



HILLINGDON  
LONDON



# Residents' and Environmental Services Policy Overview Committee

## Councillors on the Committee

Michael White, Chairman)  
Michael Markham,(Vice-Chairman)  
Jas Dhot  
Patricia Jackson  
Kuldeep Lakhmana  
Allan Kauffman  
Judy Kelly  
Brian Stead  
John Morse

**Date:** WEDNESDAY, 22 MARCH  
2017

**Time:** 5.30 PM

**Venue:** COMMITTEE ROOM 4 -  
CIVIC CENTRE, HIGH  
STREET, UXBRIDGE UB8  
1UW

**Meeting  
Details:** Members of the Public and  
Press are welcome to attend  
this meeting

Published: Tuesday, 14 March 2017

Contact: Khalid Ahmed  
Tel: 01895 250692833  
Email: [kahmed@hillington.gov.uk](mailto:kahmed@hillington.gov.uk)

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***Putting our residents first***

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

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# Terms of Reference

A central role of a Policy Overview Committees is to undertake in-depth policy reviews on specific issues. Reviews provide the opportunity to hear from members of the public and expert witnesses, including people from a wide range of external organisations. Reviews usually make recommendations to the Cabinet on how the Council could improve its work. They therefore perform an important role in opening up the policy-making process to a wider audience, including people who would not normally have the opportunity to participate.

This Committee undertakes the policy overview role in relation to the following matters:

- Highways, traffic, parking & street environment
- Local transport, including rail, cycling & London Underground
- Footpaths and Bridleways
- Road safety and education
- Planning & Building Control
- Libraries
- The Borough's heritage and history
- Sport & Leisure services
- Waste management & recycling
- Green spaces, allotments, woodlands, conservation and sustainable development
- Consumer Protection, Trading Standards & Licensing
- Registrars & Bereavement Services
- Local watercourses, drainage and flooding
- Environmental Health, Air & Noise Quality
- Local impacts of Heathrow expansion
- Local impacts of High Speed Rail

# Agenda

## Chairman's Announcements

- 1 Apologies for Absence
- 2 Declaration of Interest in matters coming before this meeting
- 3 To confirm that all items marked Part 1 will be considered in Public and that any items marked Part 2 will be considered in Private
- 4 To agree the Minutes of the previous meeting - 22 February 2017 1 - 4
- 5 Major Review - Shisha Bars, Lounges and Cafes 5 - 22
- 6 Update on the Committee's POC Review on Regulations and Byelaws relating to Cemeteries and Burial Grounds within Hillingdon 23 - 24
- 7 Forward Plan 25 - 28
- 8 Work Programme 29 - 32

## Minutes

### RESIDENTS' AND ENVIRONMENTAL SERVICES POLICY OVERVIEW COMMITTEE

22 February 2017



Meeting held at Committee Room 4 - Civic Centre,  
High Street, Uxbridge UB8 1UW

	<p><b>Committee Members Present:</b> Councillors Michael White (Chairman), Michael Markham (Vice-Chairman), Mohinder Birah, Jas Dhot, Beulah East, Patricia Jackson, Allan Kauffman, Judy Kelly and Brian Stead.</p> <p><b>Apologies:</b> Councillors Kuldeep Lakhmana (Councillor Beulah East) and John Morse (Councillor Mohinder Birah substituting).</p> <p><b>Officers:</b> Wayne Greenshield (Street Scene Maintenance), Bill Hickson (Anti-Social Behaviour Investigation Team Manager), Noel Kelly (Planning Enforcement), Ian Meens (Licensing), Kiran Seyan (Trading Standards), Nathan Welch (Anti-Social Behaviour Investigation Team) and Khalid Ahmed (Democratic Services Manager).</p>
35.	<p><b>TO CONFIRM THAT ALL ITEMS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND THAT ANY ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE</b></p> <p>It was confirmed that all items on the agenda would be considered in public.</p>
36.	<p><b>MINUTES OF THE MEETING HELD ON 24 JANUARY 2017</b></p> <p>Agreed as an accurate record .</p>
37.	<p><b>SHISHA BARS, LOUNGES AND CAFES</b></p> <p>The Committee was provided with information from a number of officers from across various Council areas who gave Members their service perspective on the controls required for Shisha Bars.</p> <p><b>Anti- Social Behaviour</b></p> <p>The Committee was informed that officers would work with Shisha Bar owners if there had been anti-social behaviour outside establishments. With regard to licensed premises, most of the work of the team centred around noise nuisance and people congregating outside premises. To date there had been no complaints of anti-social behaviour in or outside Shisha Bars.</p>

**Licensing**

The Committee was informed that shisha premises constructed on licensed premises should have conditions contained within their premise's licence which would enable Shisha Smoking to take place in an outside area. Joint working with other Council services could take place regarding the structure which was used for shisha smoking.

Reference was made to the possible use of legislation such as the Local Authority Act 1990 in relation to the possible shisha smoking which took place outside cafes and restaurants, on pavements. Conditions could possibly be applied to premises licences in relation to hygiene / cleanliness of shisha pipes.

**Trading Standards**

The controls which existed were in relation to the use of tobacco and the sale of tobacco to under 18s, the labelling of the tobacco products and the enforcement of non-duty paid tobacco. Reference was made to Shisha Smoking requiring the same health warning labelling as on cigarette packaging. This could possibly be done on the menu of the establishment and could have similar labelling to cigarettes, to make people aware of the associated health risks for Shisha Smoking.

The use of non-duty tobacco in shisha bars would ultimately be the responsibility of Her Majesty's Revenue and Customs (HRMC), however, close collaboration took place with Trading Standards and HRMC, on drawing attention to any concerns.

**Planning Enforcement**

Members were informed that planning permission was required for the change of use of a property to a shisha lounge, and for any structure which was built to accommodate shisha pipe smoking.

In the absence of planning permission, such changes of use and structures were unauthorised and If they resulted in harm to the area, planning enforcement notices could be served on the owner and occupier.

The Council usually only became aware of such structures from complaints from residents. Members were informed that the structures became illegal after the expiry of the notice period.

A general discussion took place and particular reference was made to the public health risks associated with Shisha Smoking. Members were provided with a report commissioned by Westminster City Council which looked at the public health implications of Shisha Smoking and officers were asked to provide some feedback to the next meeting of the Committee

**Action By:**



		<b>Action By:</b>
<b>40.</b>	<p><b>WORK PROGRAMME</b></p> <p>The Committee noted the report and asked that the update on Cemeteries be brought forward to the next meeting of the Committee.</p> <p>Noted.</p>	<b>Khalid Ahmed</b>
	<p><b>Meeting commenced at 5.30pm and closed at 6.50pm</b></p> <p><b>Next meeting: 22 March 2017 at 5.30pm</b></p>	

These are the minutes of the above meeting. For more information on any of the resolutions please contact Khalid Ahmed on 01895 250833. These minutes are circulated to Councillors, Officers, the Press and Members of the Public.



# Agenda Item 5

## **Residents' & Environmental Services Policy Overview Committee - Major Review 2016/17 - Shisha Bars, Lounges and Cafes**

**Contact Officers:** Khalid Ahmed  
**Telephone:** 01895 250833

### **REASON FOR ITEM**

The report provides the Committee with information on the public health implications of Shisha Smoking as requested at the last meeting of the Committee, together with officer comments on the appropriateness to Hillingdon, of the recommendations contained in the Westminster report which looked at the public health implications of Shisha Smoking.

### **OPTIONS OPEN TO THE COMMITTEE**

**The Committee is asked to consider the information provided and discuss possible recommendations for the review.**

### **INFORMATION**

1. At the last meeting of the Committee, Members received evidence from a number of offices from within the Council, who explained their role in relation the controls which should be in place for Shisha Bars, Lounges and Cafes. Details of the information provided is contained within the Minutes of the last meeting, which are attached to this agenda.
2. Consideration was also given to a report which had been commissioned by Westminster City Council which looked at the public health implications of Shisha Smoking. Officers were asked to provide a Hillingdon perspective on the recommendations which came out of the report. Some of these are contained in the report but further verbal updates will be given at the meeting.

### **RECOMMENDATIONS FROM WESTMINSTER REPORT**

- 1.1. LAs with a low number of shisha premises and mildly perceived problem related to the shisha industry should develop a preventive approach to ensure uncontrolled proliferation of shisha premises does not occur.
- 1.2. Managers of shisha premises should be encouraged to learn management techniques and attend workshops in an attempt to prevent their customers from creating antisocial behaviour.
- 1.3. Shisha premises should be monitored for alcohol use inside the pipe. While this is currently legal, LA staff should be aware of this practice and report it.
- 1.4 Shisha premises should be monitored for recreational drug use and use of other illicit

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substances.

- 1.5 As is seen in Turkish law, legal consideration should be given to limiting what liquids can be used in the base of the shisha pipe apparatus, including a prohibition on the use of alcohol. Although this is a non-researched area of shisha's health effects, it is likely to induce intoxication, contribute to antisocial behaviour and be a major fire hazard if flammable spirits are used.
- 1.6 Shisha premises that have an alcohol license should be monitored for this.
- 1.7 LAs should ensure they have adequate out of hours support for enforcing legislation on shisha premises, as non-compliance is likely to increase at unsociable hours of trading.

**[Officers have suggested that the Committee recommends that the Anti-Social Behaviour Investigation Team's Out of Hours service, in partnership with Licensing Services, conduct regular patrols of existing & all new shisha premises to ensure compliance with legislation relating to nuisance & anti-social behaviour. These visits will also be utilised as an intelligence gathering tool to assist & support partner agencies across the enforcement services.**

**The Committee may like to consider, recommending that additional suitably qualified, and/or experienced regulatory staff from existing services are authorised to enable the service of Fixed Penalty Notices on individuals smoking in a smoke free place.]**

- 1.8 Considering shisha premises smokers may only be presented with the shisha pipe and not see the original shisha tobacco packet, existing legislation needs to clarify how the shisha industry should comply with health warning labels.
- 1.9 If health warning labels need to be applied to the shisha pipe, consideration should be given to the fact that the shisha pipe has multiple detachable parts (head/body/bowl/hose), and thus each may need its own health warning.
- 1.10 Another consideration is whether these labels need to be fixed to the shisha pipe or whether they can be removable, especially in the light of needing to regularly wash the pipes which could inadvertently wear away health warning labels.
- 1.11 Given the reduced harm perception towards shisha and distinct features of the apparatus compared to cigarettes, health warnings should be shisha-specific in order to effectively educate shisha smokers e.g. 'shisha is not a safe alternative to cigarettes', 'water in the base of the shisha pipe does not filter out harmful chemicals', 'non-tobacco (herbal) shisha contains similar harmful chemicals to tobacco shisha and cigarettes'.

1.12 LAs should collectively contact shisha tobacco companies and encourage them to comply with labelling requirements on their packets to avoid future seizures, whilst teams should work with the UK Border Agency to control the supply of illicit shisha tobacco into the country.

**[Health warnings / Labelling of Shisha products is subject to legal requirements as with all tobacco products. The Trading Standards Service advises premises in the Borough on such matters in accordance to the guidance 'Implementation of smokefree legislation in England' produced jointly by the CIEH (Chartered Institute of Environmental Health) and CTSI (Chartered Trading Standards Institute).]**

1.13 General enforcement guidance should be sought from the Department of Health, and LAs should work together to lobby

1.14 The concept of underage test purchasing in the shisha industry needs to be revisited. Considering the second-hand smoke harm exposure from premises non-compliant with the Smokefree law, it may be unethical to subject a young person to such an environment. However, a rewording of the legislation from 'point of supply' to 'point of sale' may partly overcome this. There appears to be no issues with performing underage test purchasing at retail shops rather than shisha premises.

**[Tackling issues relating to under age sales by organised test purchase operations occasionally with Police assistance at off-licensed premises. The same approach cannot be taken for Shisha premises due to health and safety implications.]**

1.15 Despite problems associated with underage test purchasing, prevalence studies from this report as well as anecdotal evidence from LA staff members highlight the attractive nature of shisha premises to young people. Community groups and youth clubs should aim to provide suitable alternatives to young people that may emulate the ambient environment created by shisha premises, but in a safer manner.

1.16 Guidance and advice provided to shisha premises owners should include an emphasis on the current legal state of herbal (non-tobacco) shisha – that is, it is covered by the Smokefree law, it can be sold to under eighteens, it is not liable for duty payments nor is it a requirement to display health warnings.

1.17 While herbal shisha is exempt from duty payments, it should not be exempt from underage sales and health warning labels considering the product is unstandardized and contains many of the same harmful chemicals as regular shisha tobacco (see *section 4* of this report). Herbal shisha needs not include statements on addiction as it does not contain nicotine.

- 1.18 As is seen in Scottish law (*see section 5.3.7*), fixed penalty notices for underage sales should be issued by trading standards officers. This will reduce the burden on the police force and enhance efficacy of the LA response to shisha use.
- 1.19 Considering there are approximately 500 shisha premises in the London and this figure is likely to increase, Her Majesty's Revenue & Customs (HMRC) should place shisha duty evasion as a priority alongside alcohol, cigarettes and hand-rolling tobacco.
- 1.20 If shisha premises do not store more than a few nights' worth of tobacco and LAs are not impacting business profitability through recurrent seizures, further investigation should be sought into the supply chain to identify warehouses/suppliers that deliver to these premises.
- 1.21 Environmental health officers should maximise communication lines via Health & Safety Liaison Groups and Health & Safety Quadrants to raise shisha issues with colleagues across London and encourage a more consistent enforcement approach.

**[Meetings are attended and Shisha Enforcement is discussed. The level of enforcement is a local decision. Enforcement sanctions and approach to enforcement under smoke free law are understood amongst EHO's. The committee may like to recommend some targeted enforcement activities.]**

- 1.22 A useful adjunct to evidence gathering is the use of carbon monoxide monitors. Whilst these should be used to ascertain the level of harm exposure in enclosed smoking venues, they can also be used to assess the quality of air outside shisha premises considering the large volumes of smoke (usually greater than one hundred litres per pipe per hour) produced by shisha smoking.

**[CO monitoring is achievable, there are a number of CO monitors within the department that could be installed using existing Health and Safety powers. The committee may like to recommend some targeted monitoring activities.]**

- 1.23 Environmental health officers may consider using Health and Safety Prohibition Notices if prosecutions for breaching the Smokefree law are too labour intensive.

**[Would need to consult with liaison group and wider regulatory community on where or if in any circumstances Prohibition Powers have been used. The evidential test may include, for example confirming levels of CO in premises. Would require input from the legal service.]**

- 1.24 Shisha premises should be provided with case examples of dangerous health and safety scenarios from other premises in order to educate and emphasise the need to comply.

1.25 All LAs should include a suggested shisha pipe cleaning protocol as part of general advice and guidance to shisha premises.

1.26 Consideration should be given to extending the Smokefree law to pavements considering the large volumes of smoke emitted by shisha smokers per session.

**[Would require a legislative change unless some restriction is possible through licensing legislation]**

1.27 All LA staff members involved in enforcement against the shisha industry should be made aware of the full extent of powers currently held by planning enforcement officers, including the use of Planning Contravention Notices and Stop Notices, and employ these powers where necessary.

**[The Committee may wish to consider a recommendation to all regulatory service managers concerned to contribute to a shared regulatory service document the purpose of which would be to instruct all staff of the range of enforcement powers available to the Council.]**

1.28 Planning enforcement appears to have the requisite tools to effectively deal with shisha premises and many inspectors on appeal recognise that shisha smoking constitutes a sui-generis use. However, consideration should be given to recognising shisha premises use class in its own right thereby recognising the land use planning characteristics often associated with such a use.

1.29 LAs should identify and collaborate with ethnic community groups to provide a well-targeted, multi-lingual approach to shisha educational campaigns. To avoid widening of inequalities, LAs should also run a general campaign in schools or at events. One particularly effective avenue could be through the existing activities of the Stop Smoking Services. These campaigns should be evaluated for impact.

1.30 Each enforcement officer should be trained on the health effects of shisha, especially areas surrounding herbal shisha, and contribute to health promotion activities whilst inspecting shisha premises. This underlies a need for public health staff and legislation enforcers to work closely.

1.31 Secondary schools and colleges should be encouraged to incorporate shisha smoking into existing tobacco awareness lesson plans.

1.32 All Stop Smoking Services should have their staff trained on providing cessation advice for shisha smokers, especially in regions where shisha premises are particularly prevalent. At the moment, there is no evidence base on nicotine replacement therapy so intervention should include behavioural support only.

- 1.33 Shisha smoking prevalence should be incorporated on local and national health survey questions, including frequency and intensity of use, to gain better insight into smoking habits of the general population. Young people should also be asked about electronic shisha pipes as these appear popular in this age group.
- 1.34 The most effective method to tackle the shisha industry is via a well-synchronised, multi-agency approach including the police, HMRC, fire brigade and planning enforcers which should be timed at peak industry operating hours in both a proactive and reactive fashion. This may only be possible with increasing resources to LAs. However, not all LAs have access to these agents.
- 1.35 Prosecution fines are currently too small and they should be increased to impact business profitability, or at least be made proportional to the size of the business or the number of repeat offences.
- 1.36 Magistrates should show consistency in the prosecution process and case examples should be sought from other boroughs to ameliorate this process.
- 1.37 In boroughs where resources are strained, prosecution should be a last resort and officers should liaise with other agents to maximise legislative powers including powers of closure. Focus should therefore be a reactive response with monitoring of high risk shisha premises.

**[Focus on smoke free is currently on complaint only]**

- 1.38 Shisha tobacco and shisha pipe seizure appear to be a more cost-effective method of enforcement, and in larger premises the impact of this may surpass the maximum prosecutable fine.
- 1.39 If the co-operation of the police is available, an effective enforcement tactic may be fixed penalty notices. Not only will this reduce loyalty to a particular premise, but will help change public attitudes that shisha is a safe alternative to cigarettes and therefore exempt from current tobacco legislation.
- 1.40 LAs should form a London-wide regional network specifically for shisha premises enforcement to reduce fragmentation between them. This should promote information and data sharing between LAs to encourage consistency in shisha enforcement. This should also be used as a platform to lobby for further guidance regarding the legislative difficulties in enforcing the shisha industry and funding, for instance, for a regional sample testing unit.
- 1.41 LAs should seek to establish a positive and close relationship with shisha premises to encourage co-operation and compliance.

1.42 Powers of closure and seizure should extend to environmental health officers if resources do not permit for a synchronised, multi-agency approach.

**[A decision of the priority for this would need to be made in the context of other workloads, e.g. food safety inspections and investigations. The number of EHO's at Hillingdon Council are approximately half of those in Westminster, \*FSA Full Time Equivalent Data 2015/2016].**

1.43 Press releases of LA enforcement activity may help stimulate behaviour change across the shisha culture. They can also serve as health promotion messages to the local community.

1.44 On their visits to shisha premises local authorities should note any advertising to websites and social media, and periodically but regularly monitor such sites for breaches of legislation, including advertising to young people, pictures suggestive of indoor smoking, and misleading advertising such as claiming that shisha is a harmless form of smoking. This could be a cost effective way of monitoring the industry and evidence gathering for any future prosecutions.

1.45 All boroughs should have an advisory document which outlines all legislative aspects related to opening and operating a shisha premises. These should be standardised across London boroughs to promote a consistent message to shisha premises owners.

1.46 Due to the recurrent lack of compliance with legislation, LAs should consider periodical educational sessions/workshops/Q&A sessions for premises managers and staff. This could serve as an efficient way of educating shisha premises.

1.47 LAs should liaise with their neighbouring LAs prior to initiating shisha enforcement campaigns to ensure rebound mushrooming of the industry does not occur in neighbouring boroughs.

1.48 LAs should be encourage to collect mapping and longitudinal data on the number and type of shisha premises, as well as enforcement statistics such as number of prosecutions, prohibition orders, closure notices, size of tobacco/pipe seizures and rates of non-compliance. Such evidence may justify further resource allocation to LAs.

1.49 Licensing shisha premises should be considered but a full evaluation of its potential impact on the shisha industry should be explored prior to any implementation.

1.50 Discussions over licensing should unequivocally include reference to herbal shisha, which is a non-tobacco product.

## COMMENTS FROM LICENSING

2. Under Alcohol and Street Trading Shisha premises should be monitored for alcohol use inside the pipe. While this is currently legal, LA staff should be aware of this practice and report it. The Licensing Act at section 14 provides that a licence is required for the sale of alcohol in the circumstances described above. It would have to be correct in weights and measures but if a sale for example was made to a customer of a whiskey in a licensed area and the customer poured the whiskey into a hooker pipes water container, or ordered the pipe containing a bottle of wine rather than water. Officers could not see that any offence would be occurring.
3. This practice albeit unusual, provided that the alcohol is sold in a licensed area and under the supervision of a licence holder then the consumption or otherwise use of the alcoholic drink in the pipe would not itself be any more cause for concern than if the alcohol was drunk in the otherwise normal way.
4. Consideration should be given to extending the Smokefree law to pavements considering the large volumes of smoke emitted by shisha smokers per session.
5. Consideration could be given to adding a condition to street trading licenses issued by the Authority for tables and chairs licensing where the tables and chairs require to use the public footway.
6. A condition banning the use of the area licensed and the storage of pipes in that area would have the effect that many restaurants would be excluded from conducting this practice on the public highway.

## COMMENTS FROM HILLINGDON PUBLIC HEALTH

7. Shisha Smoking refers to a smoking method in which smoke passes through water before it is inhaled. It is known by many names e.g. Shisha, Hookah, Hubble Bubble Shisha pipes use burning pieces of charcoal which heats tobacco sweetened with fruit syrup or molasses sugar (30% tobacco and 70% honey).
8. Centuries old tobacco use, Smoked for over 400 years , Roots in ancient India. It is estimated that 100 million people around the world smoke a water pipe daily
9. Can cause high exposure to carbon monoxide (CO), but the amount of CO in water pipes or Shisha smoke depends on the size/ variety of tobacco and charcoal type. Some Shisha tobacco does not contain nicotine, but the reduction of tobacco would be replaced by higher levels of glycerine, which can cause poisoning in the body.
10. A summary of several studies enables the following estimates to be made: One shisha session, smoked alone for approximately 45 minutes, may produce 22-50 times more tar, 6-13 times more Carbon monoxide (CO) and 1-10 times more nicotine than a single cigarette. Shisha is also known to produce significant levels of cancer-causing chemicals (carcinogens), including 3-39 times more benzo[a]pyrene. Reports also reveals that a Shisha session was equivalent to 100 cigarettes worth of smoke.



11. A common misconception is that the smoke passing through the bowl of water 'filters' the smoke. In actual fact, it cools the smoke making it more palatable and therefore users deeply inhale and are exposed to 'longer' puff sessions. Some evidence suggests the use of illicit drugs with Shisha as well as the water in the bowl being replaced by alcohol.
12. One of the most serious concerns of Shisha is cancer. The smoke increases the risk of various cancers such as lung cancer and cancer of the mouth. In addition to cancer, there are various gum diseases that are linked to Shisha as well as the development of COPD (chronic obstructive pulmonary disease).
13. According to the U.S. News & World Report, Shisha also carries a risk of addiction. Shisha is a danger to health because it can lead to daily water pipe use. In just one puff of shisha, the smoker inhales the same amount of smoke as they would inhale from a whole cigarette.
14. Water pipes or Shisha has the potential for spreading infectious disease (such as oral herpes, cold and flu and even possibly HPV, TB & Hep C) giving that smokers share the same mouthpiece and pipe.
15. Smoking Shisha while pregnant can cause breathing complication and lower birth weight is also reported among the newborns of Lebanese woman who smokes water-pipes.
16. Shisha emits four times the amount of carcinogens in comparison to a single cigarette. A one hour session creates toxins equivalent to 2-10 cigarette smokers.

#### **COMMENTS FROM TRADING STANDARDS**

17. The Service continues to work well with internal and external agents to deliver on targeting illicit activities in tobacco and alcohol at licensed premises.
18. Tackling issues relating to under age sales by organised test purchase operations occasionally with Police assistance at off-licensed premises. The same approach cannot be taken for Shisha premises due to health and safety implications.
19. Health warnings / Labelling of Shisha products is subject to legal requirements as with all tobacco products. The Service advises premises in the Borough on such matters in accordance to the guidance 'Implementation of smokefree legislation in England' produced jointly by the CIEH (Chartered Institute of Environmental Health) and CTSI (Chartered Trading Standards Institute).
20. London Trading Standards Tobacco & Alcohol Group is working towards putting together a good working practice guide relating to Trading Standards enforcement of Shisha. This is an ongoing program of activity and a member of LBH TS Team attends this group.

## **APPENDIX**

Appendix A - Scoping report for the review.



# Residents' & Environmental Services Policy Overview & Scrutiny Committee Review Scoping Report

## ***Shisha Bars, Lounges and Cafes***

### **1. REVIEW OBJECTIVES**

#### **Aim and background to review**

To look at the controls this Council and its partners have in relation to Shisha Bars, Lounges and Cafes in the Borough and to look at developing a strategy to deal with the health impacts and the nuisance, amenity and harm caused by unregulated shisha smoking.

The review could look at ways of engaging with both shisha smokers and businesses to raise awareness of the health and amenity impacts of shisha smoking, to help drive behaviour change. Possible outcomes for a review could be:

Regulate the Activity – a range of regulatory tools can be used to help limit the impact of shisha smoking, involving different services and agencies. The Council needs to best utilise the available powers in a coordinated and cost effective way.

Lobbying and Partnership – with no specific regulatory system in place to manage public shisha smoking, there is could be an opportunity to lobby for changes to legislation to enable better regulation of commercial premises offering this service. Existing powers are

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used to good effect in some cases, but on their own they do not adequately support the Council to work with shisha businesses to ensure they are compliant within a reasonable timeframe.

Shisha smoking is a London and nation-wide issue and it is important to further develop the Council's relationships with partner agencies, working jointly, sharing learning and moving forward with a unified position on shisha smoking, ensuring the Council can get the best results from our collective efforts.

## **Terms of Reference**

1. To understand the health and amenity impacts of shisha smoking.
2. To examine the range of regulatory tools which could be used to help mitigate the impact of shisha smoking, working with different services and partners.
3. To look at the extent of the problem of unauthorised shisha bars, lounges and cafes in the Borough.
4. To assess the impact of shisha bars, lounges and cafes on residents who live close to these premises
5. To look at what other local authorities are doing in relation to regulating shisha bars, lounges and cafes.
6. To look at options available, and the development of a strategy, if appropriate and report to Cabinet as appropriate.

## **2. INFORMATION AND ANALYSIS**

Shisha smoking is a way of smoking tobacco or herbal smoking product (which can be flavoured) through a waterpipe or hookah. Businesses are not required to have a specific licence for shisha smoking, and there is no definitive list of premises within the Borough of Hillingdon. However, the Council is aware of a large number of premises which offer shisha smoking through its licensing, trading standards, planning and enforcement functions.

Despite widely held misconceptions about the relative safety of shisha smoking – sometimes due to the misapprehension that smoking the tobacco through water ‘filters’ it of toxins – shisha smoking is at least as harmful to health as cigarette smoking. Public shisha smoking and the premises in which it takes place can also give rise to or contribute towards a number of amenity and quality of life issues, such as unauthorised or dangerous structures, noise and smells particularly late at night. In addition, shisha products sold in the UK are mainly illicit, with no duties paid. Whilst some of the health and amenity

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concerns can be managed using a range of existing regulatory powers, some areas of concern remain.

## **Current context**

The Council has a number of controls in relation to the operation of shisha bars which are enforced by various teams from across the Council:

### ***Trading Standards***

Trading Standards has controls over tobacco as follows:

#### **1. Sale of tobacco to under 18's**

**Tobacco cannot be sold to persons under the age of 18.**

- Proxy sales are also illegal (whereby tobacco is sold to an adult purchasing on behalf of a young person).
- The manner in which shisha is used is such that the managers of a shisha business need to be particularly vigilant. Shisha customers will normally share pipes and best practice would be that the age of EVERYONE smoking should be checked.
- (It may be a sensible precaution not to allow under-18s into the building but this is not a requirement under the legislation).
- The following notice must also be displayed anywhere that tobacco is served.

#### **2. Labelling of the tobacco products**

The legislation covering the labelling of tobacco products is detailed

- Where the product is supplied in a water pipe to the customer eg chosen from a "menu", then the water pipes themselves should be labelled with the same written health warnings and pictures that are required on conventional packs.
- There may be difficulties in labelling the pipes and it may be possible to comply with the spirit of the law by other means eg on menus, or on cards given with the pipes.

#### **3. Non-duty paid product**

Enforcement of non-duty paid product is the responsibility of Her Majesty's Revenue and Customs (HMRC). However, Trading Standards work closely with HMRC and would draw any concerns to their attention.

### ***Food Health and Safety Team***

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The Food Health and Safety Team have controls around smoke-free places. Smoke free is governed by the Health Act and includes the following three powers:

**1. A person who smokes in a smoke-free place commits an offence as follows:**

- A smoke free place is either an enclosed or substantially enclosed premises used by members of the public or used in the course of paid or voluntary work.
- Shisha is a different way of smoking which poses a serious risk to health, and smoke free legislation applies in the same way whether or not the substance being smoked contains tobacco.
- Subject to other controls, shisha operators may set up at premises where smoking is carried out in the open air, or undercover in a partly enclosed space. Evidence must prove that the space is more than 50% open (non substantially enclosed.)

**2. A person in management control of a smoke-free premise who fails to cause a person there to stop smoking commits an offence.**

- Shisha operators often provide facilities for smoking shisha under cover claiming that they are non-substantially enclosed.

**3. Failure to display signage is an offence.**

- At least one non smoking sign must be displayed in a smoke free premises.

### ***Environmental Protection Unit***

The Environmental Protection Unit has input into controls through:

**1. The Planning Process**

During the planning application process, a noise assessment and a noise management statement would normally be required to demonstrate how noise would be mitigated and minimised.

Consideration would be given to the siting of a lounge, the hours of operation and what management controls would be in place.

**2. Receipt of a complaint**

Where complaints of noise and / or fumes are received about a premises, this can be dealt with under the Environment Protection Act 1990 as statutory nuisance.

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There is no fixed level for nuisance defined in the legislation but it must seriously affect an individual's use or enjoyment of their property for a period of time and be a frequent problem.

The Council's Anti-Social Behaviour Investigation Team may get involved where there are issues of noise nuisance out of hours and will carry out monitoring visits where appropriate.

## ***Planning***

In the majority of cases, planning permission is required for the change of use of a property to a shisha lounge, and for any structure (extension or outbuilding / shelter) that is built to accommodate shisha pipe smoking.

In the absence of planning permission, such changes of use and structures are unauthorised. If they result in harm to the area, planning enforcement notices can be served on the owner and occupier.

There are two types of notices which could be served: A 'Material Change of Use' notice can require the cessation of the use, with the removal of shisha pipes etc. from the premises, and an 'Operational Development' notice can require the demolition of the structure.

The approval of the relevant Planning Committee is required to serve such notices. Notices take effect in 1 month unless an appeal is made against them to the Secretary of State, and after the effective date there is a period for compliance which is typically 1 to 3 months.

The use / structure only becomes illegal after the expiry of the notice period. Prosecution through the criminal courts is possible for non compliance.

## **Responsibilities**

This review will concern a number of Council services within in Residents Services: Licensing, Trading Standards, Food Health & Safety, Environmental Protection Unit, Planning Enforcement and Public Health. The services which support the Licensing function are covered under the Portfolios of the Cabinet Member for Community, Commerce and Regeneration, the Cabinet Member for Planning, Transportation & Recycling and the Cabinet Member for Social Services, Housing, Health & Wellbeing. External organisations involved are other local authorities.

## **Current intelligence, best practice and research**

A number of other local authorities have undertaken studies and reviews which could help the review in terms of consideration of recommendations and best practice.

### **Further information**

Throughout the review, Members will be made of aware of publications and studies which will help inform Members during the review.

Public Health Implications of Shisha Smoking in London (2013) Dr Mohammed Jawad, Imperial College London. Published by Westminster City Council

### **3. EVIDENCE & ENQUIRY**

Information will be provided on the number of shisha bars, lounges and cafes within the Borough, both regulated and unregulated. Information on the practices of surrounding Boroughs will also be presented to Members to help the review formulate suggested recommendations.

More detail will be provided on the health & safety impact of shisha bars, together with the controls the Council and its partners have in enforcing the regulations around these premises. Information will also be provided on the legislative framework around shisha premises.

### **Witness testimony**

Witnesses will be invited from Council services such as Licensing, Trading Standards, Food Health & Safety, Environmental Protection Unit, Planning Enforcement and Public Health. In addition contact could be made with other neighbouring local authorities to look at their controls and to look at best practise which this Council could adopt.

### **Lines of enquiry**

What is the extent of shisha smoking within the Borough?

What current control does this Council have in relation to enforcing the various implications of shisha smoking in the Borough?

What are the health risks to shisha smokers and to those who live in close proximity to shisha bars, lounges and cafes?

What education is provided by the Council in relation to informing residents of the potential health risks associated with shisha smoking?



What are other local authorities doing differently to this Council in terms of controlling the problems associated with shisha smoking?

### **Emerging conclusions or themes for development**

These will emerge and become apparent as the review progresses.

## **4. REVIEW PLANNING & ASSESSMENT**

Proposed timeframe & milestones for the review up to Cabinet and beyond in terms of monitoring:

<b>Meeting Date</b>	<b>Action</b>	<b>Purpose / Outcome</b>
24 January 2017	Agree Scoping Report	Information and analysis plus witness evidence from internal sources
22 February 2017	Witness Session 1	Evidence & enquiry - witness evidence from internal sources and other local authorities
22 March 2017	Witness Session 2	Evidence & enquiry - Final witness session and suggested outcomes for the review
26 April 2017	Draft Final Report	Proposals – agree recommendations and final draft report

### **Resource requirements**

None.

### **Equalities impact**

The review will give consideration to the impact of shisha smoking and the premises used for this practice. The effect on certain communities within the Borough will be considered.

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# Agenda Item 6

## Update on the Committee's POC Review on Regulations and Byelaws relating to Cemeteries and Burial Grounds within Hillingdon

**Contact Officers:** Khalid Ahmed  
**Telephone:** 01895 250833

### REASON FOR ITEM

The Committee will be provided with an update on the progress made in implementing this Committee's recommendations on the review undertaken in 2013, on the Regulations and Byelaws relating to Cemeteries and Burial Grounds within Hillingdon.

### OPTIONS OPEN TO THE COMMITTEE

**The Committee is asked to give consideration to the information provided, updating Members on the implementation of the recommendations of the review on the Regulations and Byelaws relating to Cemeteries and Burial Grounds within Hillingdon.**

### INFORMATION

1. At the Cabinet meeting on 23 April 2013, approval was given to the recommendations of the review this Committee carried out into the Regulations and Byelaws relating to Cemeteries and Burial grounds within Hillingdon.
2. The recommendations which were endorsed by Cabinet were:

#### Sustainability / Fairer Usage by All

- a) That Cabinet agree the revised set of Cemetery Regulations that have been updated to make the rules clearer and fairer for *all* residents and users of different religious beliefs. This includes the necessary promotion of the rules both to funeral directors and bereaved families in a suitable and sensitive manner.

#### Resident Engagement

- b) Support any 'friends' groups that may wish to be established in relation to local cemeteries; additionally, that the Council continues to work closely with the Safer Neighbourhood Team (SNT) and ask officers to agree a local procedure on how to deal with anti-social behaviour, specifically within cemeteries.
- c) Ask officers to investigate the reintroduction of leaflets and a pictorial booklet to summarise key elements of the regulations to be circulated to bereaved families via Funeral Directors.

## Good Maintenance

- d) Considers the best way for officers to inspect memorials in cemeteries and how to best achieve this in line with health and safety objectives;
- e) Welcome Cabinet's decision to bring cemetery grounds maintenance back 'in-house' as part of the award winning Green Spaces team.
- f) That Cabinet agree to the creation of a long-term (5 year minimum) rolling strategy for the Council's cemeteries, which should be published on the Council's website and at the cemeteries office. This should include, in particular, a winter rolling programme of works to cemeteries be publicised to residents so they are clear when essential works are taking place.
- g) Having reviewed the grounds and facilities across the Borough and following evidence received from witnesses, to note three particular service improvements, which Cabinet may wish to investigate further and consider as part of the service and budget planning process:
  - To explore more cost effective options of using machinery to break down clay soil used for graves;
  - The lack of toilet facilities and a shelters for families to congregate at any of the Borough's cemeteries with the exception of Hillingdon, noting that there is also a lack of places of prayer;
  - The condition of the Grade I arch at the entrance of Hillingdon & Uxbridge cemetery.

**3. Paul Richards, Head of Green Spaces. Sport & Culture and Stuart Coleman, Bereavement Services Manager** will be in attendance to update Members on progress made in implementing the review's recommendations.

## Forward Plan

**Contact officer:** Khalid Ahmed  
**Telephone:** 01895 250833

### REASON FOR ITEM

The Committee is required by its terms of reference to consider the Forward Plan and comment as appropriate to the decision maker on key decisions that relate to services within its remit (before they are taken by Cabinet or Cabinet Member).

### OPTIONS OPEN TO THE COMMITTEE

- To comment on items going to the Cabinet or Cabinet Members for decision.
- Or to note the items and decide not to comment.

### INFORMATION

1. The Forward Plan for the following months has been published. Those items that are within this Committee's remit are shown on the attached version of the Forward Plan. The Committee may wish to consider and comment on these items.
2. Committee Members are requested to send in any questions they have regarding the attached Forward Plan or on any reports going to the next meeting of Cabinet, and to notify any officers that they would like to attend to give advice.

### SUGGESTED COMMITTEE ACTIVITY

- To consider whether there are comments or suggestions that the Committee wishes to make that will aid Cabinet's decision making.

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Ref	Upcoming Decisions	Further details	Ward(s)	Final decision by Full Council	Cabinet Member(s) Responsible	Officer Contact for further information	Consultation on the decision	NEW ITEM	Public / Private Decision & reasons
SI = Standard Item each month Council Departments: RS = Residents Services SC = Social Care AD = Administration FD= Finance									
<b>Cabinet - 16 March 2017</b>									
171	Noise Supplementary Planning Document - POLICY FRAMEWORK	This report to Cabinet will propose updated planning policies around noise and seek approval to go out to public consultation on it.	All	Date - TBC	Cllr Keith Burrows	RS - Muhammad Islam	Statutory consultation, Policy Overview Committee and residents		Public
176	Accessible Hillingdon Supplementary Planning Document - POLICY FRAMEWORK	Cabinet approval will be sought for Public Consultation on the revised 'Accessible Hillingdon' Supplementary Planning Document.	All	Date - TBC	Cllr Keith Burrows	RS - Ali Kashmiri / Charmian Baker	Statutory consultation, Policy Overview Committee and residents		Public

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# Agenda Item 8

## WORK PROGRAMME 2016/17

**Contact Officer:** Khalid Ahmed  
**Telephone:** 01895 250833

## REASON FOR ITEM

This report is to enable the Committee to review meeting dates and forward plans. This is a standard item at the end of the agenda.

## OPTIONS AVAILABLE TO THE COMMITTEE

1. To confirm dates for meetings
2. To make suggestions for future working practices and/or reviews.

## INFORMATION

*All meetings to start at 5.30pm*

<b>Meetings</b>	<b>Room</b>
<b>16 June 2016</b>	<b>CR3A</b>
<b>27 July 2016</b>	<b>CR3A</b>
<b>21 September 2016</b>	<b>CR5</b>
<b>27 October 2016</b>	<b>CR4</b>
<b>22 November 2016</b>	<b>CR6</b>
<b>24 January 2017</b>	<b>CR3</b>
<b>22 February 2017</b>	<b>CR4</b>
<b>22 March 2017</b>	<b>CR4</b>
<b>26 April 2017</b>	<b>CR4</b>

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Residents & Environmental Services Policy Overview Committee

**2016/17 DRAFT Work Programme**

<b>Meeting Date</b>	<b>Item</b>
<b>16 June 2016</b>	Residents & Environmental Services Policy Overview Committee Possible Review Topics 2016/17
	Weed Control - Information report
	Work programme for 2016/17
	Cabinet Forward Plan
<b>27 July 2016 - CANCELLED</b>	Budget Planning Report for Residents Services
	Scoping Report and witness session for First Major Review
	Safety at Sports Grounds Report
	Work Programme
	Cabinet Forward Plan
<b>21 September 2016</b>	Scoping Report and witness session for First Major Review
	Update on the Local Plan 2
	Cabinet Forward Plan
	Work Programme
<b>27 October 2016</b>	Major Review - Second Witness session
	Weed Control - Update
	Cabinet Forward Plan
	Work Programme
<b>22 November 2016</b>	Major Review - Witness Session and suggested recommendation
	Safety at Sports Grounds
	Shisha Bars - Background to review topic
	Cabinet Forward Plan

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	Work Programme
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<b>24 January 2017</b>	Draft Budget Proposals Report for Residents Services 2017/18
	Disposal of Charity Shop Waste through New Years Green Lane Civic Amenity Site - Draft Final Report
	Second Major Review - Shisha Bars, Lounges and Cafes - Draft Scoping Report
	Cabinet Forward Plan
	Work Programme

<b>22 February 2017</b>	Second Major Review - Shisha Bars, Lounges and Cafes - Witness Session
	Single meeting Review - Policy on replacement of Paving Stones
	Cabinet Forward Plan
	Work Programme

<b>22 March 2017</b>	Second Major Review - Shisha Bars, Lounges and Cafes - Witness Session and suggested recommendations
	Update on the implementation of the recommendations of this Committee's review on Cemeteries
	Cabinet Forward Plan
	Work Programme

<b>26 April 2017</b>	Consideration of future review topics
	Accessible Hillingdon Supplementary Planning Document - Policy Framework
	Noise Supplementary Planning Document - Policy Framework
	Cabinet Forward Plan

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	Work Programme
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