although we are aware of the many demands currently placed on police resources, the proper and attentive licensing of premises has a considerable if sometimes indirect

impact on public reassurance and wider aspects of crime and disorder. It is therefore important that the role of police licensing officers should not be diluted or amalgamated, as evidence suggests is occurring in some constabularies. They do not need to be sworn police officers, and in many cases it may indeed be preferable that this role be performed by civilian police staff. (Paragraph 379)

2. We recommend the development and implementation of a comprehensive police licensing officer training programme, designed by the College of Policing. While we accept that such an undertaking will require additional funds, these costs will likely be more than offset if the quality of police licensing decisions is improved, thereby reducing the number of appeals and other corrective procedures. (Paragraph 388)
3. We believe it is highly likely that licensing committees will take police evidence seriously, especially if it is presented in a consistent and compelling fashion, regardless of whether they are required to by the section 182 Guidance. The risk that presently exists is that this additional emphasis could lead some licensing committees to partially or fully abdicate their responsibility to scrutinise police evidence to the same high standards as they would any other evidence. Our evidence suggests this is indeed occurring in some areas. **It is entirely wrong that police evidence should be given more weight than it deserves solely because of its provenance.** (Paragraph 400)
4. Given evidence that paragraph 9.12 of the section 182 Guidance is being misinterpreted by licensing committees, and the fact that similar sentiments, more clearly stated, are already expressed in paragraph 2.1 of the Guidance, we recommend that paragraph 9.12 be removed. (Paragraph 401)
5. **We support the Government's current move to transfer Cumulative Impact Policies from the section 182 Guidance and to place them on a statutory footing**, as this will introduce much needed transparency and consistency in this area. (Paragraph 409)
6. We agree with criticism of the drafting of the new section 5(5A) of the Act, as it threatens to remove discretion from local authorities on how they may interpret their own cumulative impact policies. (Paragraph 412)
7. We were surprised to learn that the Home Office have not collected centralised figures on the use of relatively serious police powers until now, and that figures relating to section 169A closure notices are presented in such a confusing and misleading way. (Paragraph 416)
8. **We recommend that the section 182 Guidance be amended to make clear that the service of a Closure Notice pursuant to section 19 of the Criminal Justice and Police Act 2001 does not:**
 - **require the premises to close or cease selling alcohol immediately; or**
 - **entitle the police to require it to do so; or**
 - **entitle the police to arrest a person on the sole ground of non-compliance with the notice.** (Paragraph 421)
9. We sympathise with the police, practitioners and businesses who cannot always fully comprehend the complex process surrounding interim steps. We conclude that instead of conferring discretion upon the sub-committee to impose further interim steps upon a licensee pending appeal, a discretion to impose with immediate effect the determination that the sub-committee reached upon the full review would be preferable. This final decision must represent the sub-committee's more mature reflection upon the situation, based upon the most up to date evidence, and this ought to be the decision that binds the licensee, if immediacy is a requirement, rather than the superseded interim steps. (Paragraph 431)

10. Within the Anti-Social Behaviour, Crime and Policing Act 2014, the power of the magistrates to “modify” the closure order is curious wording, which has already perplexed the magistrates’ courts, given that the magistrates are just as likely to be invited to exercise their power to lift the revocation and re-open premises at a time when the original closure order has expired as they are during the currency of that closure order. We recommend a clarification of this wording. (Paragraph 436)

The Night-Time Economy

1. We believe that the appointment of the Night Czar and other champions of the night time economy (NTE) has the potential to help develop London’s NTE and ease the inevitable tensions that arise between licensees, local authorities and local residents. We believe that greater transparency should be expected of these roles if they are to secure the co-operation and trust of key parties in London’s NTE. In time Night Mayors may also offer a model to other cities in the UK. (Paragraph 450)
2. **We believe it is appropriate that no Early Morning Restriction Orders have been introduced and we recommend that, in due course, the provisions on EMROs should be repealed.** (Paragraph 466)
3. While we acknowledge the concerns of local residents, we believe that overall the Night Tube is likely to have a positive impact for London’s late night licensed premises, their staff, and local residents. Not only will it provide a welcome boost to London’s night-time economy, which must be allowed to grow if London is to continue to prosper as a global city in the 21st century, but it may well also bring advantages for residents by dispersing crowds more effectively and efficiently. (Paragraph 472)
4. The Late Night Levy was introduced in large part to require businesses which prosper from the night time economy to contribute towards the cost of policing it. Yet the evidence we have heard suggests that in practice it can be very difficult to correlate the two with any degree of precision, which contributes to the impression, held by many businesses, that the levy is serving as a form of additional general taxation, and is not being put towards its intended purpose. (Paragraph 487)
5. We have received from ministers, verbally and in writing, categorical assurances that the provisions of the Policing and Crime Act 2017 regarding Late Night Levies will not be implemented until the Government has considered and responded to the recommendations in this report. (Paragraph 501)
6. **Given the weight of evidence criticising the Late Night Levy in its current form, we believe on balance that it has failed to achieve its objectives, and should be abolished.** However we recognise that the Government’s amendments may stand some chance of successfully reforming the Levy. We recommend that legislation should be enacted to provide that sections 125 to 139 of the Police and Social Responsibility Act 2011 and related legislation should cease to have effect after two years unless the Government, after consulting local authorities, the police and others as appropriate, makes an order subject to affirmative resolution providing that the legislation should continue to have effect. (Paragraph 502)
7. If the Government, contrary to our recommendation to abolish the Late Night Levy, decides to retain it, we further recommend that Regulations be made under section 131(5) of the Police Reform and Social Responsibility Act 2011 amending section 131(4) of the Act, abolishing the current 70/30 split, and requiring that Late Night Levy funds be divided equally between the police and local authorities. (Paragraph 503)
8. The EU Services Directive is an additional consideration which could have implications for the legality of the Late Night Levy. If the Government, contrary to our recommendation, decides to retain the Late Night Levy, the Home Office should satisfy

itself that any further action relating to the Late Night Levy complies with the EU Services Directive. (Paragraph 505)

9. We welcome all the initiatives of which we heard evidence, including BIDs, Best Bar None, Purple Flag and others, and recognise the effort which goes into them and the potential they have to control impacts and improve conditions in the night time economy. We commend the flexibility which such schemes appear to offer, and the bespoke way in which they are developed to match the needs of their locality. (Paragraph 518)
10. **We welcome the initiative of local authorities such as Cheltenham which have abandoned Late Night Levies in favour of Business Improvement Districts. While recognising that local authorities cannot impose Business Improvement Districts in the same way that they can Late Night Levies, we recommend that other local authorities give serious consideration to initiating and supporting Business Improvement Districts and other alternative initiatives.** (Paragraph 520)

Live Music

1. **We believe that the Live Music Act 2012 is working broadly as intended, but that there is not presently a case for further deregulation, let alone the complete removal of all live music-related regulation from the Licensing Act 2003.** (Paragraph 541)
2. We recommend that more be done to spread awareness of the provisions of the Live Music Act 2012 and its implications for licensed premises among local councils, licensed premises and local residents. (Paragraph 542)
3. **We recommend that a full 'Agent of Change' principle be adopted in both planning and licensing guidance to help protect both licensed premises and local residents from consequences arising from any new built development in their nearby vicinity.** (Paragraph 553)

Fees and Fee Multipliers

1. **We recommend that section 121 of the Police Reform and Social Responsibility Act 2011 be brought into force, and new Fees Regulations made requiring licensing authorities to set licensing fees.** (Paragraph 565)
2. The Opinion of the Advocate-General in the case of Hemming has cast doubt on the legality of any element of a licensing fee which goes beyond the cost to a licensing authority of processing an application. Accordingly we consider that it would not be sensible to recommend the extension of the fee multiplier to supermarkets at this time. (Paragraph 581)
3. We recommend that the Home Office should consider whether the Fees Regulations should be amended to make them compatible with the EU Services Directive and the Provision of Services Regulations 2009. (Paragraph 582)
4. If, as we recommend, the power to set licence fees is devolved to licensing authorities, then this power will inevitably have to be constrained by any conclusion which the Home Office draws on the compatibility of fees generally with the Directive and Regulations. (Paragraph 583)

Other Matters of Importance

1. We recommend further development of the GOV.UK platform for licensing applications, to ensure that it is working with local authority computer systems, and fully compatible with the provisions of the Licensing Act 2003. In due course, its uniform adoption by all local authorities in England and Wales should be encouraged by the Government and the section 182 Guidance updated accordingly. (Paragraph 590)

2. We believe the enforcement of section 128 and 132A of the Licensing Act 2003 would be facilitated by a national database of personal licence holders, against which to check those who are convicted of relevant offences. **We recommend the creation of a national database of personal licence holders for use by courts and licensing authorities, linked to the Police National Database.** (Paragraph 594)
3. **We do not recommend that licensing committees be given the power to suspend or revoke a premises licence for non-payment of business rates.** (Paragraph 599)
4. The evidence we received on the application of the Act specifically to clubs suggests that they have adapted to it well. (Paragraph 609)
5. Given the decline in most forms of members' clubs, and the social value they hold in many communities, we believe that even minor adjustments which may help them should be made. We therefore recommend the removal of Conditions 1 and 2 by the repeal of section 62 (2) and (3) of the Licensing Act 2003, abolishing the two-day waiting period required of new members. We acknowledge that at least some clubs will want to keep this waiting period in their club rules, and they will still be entitled to do so. (Paragraph 610)
6. **The designations of airports as international airports for the purposes of section 173 of the Licensing Act 2003 should be revoked, so that the Act applies fully airside at airports, as it does in other parts of airports.** (Paragraph 620)
7. The 1964 and 2003 Acts both refer to ports and hoverports as well as to airports, so that the same arrangements can be made portside. Our discussion has centred on airports. Any similar designations made for ports and hoverports should also be revoked. (Paragraph 621)
8. The sale of alcohol on a railway journey does not need to be licensed. We accept that the Act cannot sensibly apply to a moving train, and the railway companies have their own applicable bylaws. They also have the power where necessary to ban the sale and consumption of alcohol altogether, for example on train journeys to football matches. These powers seem to us adequate. (Paragraph 622)
9. **We are concerned that section 141 of the Licensing Act [sale of alcohol to a person who is drunk] is not being properly enforced, and the few concerted attempts by local authorities to date have been lacklustre at best. Notwithstanding the difficulties of defining drunkenness, we believe that enforcement of section 141 needs to be taken far more seriously, and by doing so many of the problems currently associated with the Night Time Economy, in particular pre-loading and the excessive drunkenness and anti-social behaviour often linked with it, would be reduced.** (Paragraph 629)

Implications on related Council policies

None at this stage.

Financial Implications

None

Legal Implications

None

BACKGROUND PAPERS

NIL

Agenda Item 11

LICENSING COMMITTEE – DRAFT FORWARD PLANNER 2017/18

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

RECOMMENDATION:

That the Committee note the draft Forward Planner for the next Municipal Year and suggest any alterations, additional presentation topics or business items.

13 April 2017	Proposed Agenda / Reports	Lead	Timings
10am Committee Room 6	Presentation: Representative from the Gambling Commission	IM	Report deadline: 3 April Agenda Published: 5 April
	Policies <ul style="list-style-type: none"> Reducing the Strength / street drinking update Street Trading Hearing Protocol (for approval) Potential review of Street Trading & Markets policies - early discussion 	IM/Police IM IM	
	Informatives: <ul style="list-style-type: none"> Legislative Update Licensing Activity Update (if possible) 	NC IM	
	Business Review: <ul style="list-style-type: none"> Forward Planner Sub-Committee Minutes 	MB	

13 July 2017	Proposed Agenda / Reports	Lead	Timings
10am Committee Room TBC	Presentation: TBC	IM	Report deadline: 30 June Agenda Published: 5 July
	Policies <ul style="list-style-type: none"> TBC 	IM	
	Informatives: <ul style="list-style-type: none"> Legislative Update 	NC	
	Business Review: <ul style="list-style-type: none"> Forward Planner Sub-Committee Minutes 	MB	

17 October 2017 10am Committee Room TBC	Proposed Agenda / Reports	Lead	Timings
	Presentation: TBC	IM	Report deadline: 4 October Agenda Published: 9 October
	Policies <ul style="list-style-type: none"> TBC 	IM	
	Informatives: <ul style="list-style-type: none"> Legislative Update 	NC	
Business Review: <ul style="list-style-type: none"> Forward Planner Sub-Committee Minutes 	MB		

9 January 2018 10am Committee Room 5	Proposed Agenda / Reports	Lead	Timings
	Presentation: TBC	IM	Report deadline: 15 December Agenda Published: 29 December
	Policies <ul style="list-style-type: none"> TBC 	IM	
	Informatives: <ul style="list-style-type: none"> Legislative Update 	NC	
Business Review: <ul style="list-style-type: none"> Forward Planner Sub-Committee Minutes 	MB		

12 April 2018 10am Committee Room 6	Proposed Agenda / Reports	Lead	Timings
	Presentation: TBC	IM	Report deadline: 29 March Agenda Published: 4 April
	Policies <ul style="list-style-type: none"> TBC 	IM	
	Informatives: <ul style="list-style-type: none"> Legislative Update 	NC	
Business Review: <ul style="list-style-type: none"> Forward Planner Sub-Committee Minutes 	MB		

Possible future items

- Building up the evidence base for sub-committee decisions - to incorporate into public health items
- Update from Public Health, following actions from the January 2016 meeting.
- Licensing Activity Update (annual)

SUB-COMMITTEE DECISIONS & RATIFICATION OF MINUTES

Committee	Licensing Committee
Officer Contact	Mark Braddock, Democratic Services
Papers with report	Minutes of Licensing Sub-Committees
Ward(s) affected	Various

HEADLINE

This report updates Members on recent Licensing Sub-Committee decisions since the last meeting and seeks ratification of the minutes of the sub-committees as an accurate record. The minutes shown are public minutes, as the meetings were considered in Part 1.

RECOMMENDATIONS

- A: That the Committee note the decisions of the Licensing Sub-Committees since the last Licensing Committee meeting and;**
- B: That the Committee, and Members present at the following Sub-Committee, approve the minutes as a correct record:**
- a) 20 January 2017 (Part 1)
 - b) 20 March 2017 (Part 1)
 - c) 23 March 2017 (Part 1)

(see below for breakdown of which Members attended which meeting to approve)

SUPPORTING INFORMATION

Overleaf are the licensing sub-committee decisions since the last meeting. They are strictly for noting and ratification only, as the decisions have been made and implemented. Attached to this report are a number of sets of minutes, which have yet to be approved formally.

Date of Meeting	Application or Matter Considered	Ward	Members Present	Sub-Committee Decision
4 January 2017 (No minutes)	An application for a New Street Trading Licence for a two-metre shop front display outside Sira's, 42 - 44 Coldharbour Lane, Hayes, UB3 3EP. Following the agenda issued, as the applicant had not submitted a full application, the hearing was cancelled.	Townfield	N/A	HEARING Cancelled

Date of Meeting	Application or Matter Considered	Ward	Members Present	Sub-Committee Decision
20 January 2017 (Part 1)	To consider a premises licence review application for Lotus Wines, 761 Uxbridge Road Hayes UB4 8HY.	Botwell	Yarrow (Chairman), Barnes, Dhillon	Licence REVOKED
20 March 2017 (Part 1)	To consider a new Street Trading Licence for a two metre deep shop front display outside Hayes Food Centre 66 to 70 Coldharbour Lane, Hayes, UB3 3ES. T	Townfield	Gilham (Chairman), Stead, Gardner	Licence REFUSED
23 March 2017 (Part 1)	An application for a premises licence in respect of Petrol Station MRH Eastcote, High Road, Eastcote, Pinner, HA5 2ET with representations received from two interested parties and one from a Statutory Authority.	Eastcote & East Ruislip	Gilham (Chairman), Yarrow, Allen	Application GRANTED with conditions

Minutes

LICENSING SUB-COMMITTEE

20 January 2017

Meeting held at Committee Room 6 - Civic Centre, High Street,
Uxbridge UB8 1UW



HILLINGDON
LONDON

	<p>Committee Members Present: Councillors David Yarrow (Chairman) (In place of Dominic Gilham) Teji Barnes Jazz Dhillon</p> <p>Witnesses Present: Acting Sergeant Ian Wares, Police Authority PC Darren Bates, Police Authority</p> <p>Respondents Present Mr Aamir Singh Lamba (Licence Holder)</p> <p>LBH Officers Present: Neil Fraser, Democratic Services Officer Beejal Soni, Licensing Lawyer Ian Meens, Licensing Officer Stephanie Waterford, Licensing Services Manager Kiran Seyan, Trading Standards Investigating Officer</p>
11.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>Apologies were received from Councillor Gilham, with Councillor Yarrow substituting. Councillor Yarrow in the Chair.</p>
12.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p>
13.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items were Part I and would be considered in public.</p>
14.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p>
15.	<p>APPLICATION FOR A REVIEW OF A PREMISES LICENCE (SECTION 51) (<i>Agenda Item 5</i>)</p> <p>Introduction by Licensing Officer</p> <p>Ian Meens, Licensing Officer at London Borough of Hillingdon, addressed the Sub-Committee</p>

on behalf of Regulatory Services. The Sub-Committee was informed that this was an application initiated by the Metropolitan Police Service seeking a review of the Premises Licence of Lotus Wines, 761 Uxbridge Road, Hayes on the grounds of Prevention of Crime and Disorder, Public Safety and the Protection of Children from Harm. Submissions in support of the review application were received from the Trading Standards and Licensing Authority.

It was confirmed that the applicant was seeking a full revocation of the Premises Licence and that this was supported by the Trading Standards Service and the Licensing Authority.

Reference was made to the extensive history of the premises, as set out in the report. The supplementary agenda was highlighted, and confirmed to contain additional evidence submitted by the Police Authority relating to visits made by the Police to the premises.

The Sub-Committee was informed that Mr Lamba had held the Premises Licence since a previous Sub-Committee determined to grant the licence, subject to conditions, in May 2016.

The Committee was invited to determine whether to grant, refuse, or amend the application as applied for.

Representation by the Applicant for the review

Acting Sergeant. Ian Wares of the Police Authority addressed the Sub-Committee and set out in detail his statement contained in pages 15-30 of the Committee report. He detailed the events of 12 October 2016, as well as the follow up visits on 13 October 2016; 20 October 2016; 26 October 2016; 28 October 2016; and 01 November 2016.

On 12 October 2016, the following breaches of the Premises Licence Conditions were noted:

1. No personal licence holder on premises - Breach of Premises Licence Condition 8;
2. Mr Amarjeet Singh present on the premises behind the counter completing sales of items to customers - Breach of Premises Licence Condition 17;
3. The CCTV system was defective and had not working for at least 4 days - Breach of Premises Licence Condition 2 and 3;
4. Licence Holder unable to provide copies of invoices or receipts for alcohol stock purchases - Breach of Premises Licence Condition 14;
5. No entries on incident log book with regard to CCTV - Breach of Conditions Premises Licence Conditions 9,10,11,12;

A closure notice was issued which resulted in the Premises Licence Holder being unable to trade for the remaining trading hours. The Closure Notice was withdrawn the next day when the CCTV system was repaired.

On 20 October 2016, Acting Sergeant Wares attended the premises with an Images Evidence Recovery Officer. The Sub Committee was informed that the failure to have in place CCTV recordings for the previous 31days was a breach of Premises Licence Condition 2. The removal of the hard drive which contained footage up until at least 8 October 2016 was of concern because it effectively prevented officers from investigating the breaches found on 12 October 2016.

The visit of 26 October 2016 found breaches of Premises Licence Conditions 9, 10,11,12,17. The Sub-Committee was informed that on this occasion Mr Jasmeet Singh initially identified himself as "Sunny Singh" and only upon further questioning did he concede that he was Jasmeet Singh, the son of the Premises Licence Holder. The presence of Mr Jasmeet Singh at

the premises constituted a breach of Premises Licence Condition 17. CCTV footage requested at this visit was provided on 28 October 2016. The Sub-Committee noted the Metropolitan Police Services assertion that CCTV footage showed Jasmeet Singh working and completing sales of alcohol at the premises.

A visit on 01 November 2016 showed no entries made into the Authorisation Book, Refusals Log, Incident Log and training records. The Sub-Committee noted that Mr Lamba failed to complete these records, despite being informed on 12 October 2016 that the empty records were in breach of Premises Licence Conditions 9,10,11,12. It was also noted by the Sub-Committee that the same breaches were recorded by Ian Meens, Licensing Officer, on 22 December 2016.

A visit on 07 January 2017 found breaches of Premises Licence Conditions 9 and 17 and additionally found a failure to produce a Premises Licence or a certified copy of the Premises Licence. Additionally, a potential breach of the Immigration Act 2016 appeared to have occurred by way of the Premises Licence Holder's alleged employment of Sandip Patel - an "illegal overstayer" in the United Kingdom. The Sub-Committee noted that these breaches occurred after the Premises Licence Holder was provided with a date for the review application to be heard by a Sub-Committee.

A visit on 13 January 2017 discovered that the CCTV footage had been reformatted on 09 January 2017. The effect of this was to wipe out all CCTV footage from 12 October 2016 to 09 January 2017 - consequently breaching Premises Licence Condition 2.

The Metropolitan Police Services recommended the revocation of the Premises Licence.

The Sub-Committee did not hear any information nor did it take into account the statement of PC Darren Bates dated 17 January 2017 because this dealt with an aborted attempt to extend the period for the review application hearing to begin.

Representation by Responsible Authorities

Stephanie Waterford, Licensing Services Manager, addressed the Sub-Committee on behalf of the Licensing Authority. Mrs Waterford referred Councillors to the Authority's written submissions and pointed out the premises has been licensed for 7 months. In that period of time, the Premises Licence Holder had repeatedly failed to comply with his licence conditions.

Mrs Waterford emphasised that at previous meetings Mr Lamba had provided assurances that he would uphold the licensing objectives. He had failed to do so, despite being aided by a specialist licensing lawyer and a licensing agent. She also noted that to date, and despite numerous requests, the Premises Licence Holder had failed to provide a copy of the final lease agreement between himself and the freeholder. The Lease Agreement had been a key element to him obtaining his premises licence in May 2016. She concluded that the licence holder displayed a lack of knowledge of licensing matters and displayed a disregard for the law. She recommended the revocation of the Premises Licence.

Kiran Seyan, Trading Standards Investigating Officer, addressed the Sub-Committee on behalf of the Trading Standards Service. Ms Seyan confirmed that the Trading Standards Service agreed with the representations of the Metropolitan Police Services and Licensing Authority. Ms Seyan advised that on 12 October 2016, Mr Lamba and Mr Amarjeet Singh repeatedly questioned why Mr Singh could not be on the premises. Ms Seyan was concerned by these questions because both she and Mr Lamba were present at the hearing in May 2016 when Mr Lamba's representative suggested the condition, and where Mr Lamba agreed to the condition. She concluded by stating that the Premises Licence Holder displayed a lack of competence as to his duties as a licence holder and a lack of regard for the authorities. She recommended the revocation of the licence.

Representation by the Licence Holder

Mr Panchal, submitting representations on behalf of the licence holder, stated that the Premises Licence Holder agreed with the submissions of the Metropolitan Police Services. However he wished to point out the improvements made to the management of the premises. The previous licence had been revoked on the basis of the presence of counterfeit alcohol. There was no counterfeit alcohol found on the premises and receipts/invoices could be produced for stock purchases. He advised that there had been problems with the CCTV, but it was now working.

On the issue of a lack of any management records relating to authorisations, training, refusals and incident logs, Mr Panchal advised that this had been given to the Premises Licence Holder and was unable to explain why the records were not at the shop.

Mr Panchal further advised that he had provided training records to the Authorities. This was denied by the Authorities. The Sub-Committee noted that no training records were provided at the hearing to evidence Mr Panchal's allegation that training had taken place.

Mr Panchal did not dispute the presence of Amarjeet Singh and Jasmeet Singh on the premises. However, he wished to explain why they were present on the premises. He advised that Amarjeet Singh was present on one occasion in October 2016 in order to relieve Mr Lamba who had to be away from the premises.

With regard to Jasmeet Singh, Mr Panchal sought to introduce a hospital appointment and Assessment report to demonstrate that Mr Singh had medical problems which had been resolved. Mr Panchal sought to amend Premises Licence 17 to permit Jasmeet Singh to be present on the premises. Having perused the documentation at the hearing, the Sub Committee noted that the document was dated 26 January 2015 with the appointment having taken place on 09 January 2015. The report confirmed Mr Jasmeet Singh's diagnosis, however, the Sub-Committee noted that no documentation was included which demonstrated an improvement in this diagnosis. Mr Panchal suggested that it was in Jasmeet's Singh's interest to be working on the premises rather than being unsupervised at home. Mr Panchal had no substantive response when advised that at the time that the licence was granted with Condition 17, Mr Lamba was aware of the report and alleged improvement in his son's health and should have advised the Sub Committee accordingly.

It was also pointed out the Mr Panchal that the Licence Holder should have applied for a Premises Licence variation if he wanted Jasmeet Singh present on the premises. The review hearing was not the correct place to do this. The review hearing would first consider whether any breaches of the licensing conditions had taken place, and if so, how to remedy the situation.

Discussion

When questioned about the alleged breach of the Immigration Act 2016, Mr Panchal advised that as far as Mr Lamba was concerned, Mr Patel was not an employee and not on Mr Lamba's payroll. With regard to training, checks and records, when asked directly why none of the records had been filled in, Mr Panchal replied that he was unable to comment further. When asked when further training was provided after the grant of licence, Mr Panchal stated that no training had been provided in the last 2 months. Mr Panchal advised that Mr Lamba was meant to request the training from him. Further questions revealed that Mr Panchal had not been paid for the work rendered at the previous hearing so no services had been provided to Mr Lamba after the grant of the licence.

Cllr Yarrow asked Mr Lamba why he did not apply for a variation of the licence if he wanted his son to work on the premises. Mr Lamba advised that his son is permitted to visit the premises on account of his health problems. He also stated that soon after the licence was granted he requested Mr Panchal to apply to vary the licence to permit his son onto the premises. Mr Panchal contradicted this by stating that the request was only made recently after the visit in October. It was noticed that the Premises Licence Holder was speaking furiously to the

interpreter and an interpretation was requested. Mr Lamba stated that he requested the variation from Mr Panchal on the day the licence was issued.

Mr Panchal repeatedly stated that the premises were improving and his client was looking to move forward. It was only after much prompting that Mr Panchal suggested a suitable remedy to the breaches would be a suspension of the licence for 3-6 weeks and permitting Jasmeet Singh to be present on the premises.

Committee Deliberation

All parties were asked to leave the room while the Sub-Committee considered its decision.

All parties were invited back into the room for the Chairman to announce the decision of the Sub-Committee.

The Decision

The Sub Committee concluded that:

1. The lack of a lease agreement;
2. The reliance on authorisations which pre-date the issue of the licence to Mr Lamba;
3. The use of refusals and incident books which predate the issue of the licence;
4. The presence of Amarjeet Singh on the premises;
5. The repeated presence of Jasmeet Singh on the premises as salesperson;
6. Mr Lamba's lack of familiarity with the location of vital documents in the shop as demonstrated by his difficulty in locating the Incident, Authorisation and Refusals Books in January 2017;

All pointed to the fact that Mr Lamba had failed to uphold his undertaking to the Sub-Committee in May 2016 that he would take charge of the premises as owner and run it in accordance with agreed licence conditions which his Legal Representative had regarded as reasonable and proportionate.

The Sub-Committee noted that at the time when Acting Sergeant Wares and PC Mitchell attended the premises on 12 October 2016, the only member of staff present was Amarjeet Singh. The explanation given was that the licence holder had to "pop out for a couple of minutes". It took Mr Lamba a bus ride and approximately 10 minutes to return to premises. The Sub-Committee noted that the smell of intoxicating liquor, which Mr Lamba claimed to have consumed the previous evening, was noticeable. The Sub-Committee found this explanation difficult to accept as the effects of the previous nights consumption should not have been so easily picked up at midday the following day. The Sub-Committee concluded it is more likely that Mr Lamba was never at the premises on the day in question. Instead, it is more likely that Mr Lamba knowingly breached his licence condition by appointing Amarjeet Singh as manager the premises on this day and potentially many other days.

In submissions to the Sub-Committee in May 2016, Mr Lamba had responded to a direct question about how he would deal with his son's presence on the premises by stating he would call the police. At this hearing, it transpired that within hours of giving that response, Mr Lamba was either instructing his agent to obtain permission for his son to work on the premises or alternatively had decided soon after being awarded a Premises Licence to ignore the agreed condition not to permit his son to be on the premises. The responses of both Mr Lamba and

Mr Panchal to questions on this issue were contradictory and evasive and unconvincing. The Sub-Committee concluded that Mr Lamba had no intention of complying either wholly or partly with Condition 17 of his licence.

The Decision Notice for the 25 May 2016 stated that a new CCTV system had been installed 4 days prior to the hearing, that is, 21 May 2016. On 12 October 2016, when the Metropolitan Police Services sought to view CCTV footage to determine the extent of the breach of Licence Condition 17, they were informed by Mr Lamba that the CCTV system had not been working for 4-5 days. There was no entry in the incident log to substantiate Mr Lamba's claim of a defective CCTV.

The Sub-Committee noted that the fault, which had been in existence with no repair/replacement for at least 4 days before the Metropolitan Police Services visit, was repaired within hours of the issue of the Closure Notice. It was of great concern that the "repair" involved the removal of the CCTV hard drive system rather than repair. This decision to remove the hard drive subsequently created a breach of Premises Licence Condition 2 and additionally prevented the police from determining the extent of the breach of Premises Licence Condition 17.

The Sub-Committee was most concerned that this pattern of behaviour with regard to CCTV footage was repeated in January 2017 - this time with the reformatting of a 1 month old system. The consequence of this reformatting was the deletion of footage which would have proven or disproved allegations of a breach of the Immigration Act 2016 and/or premises licence conditions. The Sub-Committee concurred with the allegations of the Metropolitan Police Services that the footage was deliberately removed on the first instance and reformatted on the second instance on the instruction of the licence holder in order to prevent the detection of breaches of the licence.

Appendix B of the Council's Statement of Licensing Policy states that CCTV footage is a vital tool to detect and prevent crime. The installation and use of CCTV on licensed premises is therefore a key tool to uphold the licensing objective of Prevention of Crime and Disorder. However, under Mr Lamba's management, the use and installation (along with its alleged operational problems) had become a method of obstructing police investigations and potentially defeating the ends of justice.

Mr Lamba initially claimed Jasmeet Singh visited the premises but did not work there. The Metropolitan Police visited the premises at 17h 25 on 07 January 2017. Condition 15 of the Licence required 2 members of staff to be on the premises from 16h 00 until close of premises. This meant that Mr Manmit Singh and Mr Sandip Patel were the personal licence holders and employees of Mr Lamba at the shop with Jasmeet Singh visiting. However, Mr Panchal claimed and stated on behalf of Mr Lamba that Mr Patel was never employed by Mr Lamba. If this assertion is correct, it demonstrated that not only was Jasmeet Singh permitted to be on the premises; he also worked at the shop. By continuing to employ Jasmeet Singh even after a review date was set, Mr Lamba displayed an intention and inclination to wilfully breach the conditions of his Premises Licence if it suited his purposes. Despite CCTV footage demonstrating that his son worked on the premises, it was only towards the end of the hearing when asked directly by Cllr Dhillon that Mr Lamba finally conceded that Jasmeet Singh worked on the premises.

The employment of his son also raised the issue of Mr Lamba's repeated breaches of Premises Licence Conditions 9,10,11,12 and his repeated failure to remedy these breaches. Mr Panchal initially claimed that training was provided and records were given to Mr Lamba. These records would have assisted to evidence compliance with some of the licence conditions. Mr Panchal then claimed these records had been provided to Responsible Authorities - a statement denied by both Trading Standards and the Licensing Authority. At the end of the hearing, in response to questions from Cllr Barnes, it transpired that Mr Panchal had never provided any services, including training, to Mr Lamba and his staff after Mr Lamba was issued with a Premises Licence. The fact that despite being aware of what was being said, Mr Lamba was prepared to remain silent on the issue of training and documentation rather than assist the Sub-Committee and truthfully respond or correct his representative demonstrates that Mr Lamba had no

intention of being truly helpful to the Sub-Committee at this hearing.

The Sub-Committee did not comment on Mr Panchal's statements and answers to questions on the matter of training - noting that Mr Panchal was not a solicitor and was therefore not bound by the Solicitor's Code of Conduct which prevents solicitors from making misleading statements.

The Sub-Committee considered in its entirety the evidence of the Responsible Authorities, the conduct of Mr Lamba with regard to the numerous breaches of licence conditions, and the submissions and responses of Mr Lamba and Mr Panchal. The Sub-Committee found overwhelmingly that Mr Lamba failed to manage his premises in a manner which upheld the licensing objective to prevent Crime and Disorder.

The Sub-Committee found that Mr Lamba's conduct and response to the breaches demonstrated an unhealthy reliance on Mr Panchal to ensure that the licence conditions and the licensing objectives were upheld. Unfortunately Mr Panchal had failed to provide that support - ostensibly because he did not receive payment for services rendered. In this scenario, the concerns of the Licensing Authority on 07 March 2016 at Page 189 of the Agenda were realised. It was the Sub-Committee's view that without Mr Panchal's assistance, or the assistance of an experienced Manager, Mr Lamba lacked the judgement to run the premises in accordance with his licence conditions and more worryingly, seemed incapable of or unwilling to rectify breaches even when they are pointed out on numerous occasions.

CAUSES OF CONCERN

The Causes of Concern were identified as follows:

- 1. Mr Lamba did not demonstrate the standard of responsibility expected of a premises licence holder;***
- 2. Mr Lamba had been evasive, and unhelpful in his responses to investigations of the breaches with his management of the CCTV system totally hindering investigations;***
- 3. Mr Lamba had, at the hearing, confirmed that he accepted licence conditions at a previous hearing he had no intention of complying with. The only reason for doing this was so that he could obtain a premises licence under whatever pretext necessary;***
- 4. Mr Lamba had failed to demonstrate he could uphold the licensing objectives and had actively run his premises in a manner that undermined the crime prevention objective.***

Mr Lamba's willingness to deliberately breach his licence conditions indicated that Mr Lamba was less likely to act in a manner which upheld the licensing objectives. There is an essential breakdown in the management of the premises when a licensed premises is run in a manner calculated to prevent the detection or proper investigation of breaches that the Premises Licence Holder has knowingly and deliberately committed. Mr Lamba's decision to mislead the Sub-Committee in May 2016 about his decision to ban the named persons from the premises, and his authorising the deletion and removal of CCTV footage which would have demonstrated the extent to which he misled that Sub-Committee is considered by the Licensing Sub-Committee to be especially serious because it had severely undermined the Prevention of Crime and Disorder objective.

All Responsible Authorities had requested revocation of the Premises Licence. The Sub-Committee did not consider that an alternative sanction to revocation would be an adequate response to the wilful and deliberate manner by which Mr Lamba breached his licence conditions.

Resolved - The Sub-Committee considered all the relevant representations made available to it and in doing so took into account paragraphs 2.5; 11.18; 11.20; 11.21;

11.22 and 11.26 of the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, as well as Appendix B of the Council's Statement of Licensing Policy. The Sub-Committee had taken into account its duty to determine the application in a manner which upholds the Licensing objectives. The Licensing Sub-Committee determined that it was necessary and appropriate to revoke the premises licence for Lotus Wines.

RIGHT OF APPEAL

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the Council's decision to the Justice Clerk at the Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision. A copy of the appeal should be sent to the Council's Licensing Service.

The Licence Holder will be deemed to have received the Decision Notice, two days after the date on the accompanying letter, which will be posted by 1st class mail.

The meeting, which commenced at 2.00 pm, closed at 4.50 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact on . Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.

Minutes

LICENSING SUB-COMMITTEE

20 March 2017

Meeting held at Committee Room 6 - Civic Centre, High Street,
Uxbridge UB8 1UW



	<p>Committee Members Present: Councillor Dominic Gilham (Chairman) Councillor Janet Gardner Councillor Brian Stead</p> <p>LBH Officers Present: Anisha Teji, Democratic Services Officer Jyoti Mehta, Legal Advisor Nathan Welch, Manager for Antisocial Behaviour Investigations Team Steven Dormer, Licensing Officer</p>
16.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>There were no apologies for absence.</p>
17.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest.</p>
18.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was confirmed that items marked Part I would be considered in public.</p>
19.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p>
20.	<p>APPLICATION FOR TEMPORARY STREET TRADING LICENCE (<i>Agenda Item 5</i>)</p> <p><i>Preliminary matters</i></p> <p>The applicant and premises occupier, Mr Teyfik Cagin, brought a witness, Mr Ajaib Singh Puar, Chairman of the Hayes Town Business Forum in support of his application. The Chairman noted that there had been no submissions from Mr Puar in the documents provided and clarified whether submissions had been submitted during the consultation period.</p> <p>Steve Dormer, Licensing Officer at London Borough of Hillingdon confirmed that an email had been received from Mr Puar on 21 January 2017, which was out of the consultation period time frame. The closing date for the consultation period was 15 January 2017.</p>

After taking legal advice, the Chairman explained that as the response was outside the consultation period time frame allowed by the Council, Mr Puar could not take part in any discussions at the meeting.

Introduction by Licensing Officer

Mr Dormer introduced the report, photographs and addendum relating to an application for a temporary street trading licence for Hayes Food Centre 66 - 70 Coldharbour Lane, Hayes. The application had been made by the premises occupier, Mr Cagin.

The applicant sought to license a shop front display projecting two metres from the shop front. The area would be used to display a selection of fruit and vegetables and the facility would operate for 24 hours a day seven days a week.

The application had been put before the Sub-Committee as it had received negative feedback. The applicant already held a licence to trade for up to two metres between 07:00 to 23:00.

The Sub Committee was invited to determine the application, and either grant, refuse, or amend the application as applied for.

Representation by Responsible Authorities

Mr Nathan Welch, Manager of the Anti Social Behaviour Investigations Team (ASBIT) addressed the Sub Licensing Committee. He explained that that ASBIT team objected to the renewal of the application as two fixed penalty notices had been served for exceeding the trading area. A fixed penalty notice was also served for failing to demonstrate a duty of care for controlling waste.

In his letter dated 13 January 2017 to the applicant and at the meeting, Mr Welch explained that the likelihood of public nuisance, for example noise and litter occurring would be significantly higher if a licence for 24 hour trading was granted. He explained that there were residential flats above the premises and the increase in customers attending the premises through the night would create disturbances. This would need to be dealt with the ASBIT's out of hours team.

Representation by the Applicant

Mr Sevhat Heval, the applicant's representative addressed the Sub Licensing Committee. In summary, he made the following points:

- The applicant had been trading for ten years and Mr Heval questioned the frequency of the penalties.
- Since December 2016 licensing officers kept visiting the premises.
- There was a petition which supported the application and the flat above the shop had no objections. However, the Chairman clarified that this petition was not relevant as it did not apply to street trading.
- The most noise was caused when dressing the display, moving in and out crates and trolleys. If the application were to be granted this would reduce noise.
- There would be a number of benefits to the local economy if the application were to be granted.
- The applicant had 16 cameras around the premises to avoid crime and fire alarms had been installed to ensure public safety.

Discussion

During the Sub Licensing Committee's discussion, the following points were noted:

- There had been three instances where the trading had been over the allotted space.
- The applicant's submissions that he was aware that the display was allowed for two metres.
- That the applicant had been trading for ten years and his explanation for going beyond the two metres was that sometimes it was difficult to know when the two metres stopped, particularly during rush hour times.
- That although it was indicated earlier in the meeting that there were no historic fixed penalty notices issued to the applicant on this premises, during discussions it became apparent that there had been approximately seven fixed penalty notices issued in the past ten years.

Committee Deliberation

All parties were asked to leave the room while the Sub-Committee considered its decision.

All parties were invited back into the room for the Chairman to announce the decision of the Sub-Committee.

The Decision

RESOLVED -

The Sub-Committee considered this application and took into account evidence and submissions from all of the parties. In reaching its decision the Sub-Committee took into account the relevant provisions of Part III of the London Local Authorities Act 1990 (as amended) and the Council's Street Trading Policy.

The Sub-Committee decided to refuse the application due to the applicant's failure to adhere to his current street trading licence and due to numerous previous fixed penalty notices served on him. The Sub Committee deemed the applicant unsuitable to hold a permanent street trading licence and therefore refused his application for a shop front street trading licence.

Right of appeal

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the Council's decision to the administration office at the Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision. A copy of the appeal should be sent to the Council's Licensing Service.

The Licence Holder will be deemed to have received the decision letter, two days after the date on the accompanying letter, which will be posted by 1st class mail.

A copy of this letter will be sent to the Councillors, to the Anti-Social Behaviour Investigations Team and the Council's Democratic Services Officer as confirmation of the decision taken.
The meeting, which commenced at 2.00 pm, closed at 3.45 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Anisha Teji on 01895 277655. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.

Minutes

LICENSING SUB-COMMITTEE

23 March 2017

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



HILLINGDON
LONDON

	<p>Committee Members Present: Councillors Dominic Gilham (Chairman) David Yarrow Lynne Allen</p> <p>Responsible Authorities Present Ian Meens, Regulatory Services</p> <p>Respondents Present Mr Robert Botkai, Solicitor Ms Nicky Law, Applicant (Malthurst Petroleum Limited) Mr Milan Patel, Applicant (Malthurst Petroleum Limited)</p> <p>LBH Officers Present: Nicole Cameron, Legal Advisor Jhini Mukherjee, Licensing Officer Neil Fraser, Democratic Services Officer</p>
1.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>None.</p>
2.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p>
3.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items were Part I and would be considered in public.</p>
4.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p>
5.	<p>APPLICATION FOR THE GRANT OF A PREMISES LICENCE (<i>Agenda Item 5</i>)</p> <p>At the commencement of the hearing, the Chairman requested that the Legal Advisor provide an introduction to section 176 of the Licensing Act 2003. The Legal Advisor provided the requested overview as follows:</p> <p>Statement by the Legal Advisor:</p>

Section 176 of the Licensing Act 2003 prohibited the sale or supply of alcohol from premises used primarily as a garage, with premises defined as 'used as a garage' if they were selling petrol or diesel. Although the applicant had confirmed that the premises would sell petrol and diesel, the premises would include a convenience store.

The word 'primarily' had not been defined in the Act. However, the concept of a premises being primarily used as a garage had been before the Courts. Arguments had concerned whether primary use was an enforcement, rather than an eligibility, issue when deciding upon an application for a premises licence. It had been made clear that the Sub-Committee had representations before it that questioned the sale of alcohol from what might become a garage for the purposes of section 176.

The premises were currently under construction and therefore the applicant was unable to advise whether the garage or the convenience store would be the primary use, although the applicant believed that it would be the convenience store. There were two main methods of establishing primary use: number of transactions (i.e., how many sales for fuel and how many sales for goods within the convenience store) or the transactional value of these transactions. There had been debate over which of the two methods was most appropriate and this matter had been before the courts:

- Green v Justices for Inner London Area (1993): If the transactional values of transactions were used, then duty and VAT must be stripped out of all sales.
- Liverpool Crown Court ex parte Goodwin (1998): The question had to be 'what was the intensity of use by customers?'
- R (Murco Petroleum Ltd) v Bristol City Council (2010): It was a matter for each Licensing Authority to decide whether it would decide primary use on the basis of numbers of transactions or evidence of turnover. The case further confirmed that, where there was insufficient information about primary use, the Authority may defer the matter to another date until the question was resolved to its satisfaction.

The approach generally adopted by the courts since Murco 2010 seemed to have been a focus on the numbers and whether the premises were used more intensely by customers for sales of fuel than for the sale of other products such as food.

The Legal Advisor noted that Members had the following options:

1. Refuse to grant the premises licence;
2. Defer the hearing to another date until the applicant was able to provide information that confirmed primary use;
3. Insert a condition to the premise licence that related to section 176; or
4. Decide the primary use was an enforcement rather than an eligibility issue and grant the premises licence without a condition relating to section 176.

Members were reminded that their decision must be based on all written and oral evidence, with the intention of upholding the licensing objectives. The applicant was unable to provide information about primary use and had therefore suggested a condition to address the lack of information and to overcome the representation. The Legal Advisor understood that there had been an attempt to agree a condition, and potentially an agreement. In general, the use of an appropriate condition was a sensible way to avoid deferral of a matter that had the potential to overcome the representations. It would be a matter for Members to decide whether the condition was appropriate based on all the evidence presented orally and in written form, always with

the intention of upholding the licensing objectives. Members would hear from all parties as to their position and they would need to make their decision based on that. This was an outline of the law.

Introduction by Licensing Officer:

The Licensing Officer, Jhini Mukherjee, introduced the application and report to the Sub-Committee, confirming that the Sub-Committee had been convened to assess an application for a new premises licence in respect of MRH Eastcote, High Road, Eastcote, HA5 2ET. The application was for a 24 hour licence to sell alcohol and late night refreshment. The entrance to the shop would be closed to customers between the hours of 2300 and 0500, and any sales during those hours would be made through a late night pay window. The addendum was highlighted, which included additional clarifications, plans and amended conditions.

Ms Mukherjee confirmed that representations had been received from two interested parties, neither of whom were in attendance, and one from a Statutory Authority. The two interested parties were local residents, whilst the Statutory Authority was Hillingdon Licensing Authority. All representations could be found as appendices within the report. Ms Mukherjee confirmed that since the report had been published, Hillingdon Licensing Authority had agreed conditions with the Applicant that had resolved their concerns, and therefore they wished to withdraw their interest.

The Chairman requested clarification from Ms Mukherjee that the plan attached to the addendum sheet was not to be considered as part of the application. Ms Mukherjee confirmed that to be the position. Ms Mukherjee confirmed that the regulations did not require the CCTV positions to be identified on the plan and further confirmed that the additional plan was only for information.

Representation by the Applicant:

Mr Botkai, representing Malthurst Petroleum Limited, confirmed that the additional plan was included for information purposes only, as the plan included CCTV locations and should the Applicant ever wish to move the location of a CCTV camera, the Applicant would be required to submit additional requests to amend the premises licence. The Chairman highlighted this could be dealt with by way of a minor amendment. Mr Botkai responded that this was not necessarily correct.

Mr Botkai confirmed that the Responsible Authority's representation had been withdrawn, and was therefore concerned that the Sub-Committee was dealing with section 176 as part of the hearing. The Legal Advisor highlighted that paragraph 9.32 of the Section 182 Guidance confirmed that where less than 24 hours notice is given, any withdrawal must be made orally, and that the Responsible Authority was yet to orally withdraw their representation given the order of proceedings. The Legal Advisor further explained that it was open to the Members to consider the agreed condition and ensure it was to their satisfaction. The Chairman requested that Mr Botkai make his application and evidence how the Applicant will prove primary use once the shop opens.

Mr Botkai stated that section 176 was not a pre-test to getting a licence and that this is in contrast to the Licensing Act 1964, where an Applicant would have to apply and prove primary use. In 2003 there was a change in position, but there remained confusion and Applicants were inserting data regarding primary use which was not necessary. It was stated that section 17 specified what an Applicant must do to get a

licence, and that this did not require proof of primary use. Section 18 confirmed what the Licensing Authority and a Committee must do to determine an application and there was no reference contained therein in relation to section 176.

Mr Botkai asserted that section 176 took effect once a licence had been granted, and went on to state that the Committee were entitled to ask the Applicant how the Applicant would monitor it to make sure it was not disqualified under section 176, once the licence was granted. Mr Botkai confirmed that the Applicant had 278 petrol stations that had premises licences to sell alcohol, and that they monitored such sales.

Mr Botkai stated that there was no actual test to establish primary use. Following confusion, the section 182 Guidance had been amended and now referenced section 176 at paragraphs 5.21 to 5.23 of the guidance. Mr Botkai read paragraph 5.22 of the section 182 Guidance and stated that the matter of primary use followed the grant of the licence, and there was no remit to refuse the application for lack of information on primary use.

Mr Botkai highlighted that discussions had taken place in relation to a condition, and that this was not unknown to the Applicant, as the Applicant had 17 premises licences that included conditions relating to section 176. Mr Botkai stated that during ongoing dialogue with the Local Authority, various versions of the conditions had been suggested with agreement, but that agreement had now been reached as set out in the addendum.

Mr Botkai referred the Sub- Committee to the case of **Green v Justices for the Inner London Area (13 June 1994) QBD (Divisional Court)** and stated that when looking at one set of figures for sales of fuel, any reviewer would need to compare similar figures for sales within the shop. The accident in the **Green** case was that one side of the equation had duty and the other did not, and therefore the case did not say that the test was turnover. Instead, it stated that you must apply the same test for one side of the equation as the other.

Mr Botkai referred to the case of **R v Liverpool Crown Court, ex parte Kevin John Goodwin(17 December 1998) QBD (Divisional Court)** and stated that this case was based on transactional data, asserting that it was the intensity of the use that was important. Mr Botkai stated that the reason turnover was not considered when looking at primary use was that it resulted in a difficult and complex calculation. Tax could be changed, which in turn changed how the premise was going to be used. All of the Applicant's stores that had been dealt with since 1998 only dealt in transactional data and the intensity, as per the **Goodwin** case. Mr Botkai asserted that it was the responsibility of the licence holder to ensure primary use was not as a garage, and confirmed that the Applicant would monitor primary use. If transaction numbers showed that the primary use was as a garage, then the Applicant would ensure that the premises would stop selling alcohol, a scenario which had occurred on several previous occasions. However, it was pointed out that the proposed convenience store was a large store and therefore that it was highly unlikely that transactional data would show it to have a primary use as a garage, rather than as a shop.

Mr Botkai highlighted that he had requested confirmation from officers as to whether other, similar, premises licences had conditions relating to section 176, without receiving a response. Instead, the Applicant had checked and found that other similar local premises did not have primary use conditions. Mr Botkai stated that there would be no significant hot food served and such sales had not been an issue at other stores.

Mr Botkai stated that the representation from the Responsible Authority had been withdrawn and therefore the only two representations before the Sub-Committee were the two resident objections.

Mr Botkai highlighted that the local residents had raised an objection in relation to anti-social behaviour, but asserted that there was no evidence of current anti-social behaviour or a real risk of anti-social behaviour in the future. Mr Botkai stated that the Police were happy with the night pay window, and had not raised any concerns over potential crime issues at the site. It was highlighted that the Police were the experts on crime and disorder.

Mr Botkai highlighted that the resident representation had raised parking as an issue. Mr Botkai asserted that consideration had been given to parking provision by way of the planning process, and that planning permission had been granted. Mr Botkai highlighted that the other objection related to the potential increase in litter, and that it had questioned the need for 24 hour operation at the site, but again asserted that this has been dealt with by way of the planning process.

Mr Botkai stated that the premise was not located within a community impact zone, and that its operation would not be contrary to the licensing objectives.

Mr Botkai recited paragraph 21.5 of the Hillingdon Statement of Licensing Policy and confirmed that the section 182 Guidance supported this position, before stating that there were no representations from any of the Responsible Authorities.

It was confirmed that Ms Nicola Law was the current DPS but that this would change.

Representation by the Responsible Authority:

Mr Ian Meens, Licensing Officer, stated that the application concerned a new building and that the Local Authority had to consider whether it could assess the ability of the premises to decide primary use. As the premises was large (of a similar size to a nearby convenience store) the shop would likely fall within the primary use, but that the Authority sought to qualify this position with a condition.

Mr Meens explained that through mediation, a condition had since been agreed. It was highlighted that usually, when a condition was agreed, it was added to the licence. As such, the Committee would not normally hear that condition. Mr Meens explained that as agreement of the condition was only agreed late on the night before the hearing, the final condition was around footfall, similar to that seen in the **R (on application of Murco Petroleum Ltd) v Bristol City Council (2010) EWHC 1992 (Admin)** case. Mr Meens confirmed that he was happy with the condition on footfall as it was simplistic, with the condition verified by the Court in the case of **Murco**. Mr Meens stated that he understood that section 9 of the Section 182 Guidance confirmed that the Committee had the ability to withdraw the matter.

The Chairman requested confirmation from Mr Meens as to whether the Council had an adopted policy relating to primary use. Mr Meens confirmed that the Council did not have such a policy.

The Chairman asked Mr Meens whether, as a Responsible Authority, would he expect to see the night pay window in a plan to the application? Mr Meens stated he had not seen this in many applications.

Discussion:

The Chairman asked Mr Botkai to clarify his statement that it would be problematic to measure on net or gross turnover, as there was an assumption that it would be easy to measure on gross. Mr Botkai responded explaining that to measure on gross would be wrong in law, as it would not determine the use of the Premises, it would only determine the primary sales.

The Chairman referred to Mr Botkai's statement that other similar premises did not have conditions relating to section 176. The Chairman highlighted that each application was based on its own merits and there were no standardised conditions.

The Chairman requested confirmation from Mr Botkai that the Police had seen the plan showing the location of the night pay window. Mr Botkai confirmed they had not, but asserted that this was unnecessary as it was clear that the siting of the window was near to the cashier point, which was highlighted on the plan.

The Sub-Committee requested confirmation of the number of the Applicant's various premises where primary use had been judged to be as a garage. Ms Law stated that she was unable to provide the exact numbers but confirmed that the company assessed all premises on a monthly basis, and that she believed that several premises had had their off-licence part of the premises removed after such a review.

The Sub-Committee requested confirmation regarding how many other convenience stores were in the vicinity of the premises application site. Mr Botkai stated the Applicant did not need to prove a need for a new licence. The Legal Advisor confirmed that to be the correct position.

The Sub-Committee sought clarity on the number of premises licence applications that had not been approved. Mr Botkai stated that in his exercised representing the Applicant, no licenses had been refused. Mr Botkai went on to reiterate that the Applicant monitored primary use once a month, and that the sale of alcohol was stopped, if required.

The Sub-Committee requested clarification from the Legal Advisor as to whether primary use was an item that could be used to refuse an application. The Legal Advisor confirmed that, as the representation by the Responsible Authority was withdrawn less than 24 hours before the hearing, it was at the Chairman's discretion whether to accept the request for withdrawal. However, it was confirmed as relevant that the Responsible Authority had withdrawn the representation. The Legal Advisor confirmed that the condition to overcome the issue was deemed to be a sensible way to overcome section 176, but that it was for the Sub-Committee to consider and agree that the condition was appropriate and whether it should be attached to the licence.

The Sub-Committee requested confirmation as to how the Applicant would assess a customer paying for fuel, which could be expensive, versus a customer paying for a comparatively cheap product such as confectionary. Mr Botkai stated that the perception of fuel was that it was a big thing and a snack bar was a small thing, but that that 78% of the price of fuel was duty. It was therefore complicated to assess transactional value. The **Goodwin** case confirmed that a tank of fuel and a snack bar were to be considered of similar weight.

The Sub-Committee highlighted that the Applicant had provided no evidence of primary use. Mr Botkai responded that the Responsible Authority had withdrawn the

representation and it was at the Chairman's discretion to accept that request for withdrawal. Mr Botkai went on to request that this discretion be exercised reasonably.

Mr Botkai confirmed that, subsequent to the premises being in operation, if concerns remained that the site was primarily operating as a garage, then a prosecution under section 136 (8), or a review of the premises licence, could be carried out. Mr Botkai highlighted that his practice had dealt with over 2,000 petrol applications by various operators and was yet to see a prosecution on primary use, or a review.

The Chairman referred Mr Botkai to page 26 of the document pack and the plan appended to the addendum, and highlighted that there were differences between the two plans in relation to where the alcohol would be sold. The Chairman requested confirmation that the CCTV cameras covered the entire shop. Mr Botkai responded stating that the alcohol would be in view of the CCTV or cashier, and that he was willing to show the night pay window on the plan attached to the premises licence.

The Responsible Authority, Licensing Authority and Applicant each summarised their case.

Mr Meens confirmed that he was happy with the condition agreed, that it would uphold the licensing objectives, and that he recommended it be added to the licence, if approved.

Ms Mukherjee confirmed that she had no further remarks.

Mr Botkai stated that he hoped that the Sub-Committee was satisfied with the condition as agreed with Mr Meens, and confirmed that the Applicant would work with the local Authority to provide any data requested in the future. Mr Botkai asserted that there was no evidence that the granting of the licence would be detrimental to the upholding to the licensing objectives, and requested that the licence be granted.

Committee Deliberation:

All parties were asked to leave the room while the Sub-Committee considered its decision.

All parties were invited back into the room for the Chairman to announce the decision of the Sub-Committee.

Decision:

RESOLVED: The Sub-Committee considered all the relevant representations made available to it and in doing so took into account the Licensing Act 2003, the Guidance issued by the Secretary of State under Section 182 of that Act, the Council's Statement of Licensing Policy, the Licensing objectives and the Public Sector Equality Duty.

The decision of the Sub-Committee was to GRANT the premises licence with the following times for licensable activities:

- Sale of Alcohol from 00:00 to 24.00 hours every day; and
- The sale of late night refreshment between the hours of 23:00 and 05:00 hours.

In addition, the Sub-Committee determined to add the following conditions to the

premises licence:

Primary Use Condition:

1. The licence holder will monitor the primary use of the premises on a monthly basis and if transaction data demonstrates that the premises are an excluded premises pursuant to section 176 of the Licensing Act 2003 the sale of alcohol shall cease until such time as the data demonstrates that the premises are not so excluded. Such data will be maintained on a 6 months monthly basis and will be available on request to the Metropolitan Police and the licensing authority.

CCTV Condition:

2. A CCTV system shall:
 - 2.1 be installed and maintained in effective working order whenever the Premises are in use for the purposes of the license;
 - 2.2 all CCTV images shall be stored in a secure location for a minimum period of thirty (31) days;
 - 2.3 the images shall be available for inspection upon request by authorised officers of the licensing authority and the Metropolitan Police Service;
 - 2.4 the precise positions of the CCTV cameras are to be agreed in writing, subject to compliance with data protection legislation, with the licensing authority; and
 - 2.5 the approved CCTV system shall display the correct time and date of the recording.

Entrance Door and Night Time Transactions Condition:

1. The entrance door to the Premises shall be closed to all customers between the hours of 23:00 and 05:00 every day;
2. all transactions with customers between the hours of 23:00 and 05:00 must be via a night pay window; and
3. the specification of such night pay window shall be agreed in writing with the licensing authority prior to operation of the premises.

Storage of Alcohol Condition:

1. All alcohol above 35% ABV shall be stored behind the counter;
2. all alcohol products shall be displayed in direct line of sight from the cashier's position and not obscured by other displays or shelving or shall be in the view of a CCTV camera; and
3. no alcohol products shall be displayed within two (2) metres of the entrance door.

REASONS

The Sub-Committee noted the following reasons for its decision:

1. The Sub-Committee agreed that the Premises Licence should attach a condition relating to the primary use of the Premises although amended the agreed Primary Use Condition as follows:
 - a. The Sub-Committee inserted a requirement that the monitoring of primary use must be on a monthly basis to provide clarity as to the process of monitoring and such a process shall assist with ensuring that the Premises does not operate as a garage for the purposes of section 176 of the Licensing Act 2003. Furthermore, Ms Law and Mr Botkai confirmed during the hearing that monthly monitoring is already a practice undertaken by the Applicant.
 - b. The Sub-Committee removed the sentence: *'The data will show how customers use the premises comparing the number of fuel only transactions with non fuel transactions'*. The Sub-Committee noted that in the case of **Murco** the Court found that it is a matter for each licensing authority to decide whether it will decide primary use on the basis of the number of transactions or evidence of turnover. The deletion was further made as the London Borough of Hillingdon does not have an adopted policy regarding whether the monitoring data as to primary use should relate to the value of transactions or the number of transactions made at the Premises. The condition as amended allows the Applicant the option of monitoring by way of value of transactions or the number of transactions made at the Premises.
2. The Sub-Committee agreed that the Premises Licence should attach an Entrance Door and Night Time Transactions Condition and agreed that such a condition should be attached to the Premises Licence with the following amendment:
 - a. The Sub-Committee inserted a requirement that *'the specification of such night pay window shall be agreed in writing with the licensing authority prior to operation of the premises.'* The Sub-Committee required this amendment as the exact location of the night pay window is yet to be agreed and has not been approved by the Metropolitan Police. The condition as amended further ensures that any specifications of the night pay window shall not be a nuisance to the local residents.
3. The Sub-Committee considered the objections of the two residents however found that there was no evidence of current nuisance or crime and disorder in the area, which was confirmed by the Metropolitan Police Crime Mapping Data. The Sub-Committee further found that there was no evidence that by granting the Premises Licence that future nuisance or crime and disorder would be caused.

RIGHT OF APPEAL

The Applicant for the premises licence or any other person who made relevant representations to the application may appeal against the Council's decision to the

	<p>Justice Clerk at the Uxbridge Magistrates. Such an appeal may be brought within 21 days of receipt of this Notice of Decision.</p> <p>The Applicant will be deemed to have received the Decision Notice, two days after the date on the accompanying letter, which will be posted by 1st class mail.</p>
	<p>ADDENDUM</p>
	<p>The meeting, which commenced at 2.10 pm, closed at 4.10 pm.</p>

These are the minutes of the above meeting. For more information on any of the resolutions please contact Neil Fraser on 01895 250693. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.