



HILLINGDON
LONDON



Licensing Committee

Date: THURSDAY, 1 OCTOBER
2009

Time: 10.00 AM

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

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

Councillors on the Committee

Josephine Barrett, Chairman of the
Licensing Committee
Michael Bull, Vice-Chairman of the
Licensing Committee
David Allam
Lynne Allen
Janet Gardner,
Carol Melvin
Andrew Retter
Judy Kelly
Elizabeth Kemp
Peter Kemp

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further information.**

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2009

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Agenda

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To confirm that the items of business marked Part I will be considered in Public and that the items marked Part 2 will be considered in private
- 4 To agree minutes of the meeting held on 2nd July 2009
- 5 Gambling Act 2005 Consultation: update
- 6 To advise Members of changes to the Licensing Act 2003 with regard to minor variations
- 7 Metropolitan Police Involvement at Licensing Sub-Committee Hearings: approve amendments to protocol
- 8 Cumulative Impact Policy: update
- 9 Response to Consultation on Selling Alcohol Responsibly: update
- 10 Red and Yellow Card System Report: update
- 11 Metropolitan Police Bottle Marking Scheme: update
- 12 Update from Licensing Service on Licensing Applications Granted
- 13 Information Items: "New Restaurant Hits Opposition to Drinks Licence" 2 September 2009
- 14 Any Other Business

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Minutes

Licensing Committee

2 JULY 2009

Meeting held at High Street, Uxbridge, UB8 1UW



HILLINGDON
LONDON

Published on:

Come into effect on: Immediately (or call-in date)

Members Present:

Councillors Josephine Barrett (Chairman), Michael Bull (Vice-Chairman), David Allam, Lynne Allen, Janet Gardner, Carol Melvin, Andrew Retter, Judy Kelly, Elizabeth Kemp and Peter Kemp.

LBH Officers Present:

Natasha Dogra, Nav Johal, Ed Shaylor, Norman Stanley, Beejal Soni, Stephanie Waterford and Nadia Williams.

Public Present: 0

1. APOLOGIES FOR ABSENCE

None.

2. DECLARATIONS OF INTEREST IN MATTER COMING BEFORE THIS MEETING

None.

3. TO CONFIRM THAT ALL ITEMS MARKED PART 1 WILL BE CONSIDERED IN PUBLIC AND ALL THOSE MARKED IN PART 2 WILL BE CONSIDERED IN PRIVATE

All items were Part 1 and were considered in public.

4. TO RECEIVE AND AGREE THE MINUTES OF 23RD APRIL 2009

The Committee raised concerns over the following item in the minutes: *MOTION TO LOBBY PARLIAMENT FOR A REVIEW IN LICENSING LAW TO ALLOW THE QUESTION OF NEED TO BE TAKEN INTO ACCOUNT WHEN CONSIDERING LICENSING APPLICATIONS.*

Officers advised the Committee that the *Need for Licensed Premises* was addressed in clause 13.23 of the Guidance issued under section 182 of the Licensing Act 2003 viz:- "there could be confusion about the difference between *need* and the *cumulative impact* of premises on the Licensing objectives for example, on crime and disorder. *Need* concerned the commercial demand for another pub, restaurant or hotel. This was not a matter for a licensing authority in discharging it; licensing functions or for its Statement of Licensing Policy. *Need* it a matter for planning committees and for the market."

The Committee commented on information sent to them by Licensing Committee trainer James Anderson, Poppleston Training (*this training took place on 29th June 2009 and some*

Members of the Licensing Committee attended). The Committee requested that Legal officers liaised with the trainer to gain the correct information regarding the introduction of saturation policy in the London Borough of Hillingdon.

Officers informed the Committee that the trainer may have been referring to the *cumulative impact of a concentration* of licensed premises. Officers referred the Committee to clauses 13.24 to 13.39 of the Guidance issued under section 182 of the Licensing Act 2003 and suggested that such Special Policies were applicable to areas like Watford town centre and Camden Lock, where there are a significant number of licensed areas like pubs and clubs concentrated in one particular area.

The Committee requested that Legal Officers contact the Poppleston Allen trainer to seek clarification and then to prepare a report for the next Licensing Committee meeting.

Agreed:

- **The minutes of 23 April 2009 were agreed.**
- **It was agreed that Legal Officers would liaise with Licensing Trainer *James Anderson (Poppleston Training)* to gain further information on saturation policies.**
- **The Committee agreed to receive an update on this matter delivered by Legal Officers at their meeting scheduled for 1st October 2009.**

5. HOME OFFICE CONSULTATION PAPER ON THE NEW CODE OF PRACTICE FOR ALCOHOL RETAILERS

Action By:

The Chairman asked Ed Shaylor (Head of Community Safety) and Norman Stanley (Licensing Service Manager) to present this item to the Committee.

Officers said the Planning & Community Services, the Licensing Service and the Metropolitan Police would appreciate some guidance from the Committee in regards to taking part in the consultation on the Home Officer Consultation Paper on the new Code of Practice for Alcohol Retailers. This consultation would end on 5 August 2009. Officers said the document suggests mandatory conditions on all premises selling alcohol and local conditions for two or more premises, where all or some discretionary conditions could be imposed on licenses.

Officers informed the Committee that in respect of *mandatory condition*, if enacted, this would require the Licensing Service to re-issue approximately 900 premises licenses and summaries. Premises licenses and summaries are produced on good quality paper and the summaries are laminated, consequently this proposal would result in considerable costs to the Licensing Service in respect of materials and officer time.

If *discretionary conditions* are enacted the powers used by the Licensing Committee could subject their decision (s) being subject to a legal challenge at the magistrates' court, thereby incurring significant costs to the Council.

Members asked the Officers if they thought it would be worthwhile responding to the consultation. Officers said that they thought it would be a worthwhile

exercise, as some proposed conditions appeared to be reasonable in respect of some specific areas and premises.

Officers said that as Hillingdon did not have a huge night-time economy the conditions imposed on licenses may not directly affect antisocial behaviour and crime in the borough. The imposing of conditions may also have an adverse affect on businesses and the local economy. Residents may also be affected by imposed conditions; one example may be that alcohol should not be served in glasses. Residents may not enjoy drinking out of plastic cups in restaurants and pubs and this may cause a number of complaints.

Legal Officers said that the consultation has various levels of impact and different programmes, and the Council can choose which levels they wish to be a part of.

Officers explained that under the new Code of Practice, certain areas can be blanketed by conditions or discretionary conditions can be imposed on some premises. However, this may lead to several appeals if some premises are targeted and not others. Officers said that nine conditions can be chosen from the Code of Practice's points labelled A to P. These conditions will then have to be imposed on licenses in certain areas. However, if there is pressure to impose the conditions on a wider scale then there may be uproar from those opposing it.

The Committee noted that most license holders in the borough are responsible and successful businesses. By imposing these conditions on them, the businesses may become less successful and reduce their customer satisfaction levels and indeed the number of customers. Members also raised concerns of the Code of Practice being over-prohibiting and causing damage to businesses and life styles of those living in the borough.

Officers said there are other options to consider which are not covered by the consultation, such as price according to strength, mandatory displaying of units in an alcoholic beverage and ensuring that the license holder is on the premises when it is in use. The Committee agreed that mandatory displaying of units in an alcoholic beverage was fair and reasonable; however the other two conditions were not reasonable. The price according to strength system may result in irresponsible selling of weaker alcoholic beverages to underage customers.

The Committee expressed their reservation over the discretionary conditions and the question of human rights in accordance with the consultation. Legal Officers said that as it stands, the Code of Practice is a suggestion. When it becomes an active piece of legislation the author will take human rights into account.

The Committee agreed that conditions should not be forced on licensees, as many are responsible people. Members also agreed that over-prohibition will result in a 'nanny-state' and that is not what they are trying to achieve.

<p>Agreed: The Committee unanimously voted for agreement that Officers would convey their concerns regarding in a reply to the consultation on the Code of Practice by 5 August 2009.</p>	<p>Ed Shaylor / Norman Stanley</p>
<p>6. UPDATES FROM LICENSING SERVICE ON LICENSING APPLICATIONS GRANTED</p> <p>The Chairman requested Stephanie Waterford (Licensing Officer) to present updates from the Licensing service on Licensing Applications granted.</p> <p>Licensing Officers said nine applications had been determined by Officers between April 2009 and June 2009. There were a total of nine new applications during this time, and five new variations. Over the last year the running total of applications was 22, a majority of which were off-licenses.</p>	<p>Action By:</p>
<p>7. INFORMATION ITEM ATTACHED:</p> <p>In regards to the information item titled "<i>Rumpus over drinks deliveries</i>" in the Uxbridge Gazette, Members requested Licensing Service Manager Norman Stanley, in consultation with Cllr Andrew Retter, to correspond with Sergeant Ian Meens regarding his comments to the media and his non-attendance at the Licensing Sub-Committee meeting.</p> <p>Agreed: It was agreed that Licensing Officers would raise this matter directly with Sgt Ian Meens at the Licensing Service/Metropolitan Police liaison meeting, which is scheduled for 14 July 2009.</p>	<p>Action By:</p> <p>Norman Stanley</p>
<p>8. ANY OTHER BUSINESS</p> <p>The Chairman invited the Licensing Officer to give the Committee an update in respect of the review of the Gambling Act 2005 Statement of Licensing Principles.</p> <p><i>The Licensing Officer explained to the Committee that this is the first review of the document since the Gambling Act 2005 came into force in 2007. The legislation requires a review every three years.</i></p> <p>A working party has been convened to carry out the review and consists of the Licensing Manager, Licensing Officers, Deputy Consumer Protection Manager, Licensing Lawyer, Democratic Services Officer, Police etc.</p> <p>The working party are of the opinion that the current policy has served the Council well and only a couple of minor amendments are proposed.</p> <p>The consultation on the draft policy will run from 17th July to 28th August 2009 and members will be consulted. The final draft policy will be presented to the next full committee on 1st October 2009 for approval.</p>	<p>Action By:</p>

<p>The Chairman asked the Committee to raise any other items of business.</p> <p>Members raised their concerns in respect of the Planning Service's lack of input in respect of applications that are submitted for new premises licenses, or variations to existing licensed premises.</p> <p>Officers informed the Committee that "Planning" is deemed to be a "responsible authority" under the Licensing Act 2003 and as such they can make a representation to an application, providing that such a representation is based on one or more of the four prime licensing objectives.</p> <p>Agreed: That Cllr Josephine Barrett, in her role as Licensing Committee Chairman, would write a letter directly to Jean Palmer, Director of Planning and Community Services to make her aware of the above issue.</p>	<p>Norman Stanley/ Natasha Dogra</p>
<p>The meeting closed at 11.00 a.m.</p>	

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Agenda Item 5

Review of the Council's Statement of Gambling Licensing

Committee

Full Licensing Committee

Officer Contact

Stephanie Waterford

Papers with report

- Draft Statement of Gambling Policy, changes highlighted
- Summary of consultation comments

Ward(s) affected

All

SUMMARY

The Gambling Act 2005 requires the Council, as the Licensing Authority, to review its statement of gambling licensing policy every 3 years. This is the first review since the implementation of the Act in 2007. The Council will need to approve and adopt the revised policy which will be effective from 2010 to 2013.

RECOMMENDATION

That the Committee approve the draft policy.

INFORMATION

In April 2009, a working party was convened to carry out the first review of the Council's Statement of Gambling Licensing Policy. The working party was made up of the following officers:

- Norman Stanley, Licensing Service Manager
- Stephanie Waterford, Licensing Officer
- Sue Pollitt, Deputy Consumer Protection Manager
- Beejal Soni, Licensing Lawyer
- Natasha Dogra, Democratic Services Officer
- Sgt Ian Meens, Police Licensing Sergeant
- Paul Hewitt, Local Safeguarding Children Board

The working party agreed that the current gambling licensing policy has worked well since its implementation in 2007 and has not been subject to any challenge. It was therefore agreed by the working party not to change to content or format to any great degree, however some minor changes were proposed and full consultation began on 17th July 2009.

Consultees included:

- Elected Members
- Gambling trade representatives
- Responsible Authorities
- Neighbouring local authorities
- Local residents associations and local community groups
- Licensing Solicitors

- Licensed premises

Consultation closed on 28th August 2009 with a total of 5 responses (attached).

The working party was re-convened on 10th September 2009 to discuss the responses and the policy was amended accordingly.

Approval process and time-line

- Draft policy needs to be approved by the full licensing committee
- Draft policy to RESPOC for scrutiny 17/11/09
- Draft policy to Cabinet for approval 17/12/09
- Draft policy to full Council 14/01/10
- Policy comes into force until 2013

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

Section 349 of the Act requires that licensing authorities prepare and publish a statement of its licensing policy every three years. The London Borough of Hillingdon's Gambling Act 2005 Statement of Principles is due for renewal in January 2010. The adopted policy must set out the Authority's general approach to licence applications and may only be determined following consultation with the following parties.

- Chief Officer of Police for the authority's area
- Persons who appear to the authority to represent the interests of gambling businesses in the area
- Persons who appear likely to be to represent or have interests likely to be affected by affected by the exercise of the authority's functions under the Act.

In determining its policy the authority must have regard to the Guidance issued by the Gambling Commission to accompany the Act, and give appropriate weight to representations made with regard to:

- Interest and expertise of person making representation
- The motivation of those making representations;
- How many people have expressed similar views
- How far representations relate to matters that should be included in the policy.

The draft policy has been prepared in consultation with The London Borough of Hillingdon's Gambling Policy Working Group and takes account of Revised Guidance to Local Authorities 3rd Edition, issued by the Gambling Commission in April 2009.

When carrying out its functions under the Act the Council's Licensing Committee, will apply this " Statement of Principles ", the Act itself, any Regulations, and Guidance from the Gambling Commission when determining its decisions.

BACKGROUND PAPERS

The Gambling Act 2005
Gambling Commission Guidance to Licensing Authorities.

Comments from	Summary of comments	Action
Paul Hewitt, Local Safeguarding Children Board	I have read the draft policy and I am happy with what is included in relation to the protection and safeguarding of children. I have also checked it with other LSCB key members. Please record that the LSCB has been consulted and is satisfied with the draft policy.	No action required
Eileen Kingham, Marketing Director, GamCare	Welcomes paragraphs relating to self exclusion, self barring and the provision of leaflets/posters/information within licensed premises and also staff awareness and training in relation to responsible gambling. Suggestions relating to more training and distributing of more posters and leaflets.	No action required
Page 9 Cllr Judith Cooper	Suggests we add a note to para. 3.3 indicating the main key statutory regimes that would provide cover in relation to the duplication of other LA functions.	With the vast amount of primary legislation, the list could be endless. Consequently, the working party felt this would be un-necessary as each application will be dealt with on a case-by-case basis.
Holly Robarts, Racecourse Assc.	Advised that the Assc. do not have any premises in our borough and would therefore not be commenting on our policy.	No action required
Rita King, British Beer & Pub Assc.	<ul style="list-style-type: none"> - BBPA are concerned about the relevance of para. 5.30 in relation to children on licensed premises and see no need for it to be addressed in a Gambling policy. They suggest this part is deleted. - They support the approach outlined in para. 5.36 in relation to the determination of permit applications. - They support our proposal to delete the paragraph relating to the submission of plans with permit applications. 	After discussion the working party agreed to implement the changes proposed by the BBPA. It was also agreed to remove a similar sentence in para. 5.43

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London Borough of Hillingdon
Gambling Act 2005
Statement of Principles

Contents Page

Preface

Contents to be updated upon completion of consultation

Preface

London Borough of Hillingdon Council recognises that gambling today has become part of the mainstream of leisure activity and the potential impact it has on the community within the Borough, including the valuable cultural, social and economic importance of the leisure industry and the benefits it brings to the area and its citizens. We also recognise some of the downsides, such as gambling presenting particular risks to children and the vulnerable that other forms of leisure do not.

We are aware that the three licensing objectives underpinning the legislation highlight an important need for businesses offering commercial gambling to operate in a socially responsible manner and we endorse this as a central principle in our Statement of Principles and decision-making responsibilities.

Our principles statement also aims to reflect that everyone in the community has a stake in the licensing decisions made by us, the licensing policies and strategies applied and how competing needs and aspirations will be met to achieve a fair balance between local stakeholders. Ultimately, this will involve striking a balance between the different aspirations and needs of local businesses, residents and visitors to the borough.

In adopting this policy, we seek to address the needs and concerns of residents and businesses to ensure a safe and healthy environment in which to live and work, together with safe and well-run entertainment premises that will promote and sustain a forward-looking and prosperous local economy.

PART 1 THE GAMBLING ACT 2005

INTRODUCTION

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

The Licensing Framework

- 1.2 In exercising most of our decision-making functions we are required to have regard to the three Licensing Objectives set out in Section 1 of the Gambling Act, namely:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.3 We are also bound by section 153 of the Act, which requires us, in making decisions concerning Premises Licences and Temporary Use Notices, to aim to permit the use of premises for gambling insofar as we think fit, subject to such decisions being:
- In accordance with any relevant code of practice issued by the Gambling Commission
 - In accordance with any relevant guidance issued by the Gambling Commission
 - Reasonably consistent with the licensing objectives; and
 - In accordance with this Statement of Licensing Principles

The Policy

- 1.4 Section 349 of the Act requires us to publish a *Statement of Principles* (or policy) that we will apply when exercising our various functions under the Act. This Statement of Principles fulfils that statutory requirement and details throughout the document the Council's general approach to the making of licensing decisions.
- 1.5 **Part 1** of the principles document gives a summarised overview of the statutory framework within which most of our decisions will be made. It also includes a short profile of the Borough of Hillingdon, which is intended to set the scene from a local perspective.
- 1.6 The Council's approach to addressing the licensing objectives is discussed in detail in **Part 2**, but will be referred to, where relevant, throughout this document.
- 1.7 **Part 3** reflects that we have taken an integrated approach, as far as is possible, to ensure that the key objectives of the Act are met as well as provide important support to the Council's Community Strategy, "*Working together for a better future*" and various other core council objectives, initiatives and strategies. It also addresses the principle of non-duplication with other regulatory regimes.
- 1.8 **Parts 4 - 7** inclusive, sets out in detail the main principles this authority intends to apply when making decisions in respect of Premises Licences, Gaming and Gaming Machine Permits, Notices and Lottery Registrations.
- 1.9 **Part 8** describes our decision-making responsibilities and the allocation of those responsibilities and Part 9 comprises the various appendices referred to within the document.
- 1.10 Nothing in this policy will override the right of any person to make an application under the Act and have that application considered on its individual merits. Equally, nothing in this policy will undermine the right of any person to make representations on an application, or seek a review of a licence where there is a legal power to do so.
- 1.11 This document should be read in conjunction with the Act, Regulations made under the Act and Guidance issued by the Gambling Commission. Our Statement of Principles is designed to be a strategic (Gambling) Licensing Policy, not an operational guide to the Gambling Act or a guide to the application process.
- 1.12 This policy is supplemented by guidance documents for residents and the trade on the application and licensing process. These documents will assist applicants and objectors in understanding their rights and responsibilities under the Act in respect of:

- applying for licences and other gambling permissions
 - making representations
 - complaints about a premises licensed under the Act and review rights
 - committee hearings and the decision making process
- The information is available on the Council's website or on request by contacting the Hillingdon Licensing Service.

CONSULTATION

~~1.13 Consultation on Hillingdon's Statement of Licensing Principles lasted 12 weeks, commencing on 30th June 2006 and ending on 25th September 2006.~~

1.13 Consultation on Hillingdon's Statement of Licensing Principles lasted 6 weeks, commencing on 17th July 2009 and ending on 28th August 2009.

1.14 The Council has, in accordance with the section 349(3) of the Gambling Act, consulted with:

- (i) The Chief Officer of Police for the London Borough of Hillingdon
- (ii) Persons who appear to this authority to represent the interests of persons carrying on gambling businesses in the borough of Hillingdon and neighbouring boroughs
- (iii) Persons who appear to us to represent the interests of persons who are likely to be affected by the exercise of this authority's functions under the Gambling Act 2005

1.15 A comprehensive list of the persons and/or bodies we have consulted is attached at Appendix A. A summary of the consultation responses can be found on the Council's website. The full list of comments made and consideration given to those responses is available on request by contacting the Authority's Licensing Team.

DECLARATION

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

PROFILE OF HILLINGDON

- 1.17 Hillingdon is a vibrant outer London Borough. Its 42 square miles make it London's second largest borough. Buckinghamshire, Hertfordshire, Surrey and the London Boroughs of Hounslow, Harrow and Ealing are our neighbours. It is home to approximately 248,000 people, representing a vast range of cultures and nationalities. Hillingdon contributes greatly to the economic success of the capital, yet it remains one of London's greenest boroughs. As the home of Heathrow airport it is also London's foremost gateway to the world. The 2001 UK census suggested that Hillingdon was a relatively affluent area. Unemployment overall was lower than the national average with 2.7% of 16 to 74 year olds registered unemployed compared to a national average of 3.4%. 26% of Hillingdon's population is children and young people aged 0-19 years.
- 1.18 A Map of Hillingdon is attached at Appendix B showing the geographical area covered by this Policy.

AUTHORISED ACTIVITIES

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

LICENSING AUTHORITY FUNCTIONS

- 1.22 Under the Act, the Council will be responsible for:

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

RESPONSIBLE AUTHORITIES

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

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

- i) London Borough of Hillingdon Council Licensing Authority
- ii) The Gambling Commission
- iii) The Chief Officer of Police for the London Borough of Hillingdon (where relevant, Chief Officer of Police for Heathrow)
- iv) London Fire & Emergency Planning Authority, Hillingdon Fire Station
- v) London Borough of Hillingdon Council Planning Authority
- vi) London Borough of Hillingdon Council Environmental Protection Unit (*i.e. authority responsible for pollution and harm to human health*)
- vii) Hillingdon Local Safeguarding Board
- viii) HM Revenue and Customs

- ix) Authority for Vulnerable Adults
- x) A Licensing Authority in whose area the premises is situated (*i.e. the Council itself and also any adjoining Council where premises straddle the boundaries between the two*).

For Vessels only:

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

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

DESIGNATED BODY PROTECTING CHILDREN FROM HARM

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

1.27 The principles are that:

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

1.28 In accordance with the Gambling Commission's Guidance for local authorities this authority designates the Local Safeguarding Children Board (~~formally Hillingdon's Area Child Protection Committee~~) for this purpose.

1.29 The remit of the Board is to co-ordinate and scrutinise arrangements for safeguarding and promoting the welfare of Hillingdon's children. It operates throughout the Borough, is responsible for the area covered by the Licensing Authority and this Policy; and has specialist knowledge and experience in the protection of children to fulfil this role.

INTERESTED PARTIES

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

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

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

Statement Of Principles

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

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

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

1.35 Persons living "Sufficiently Close"

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

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

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

1.37 Persons with business interests likely to be affected

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

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

1.38 Persons/bodies representing persons named above

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

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

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

EXCHANGE OF INFORMATION

- 1.41 Under the Gambling Act, we will have a key role in providing information to the Gambling Commission to assist it in carrying out its functions. This Licensing Authority recognises the need to work closely with the Gambling Commission in exchanging information as and when required.
- 1.42 As Licensing Authority we are required to include in our policy statement the principles we intend to apply in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between us and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between us and the other persons listed in Schedule 6 to the Act.

Statement of Principles

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

ENFORCEMENT

1.47 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

1.48 This Licensing Authority's principles are that:

(i) It will be guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be:

- Proportionate: we will only intervene when necessary, remedies will be appropriate to the risk posed, and costs identified and minimised
- Accountable, with decisions being justifiable, and be subject to public scrutiny
- Consistent: rules and standards will be joined up and implemented fairly
- Transparent and Open: Licence conditions will be kept simple and user friendly
- Targeted: regulation will be focused on the problem, and minimise side effects.

(ii) The Council will avoid duplication with other regulatory regimes so far as possible.

(iii) This licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

(iv) We note the Gambling Commission's guidance that: in order to ensure compliance with the law, this Licensing Authority must prepare a Risk -based Inspection Programme and that we carry out regular 'routine' day time programmed inspections, based on risk assessment in the categories High, Medium High, Medium and Low; and that we also carry out 'non routine' evening programmed inspections. Where one-off events are taking place under a Temporary Use Notice or Occasional Use Notice, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted.

(v) High-risk premises are those premises that require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.

- 1.49 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which is authorises.
150. The Gambling Commission will be the enforcement body for the Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission. This authority also understands from LACORS that the Gambling Commission will be responsible for compliance as regards unlicensed premises.
- 1.51 In considering enforcement action, the Licensing Authority will bear in mind the Human Rights Act 1998, in particular:
- i) Article 1, of the First Protocol: that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
 - ii) Article 6: that in the determination of civil rights and obligations everyone is entitled to a fair hearing within a reasonable time by an independent and impartial tribunal established by law.
 - iii) Article 8: that everyone has the right to respect for his or her home and private family life
 - iv) Article 10: that everyone has the right to freedom of expression within the law.
- 1.52 Any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.

PART 2 PROMOTING THE LICENSING OBJECTIVES

2.1 In exercising its functions under the Gambling Act 2005, London Borough of Hillingdon Council will have regard to the three statutory licensing objectives, which are:

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

2.2 In promoting these objectives, the Council has considered the Gambling Commission's Guidance to Local Authorities and makes the following observations as to the principles it intends to apply when considering the three objectives:

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

2.3 The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

2.4 Anyone applying to the Council for a Premises Licence will have to hold an Operating Licence from the Gambling Commission before a licence can be issued. Therefore, the Council will not generally be concerned with the suitability of an applicant. However, if during the course of considering a Premises Licence application or at any other time, the Licensing Authority receives such information that causes it to question the suitability of the applicant, those concerns will be brought to the immediate attention of the Gambling Commission.

2.5 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the Council will, in consultation with the Police and other relevant Responsible Authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. In appropriate circumstances, the Licensing Authority may consider

appropriate conditions to be attached to the Licence, such as Door Supervisors.

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

ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY

- 2.9 All gambling should be fair in the way it is played with transparent rules such that players know what to expect. Examples may include easily understandable information being made available on the rules and probability of winning/losing, ensuring the rules are fair and that advertising is not misleading. Further recommendations would be to ensure that the results of competitions/events are made public; and that machines, equipment and software meet the required standards set by the Gambling Commission.
- 2.10 Generally, it is for the Gambling Commission to ensure this Licensing Objective is complied with through the Operating and Personal Licence regime covering the management of a gambling business and the suitability and actions of an individual.
- 2.11 However, with regard to Race Tracks, where Betting Track Operators do not need an Operators Licence from the Gambling Commission, the role of the Licensing Authority is more significant. The Licensing Authority, in

certain circumstances, may seek to impose conditions to ensure that the environment in which betting takes place is suitable. The Licensing Authority may wish to know the nature of the venue, have sight of a plan of the track which would include access to the tent where gambling is to take place, where the operators will conduct on course betting and whether or not there are any off course betting operators.

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

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

The term "vulnerable persons" has not been defined under the Act, but in seeking to protect vulnerable people the Council will consider that "vulnerable persons" include (but not limited to):

- (i) People who gamble more than they want to
- (ii) People who gamble beyond their means, and
- (iii) People who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs

2.17 Children (defined in the Act as under 16s) and young persons (16-17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over. In summary:

- i) Betting Shops cannot admit anyone under 18
- ii) Bingo Clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines
- iii) Adult Entertainment Centres cannot admit those under 18
- iv) Family Entertainment Centres and premises with an alcohol premises licence such as pubs) can admit under-18s, but they may not play category C machines which are restricted to those over 18
- v) Clubs with a Club Premises Certificate can admit under-18s, but they must have policies to ensure those under 18 do not play machines other than category D machines
- vi) Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

2.18 With this Licensing Objective in mind, the Licensing Authority will take particular care when considering applications for more than one licence for a building and those relating to a discrete part of a building used for other non-gambling purposes, such as shopping malls. Where relevant, applicants will be expected to take measures to ensure young persons, and children are not in close proximity to gambling. Such measures could include sighting machines at the back of a premises so as to ensure young children do not have sight of such machines, not advertising gambling so as to encourage children and ensuring there is no accidental access to observe or enter premises used for gambling.

- 2.19 The Licensing Authority recommends that measures are taken to ensure entrances and exits from parts of a building covered by one or more licences are separate and identifiable so that people do not drift into a gambling area in error. Such measures could include appropriate signage, physically separating Family Entertainment Centres and Adult Gaming Centres, and supervision of entrances.
- 2.20 The Licensing Authority will pay particular attention to applications where access to the licensed premises is through another premises and will consider whether or not children can gain access; the compatibility of the two establishments and its ability to comply with requirements of the Gambling Act. The Licensing Authority will also consider whether the co-location of the licensed premises with other facilities will create an arrangement that is likely to be prohibited under the Act.
- 2.21 The Licensing Authority will consider multiple licences carefully and applicants are recommended to configure these buildings carefully if they seek to develop multi purpose developments and in particular consider how they will protect children from being harmed by gambling as well as preventing children from being in close proximity to gambling. Applicants are also requested to consider entrances and exits from parts of the building covered by one or more licences. These exits and entrances should be separate and identifiable to ensure children do not 'drift' into a gambling area.
- 2.22 The Licensing Authority recommends that all staff is suitably trained and aware of the Gambling laws, social responsibility and statutory requirements related to age restrictions on gaming machines. Appropriate measures should be taken to prevent under age use of such machines, including clear and appropriate signage, an approved Proof of Age scheme, a requirement for staff to be vigilant and aware at all times and ensuring the Adult Gaming area is not visible from the street.
- 2.23 The Council will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people it will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.
- 2.24 When determining the location of proposed gambling facilities, this Licensing Authority in appropriate circumstances, will consider very carefully the following factors when considering applications for Premises Licences, permits and other permissions:
- i) Proximity of premises to local schools

- ii) Proximity of premises to centres that pose a high risk to vulnerable and young persons
- iii) Proximity of premises to residential areas where there is a high concentration of children and young people
- iv) Proximity of premises to places of worship, particularly where Sunday Schools are in operation

PART 3 INTEGRATING STRATEGIES AND OTHER REGULATORY REGIMES

INTEGRATING STRATEGIES

3.1 The Council considers that the Licensing Statement of Principles should provide clear indications of how we, as Licensing Authority, will secure the proper integration of this policy with local crime prevention, planning, transport, tourism, equalities and diversity schemes together with other council plans introduced for the management of town centres and the night-time leisure economy. Many of these strategies are not directly related to the promotion of the three licensing objectives, but indirectly impact upon them. Coordination and integration of such policies, strategies and initiatives, so far as is possible and consistent with the licensing objectives, is therefore important to us. We will liaise with the relevant authorities or its directorates with regard to this and in doing so adopt a multi-disciplinary approach to ensure proper integration of local and national strategies to promote the licensing objectives, including making arrangements for the Council's Licensing Committee to receive reports from time to time on the:

- i) Needs of the local tourist economy;
- ii) Cultural strategy for the area;
- iii) Employment situation in the area and the need for new investment and employment where appropriate;
- iv) Local Crime Prevention Strategies
- v) Race Equality Schemes
- vi) Enforcement Policy

3.2 Reports to the Licensing Committee from other relevant departments should enable the various agencies or departments with their own strategies, aims and objectives to keep the Licensing Committee aware of the wider picture in pursuance of the licensing objectives. It is our intention that we will, through the Council's Licensing Committee, monitor how the matters above set out impact on the licensing of gambling activities and facilities and other functions in order to achieve seamless integration of our licensing function with other relevant strategies and initiatives.

3.3 In order to avoid duplication with other statutory regimes, the Licensing Authority will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

3.4 Similarly, where other legislation confers powers on inspection and enforcement agencies in relation to separate activities and concerns relating to licensed premises, this policy does not affect the continued use of such powers by the relevant agency.

3.3 The following sub-sections outlines some of the Councils related strategies and how the Council intends to seek to meet the aim of integrating its licensing functions with them as far as possible:

Community Strategy 2005-2015

3.4 The Community Strategy for Hillingdon, entitled "*Working together for a better future*", describes the sort of place we would like Hillingdon to be in the future based on how local residents, community groups and businesses have told us Hillingdon should develop over the ten years of the Strategy's life. It is a collaborative piece of work developed by a group of leading figures in the council, police and health services; business and educational institutions and community groups. The partnership is called "*Hillingdon Partners*".

3.5 Of these partners, our borough's Police Service, in particular, have a statutory and key role to play in assisting the Council to deliver its licensing service and the licensing objectives under the Act, and so we are committed to develop this relationship specific to this service area. We are already building on local policing initiatives to develop stronger neighbourhoods, where the police and their partners can share information with local businesses and the rest of Hillingdon.

3.6 Our Community Strategy identifies a series of short, medium and long-term targets and goals for our community. Namely, we want to make Hillingdon:

- A borough of learning and culture
- A safe borough
- A clean and attractive borough
- A borough with improving health, housing and social care
- A prosperous borough
- A borough where opportunities are open to all; and
- A borough where children and young people are healthy, safe and supported

3.7 We, as Licensing Authority, share and support the hopes, concerns and desires of the local peoples as expressed in the strategy. The Licensing Authority also shares and supports the aim of Hillingdon becoming a diverse, attractive and successful borough. This includes, amongst other things, a place where our children and young people will be well educated

~~and better equipped to prosper in their adult lives; and where enterprise is encouraged, businesses supported and new jobs created for local people. Insofar as is consistent with the promotion of the licensing objectives, we will seek to exercise our powers so as to achieve these aims.~~

~~Community Safety Strategy 2005 – 2008~~

~~3.8 Again, this strategy is the result of collaborative work of the Hillingdon Community Safety Partnership, which was formed following the introduction of the Crime and Disorder Act 1998. In brief, this strategy outlines 6 key priorities for successful crime and disorder reduction in Hillingdon:~~

- ~~• Feeling safer~~
- ~~• Anti-social behaviour~~
- ~~• Hate crime~~
- ~~• Motor vehicle crime~~
- ~~• Residential burglary; and~~
- ~~• Violent crime~~

~~3.9 The strategy also recognises that business crime, amongst others that did not emerge as a priority for the borough, could have a major impact on crime and disorder and anti-social behaviour in Hillingdon. This may include gambling-related crime. The strategy recognises that the cost of business crime can be considerable and that improved dialogue with businesses will enable resources and projects to be better targeted to specific business needs and problem areas. Hillingdon Community Partnership encourages the development of a Business Crime Reduction Partnership, which the Licensing Authority fully supports.~~

~~3.10 Similarly, with one of the licensing objectives being "preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime" this policy clearly supports the priorities of the Community Safety Strategy. We also endorse the partnerships pledge not to treat the identified target areas as set in stone, since circumstances can change as new crimes or community concerns emerge. It is our view that responsible licence holders can significantly contribute towards these aims directly and indirectly through the proper management of their premises and by supporting the police in their efforts to detect crimes and their perpetrators.~~

~~3.11 In the same connection, local authorities must fulfil obligations under Section 17 of the Crime and Disorder Act 1998 which places a duty on them to do all they can to reasonably prevent crime and disorder in their area when carrying out their various functions. This obligation applies~~

~~equally when carrying out our licensing functions under the Gambling Act. The purpose behind the Section 17 obligation is that the level of crime and its impact is influenced by decisions and activities taken in the day to day business of local bodies and organisations like us. It is aimed at giving the vital work of crime and disorder reduction focus across the wide range of local services and putting it at the heart of decision-making.~~

~~Children And Young People's Plan 2006-2009~~

~~3.12 Hillingdon's Children and Young People's Partnership Board (CYPSPB) have developed a plan for creating a better life for Hillingdon's children and young people, with the aim of being a borough where children and young people are healthy, safe and supported, valued, properly educated and given the opportunity to thrive. It is a comprehensive strategic document, which sets out the Council's vision for children and young people and a strategy for achieving it. It also complements other developments currently underway, all aimed at improving the outcomes for children and young people of Hillingdon so that they can fulfil their full potential in the community and society at large.~~

~~3.13 Although the strategy recognises the importance of leisure and recreation, it also clearly underlines the need to prevent harm and provide support for our children and young people. This policy clearly supports this priority and it is in the Licensing Authority's view an important one that we take very seriously. Not least, the third objective under the Gambling Act is "protecting children and other vulnerable persons from being harmed or exploited by gambling". We are aware that the Gambling Commission has stated that: "the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling". In this context we expect licence holders to work with the local community and the police to decrease the risk of harm to children and young people that may be caused by the activities taking place in their premises. This includes protecting them from falling victim to gambling-related crime or being tempted into criminal activity. We will in turn consider whether or not specific measures are necessary to protect children and young people at particular premises.~~

~~Planning And Building Control Policies~~

~~3.14 When determining an application, the Hillingdon Licensing Authority cannot take into account the likelihood of the applicant obtaining planning permission, listed building consent or building regulations approval. This policy seeks to stress that the planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency.~~

~~3.15 Licence applicants need to know that if a premises licence is granted in the absence of planning permission, this does not make consent from the Planning Authority a formality. Equally, having obtained planning permission beforehand does not guarantee a successful licence application. Consequently, licensing applications should not be seen as a re-run of previous planning applications and should not cut across decisions taken by other committees of the Council or following appeals against decisions taken by those committees.~~

~~3.16 To ensure proper integration with the Council's planning policies, the Licensing Committee will provide reports to the Planning Committee, where appropriate, on the situation regarding premises licensed for gambling in the area, including the general impact of gambling-related crime and disorder to enable the Planning Committee to have regard to such matters when making its decisions and avoid unnecessary overlap.~~

~~AVOIDING DUPLICATION WITH OTHER REGULATORY REGIMES~~

~~3.17 In addition to planning and building control, the Council enforces many other statutory requirements that relate to licensed premises. These include health and safety, food safety, control of nuisances and anti-social behaviour etc, each enshrined in separate pieces of legislation. When exercising its licensing functions the licensing authority will, so far as is possible, seek to avoid duplication of other regulatory regimes.~~

~~3.18 The non-duplication principle should also be taken to mean that, as far as possible, the Council will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.~~

PART 4

PREMISES LICENCES

GENERAL PRINCIPLES

- 4.1 Premises Licences authorise the provision of gambling facilities on the following:
- i) Casino Premises
 - ii) Bingo Premises
 - iii) Betting Premises, including race tracks used by betting intermediaries
 - iv) Adult Gaming Centres
 - v) Family Entertainment Centres
- 4.2 Except in the case of Tracks (where the occupier may not be the person offering gambling), Premises Licences will only be issued to people with the relevant Operating Licences.
- 4.3 Premises Licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State.
- 4.4 We as the Licensing Authority will be able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.
- 4.5 Under the Act the Hillingdon Council has no discretion to grant Premises Licences in circumstances where that would mean departing from the Gambling Commission Guidance and Codes of Practice and this Licensing Authority's own Statement of Licensing Principles. Therefore, our primary focus shall be to aim to permit the use of premises for gambling in so far as we think it:
- i) In accordance with any relevant Code of Practice issued by the Gambling Commission
 - ii) In accordance with any relevant Guidance issued by the Gambling Commission
 - iii) Reasonably consistent with the Licensing Objectives and
 - iv) In accordance with this Statement of Licensing Principles
- 4.6 The Council appreciates that gambling can be an emotive subject but acknowledges and endorses the Gambling Commission Guidance that

“moral objections to gambling are not a valid reason to reject applications for premises licences “ (except as regards any “no casino resolution”) and also that unmet demand is not a criterion for a Licensing Authority.

- 4.7 We recognise that the responsibility for an individual's gambling is his or her own and that the responsibility to exercise a duty of care lies with the site operator. However, the Licensing Authority recommend applicants for Adult Gaming and Family Entertainment Centres to consider adopting BACTA's *Code of Social Responsibility and Good Practice* and where gaming machines are concerned, applicants are recommended to adopt BACTA's *Code of Practice for AWP's* in Family Entertainment Centres and Adult Gaming Centres.
- 4.8 Where there are age restrictions on entry to certain premises, the Licensing Authority recommends applicants consider and adopt BACTA's and GamCare's joint training initiative on a *Site Age-of-Entry Control Policy*.
- 4.9 We also recognise that most customers are able to enjoy and control their gambling, however, where there are those who are unable to control gambling, the Licensing Authority recommends that applicants adopt BACTA's and GamCare's *Site Self-Exclusion Policy* for those particular clients to request their exclusion for a fixed period.

Definition of Premises

- 4.10 Premises are defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premise at different times. It is however possible for a single building to be subject to more than one premises licence, providing that each licence is for a different part of the building and such different parts can reasonably be regarded as different premises.
- 4.11 The Council will judge each case on its individual merits to decide as a matter of fact, whether different parts of a building can be properly regarded as being separate premises.
- 4.12 We note that the Gambling Commission, in their guidance, do not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises. We support this view.
- 4.13 This licensing authority takes particular note of the Gambling Commission's Guidance for Local Authorities, which states that:
- i) Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a

discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

- ii) Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and the ability to comply with the requirements of the Act. But in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

Provisional Statement

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

Location

- 4.16 The Gambling Commission Guidance stipulates that demand issues cannot be considered in relation to the location of premises but that considerations made in terms of the licensing objectives can.
- 4.17 In accordance with the Gambling Commission's Guidance for Local Authorities, this Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 4.18 This authority has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such policy be decided upon, this policy statement will be updated accordingly. It

should be noted that any such future policy will not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how any potential concerns can be overcome.

Duplication with other regulatory regimes

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

Conditions

- 4.22 Any conditions attached to licences will be proportionate and will be:
- i) Relevant to the need to make the proposed building suitable as a gambling facility
 - ii) Directly related to the premises and the type of licence applied for;
 - iii) Fairly and reasonably related to the scale and type of premises:
and
 - iv) Reasonable in all other respects.
- 4.23 Decisions upon individual conditions will be made on a case-by-case basis, although there will be a number of control measures this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult-only areas etc. There are specific comments made in this regard under each of the licence types below.

- 4.24 This policy acknowledges that there are conditions that the licensing authority cannot attach to premises licences:
- i) Any condition on the premises licence which makes it impossible to comply with an operating licence condition
 - ii) Conditions relating to gaming machine categories, numbers, or method of operation
 - iii) Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
 - iv) Conditions in relation to stakes, fees, winning or prizes.

Door Supervisors

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

CASINO PREMISES

- 4.28 This Licensing Authority has not passed a '*no casino*' resolution, under Section 166 of the Gambling Act 2005, to prohibit casinos in the Borough at present, but is aware that it has the power to do so. The Council reserves its right to review this situation and may at some time in the future resolve not to permit casinos.
- 4.29 Should the Council choose to make such a resolution, this will be a resolution of full Council following considered debate and the reasons for making the resolution will be given.

BINGO PREMISES

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

- ii) Only adults are admitted to the area where these machines are located
 - iii) Access to the area where the machines are located is supervised
 - iv) The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder and
 - v) At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 4.36 With regard to segregation of Category B and C machines from Category D machines, there is a requirement that there must be clear segregation between these types of machine so that children do not have access to Category B or C machines and the Licensing Authority will take into account any guidance issued by the Gambling Commission in the light of any regulations made by the Secretary of State.

Members' Clubs and Commercial Clubs

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

BETTING PREMISES

- 4.40 The Licensing Authority is responsible for issuing and monitoring Premises Licences for all betting premises. Anyone wishing to operate a betting office will require a Betting Premises Licence from the Council.
- 4.41 Children and young persons will not be able to enter premises with a betting premises licence.
- 4.42 Betting premises will be able to provide a limited number of gaming machines and some betting machines.

- 4.43 The Council has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things: the size of the premises, the level of management, supervision and ability of staff to monitor the use of machines especially where children and young or vulnerable people are concerned; and the number of counter positions available for person-to-person transactions.

TRACKS

- 4.44 Only one Premises Licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.
- 4.45 Track operators are not required to hold an 'Operators Licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.
- 4.46 Although there will primarily be a betting premises licence for the track, there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 4.47 Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. When considering whether to exercise its power to restrict the number of betting machines at a track the Council will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.
- 4.48 This Licensing Authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the Guidance from the Gambling Commission which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises

licence holders at the track which will need to hold their own operator licences.

- 4.49 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 4.50 Measures such as the use of self-barring schemes, provision of information leaflets and helpline numbers for organisations such as GamCare will be considered suitable in relation to the protection of children and vulnerable people.
- 4.51 Where appropriate, in order for the Licensing Authority to gain a proper understanding of what it is being asked to licence, applicants will be asked to:
- i) Provide a detailed plan of the grounds indicating where the betting is to take place and the location of the race track;
 - ii) In the case of dog tracks and horse racecourses, indicate the location of any fixed and mobile pool betting facilities operated by the Tote or track operator as well as any other proposed gambling facilities;
 - iii) Evidence measures taken to ensure the third Licensing Objective will be complied with;
 - iv) Indicate what arrangements are being proposed for the administration of the betting; the Gambling Commission and Licensing Authority recommend that betting takes place in areas reserved for, and identified as being for, that purpose.
 - v) Define the areas of the track that will be used by on course operators visiting the track on race days.
 - vi) Define any temporary structures erected on the track for providing facilities for betting.
 - vii) Define the location of any gaming machines (if any).
- 4.52 Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

Betting Machines at Tracks

- 4.53 In addition to the comments above at betting machines in betting premises, similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. The licensing authority may consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.
- 4.54 This licensing authority notes the Commission's view, that it would be preferable for all self-contained premises operated by off-course betting operators on tracks to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

Condition on rules being displayed

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

ADULT GAMING CENTRES

- 4.56 As no one under the age of 18 is permitted to enter an Adult Gaming Centre, this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Applicants are recommended to consider this Licensing Objective very carefully when applying for an Adult Gaming Centre.
- 4.57 As regards the protection of vulnerable persons, this Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare.
- 4.58 Where the Adult Gaming Centre is situated in a complex such as an airport, shopping area or motorway services station, the Licensing

Authority will pay particular attention to the location of entry so as to minimise opportunities for children gaining access.

FAMILY ENTERTAINMENT CENTRES (FECs)

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

(Licensed) Family Entertainment Centres

4.60 Children and young persons may enter FECs but are not permitted to play Category C machines. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to ensure that there will be sufficient measures to prevent under 18 year olds having access to the adult only gaming machine areas.

4.61 With regard to vulnerable persons, the Licensing Authority will consider measures such as the use of self barring schemes, provision of information leaflets / help line numbers for organizations such as GamCare as appropriate measures.

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

4.63 Applicants are recommended to visit the Gambling Commission's web site in order to familiarise themselves with the conditions applicable to these premises.

Statement of Principles

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

- i) A plan of the premises showing clear segregation of Category C and D machines.
- ii) Clear Notices excluding 18 year olds from the designated areas where Category C machines are located;
- iii) Age Restriction Policy;
- iv) Evidence of ongoing staff training in administering all aspects of age restriction policy;

- v) Solid physical barriers separating adult gaming area from the main floor, i.e. the barriers to be a min. of 1 metre in height from the floor;
- vi) Completion of a training programme in social awareness in respect of gambling
- vii) Evidence of compliance with BACTA's Code of Practice

TRAVELLING FAIRS

- 4.65 Travelling fairs do not require any permit to provide gaming machines but must comply with the legal requirements on the way the machine operates. They may provide an unlimited number of Category D gaming machines and it will fall to the licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 4.66 The Licensing Authority will consider whether or not a travelling fair falls within the statutory definition of a travelling fair and recognises that the 27 day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will work with the neighbouring authorities to ensure that land that crosses joint boundaries is monitored so that the statutory limits are not exceeded.

REVIEW OF PREMISES LICENCES

- 4.67 A Premises Licence may be reviewed by the Licensing Authority itself following an application or on its own volition. An Interested Party or Responsible Authority may also request that a premises licence be reviewed.
- 4.68 However, it is for the Licensing Authority to decide whether or not the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause the Authority to wish to alter/revoke/suspend the licence or whether it is substantially the same as previous requests for review.
- 4.69 The review will be:

- i) In accordance with any relevant Code of Practice issued by the Gambling Commission
 - ii) In accordance with any relevant Guidance issued by the Gambling Commission
 - iii) Reasonably consistent with the Licensing Objectives and
 - iv) In accordance with the Licensing Policy Statement.
- 4.70 Licensing Authority officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution before a full review is conducted.
- 4.71 The Licensing Authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate. This can extend to a review of a class of licences where it considers particular issues have arisen.

PART 5 GAMING PERMITS

INTRODUCTION TO PERMITS

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

GAMING MACHINES

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

CATEGORIES OF GAMING MACHINES

CATEGORY	MAXIMUM STAKE	MAXIMUM PRIZE
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100 (in multiples of £10)	£500
B3	£1	£500
B3A	£1	£500
B4	£1	£250
C	£1	£70
D*	-	-
D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize	10p	£5
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	10p	£15 (of which no more than £8 may be a money prize)

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

- 5.8 The Gambling Act also prescribes the maximum number and category of gaming machines that are permitted in each type of gambling premises. This includes premises with permit entitlements, as well as licensed premises (see table on page 44 below):

NUMBER OF GAMING MACHINES BY PREMISES TYPE

TYPE	GAMING TABLES (MINIMUM)	GAMING MACHINES
REGIONAL CASINO	40	25 GAMING MACHINES CATEGORY A TO D FOR EACH TABLE AVAILABLE FOR USE MAXIMUM OF 1,250 MACHINES
LARGE CASINO	1	5 GAMING MACHINES CATEGORY B TO D FOR EACH TABLE AVAILABLE FOR USE MAXIMUM OF 150 MACHINES
SMALL CASINO	1	2 GAMING MACHINES CATEGORY B TO D FOR EACH TABLE AVAILABLE FOR USE MAXIMUM 80 MACHINES
BINGO PREMISES	N/A	4 GAMING MACHINES CATEGORY B3 AND B4 UNLIMITED MACHINES CATEGORY C UNLIMITED CATEGORY D MACHINES
BETTING PREMISES	N/A	4 GAMING MACHINES CATEGORY B2 TO D
TRACK BETTING PREMISES WHERE POOL BETTING LICENCE HELD	N/A	4 GAMING MACHINES CATEGORY B2 TO D
ADULT GAMING CENTRE	N/A	4 GAMING MACHINES CATEGORY B3 TO D UNLIMITED CATEGORY C UNLIMITED CATEGORY D
FAMILY ENTERTAINMENT CENTRE WITH OPERATING LICENCE	N/A	UNLIMITED GAMING MACHINES CATEGORY C TO D
FAMILY ENTERTAINMENT CENTRE WITH GAMING PERMIT	N/A	UNLIMITED GAMING MACHINES CATEGORY D
MEMBERS CLUB PREMISES	N/A	3 GAMING MACHINES CATEGORY B4 TO D
ON SALES ALCOHOL LICENSED PREMISES WITHOUT FOOD RESTRICTION	N/A	2 GAMING MACHINES CATEGORY C TO D BY NOTIFICATION UNLIMITED CATEGORY C TO D WITH ALCOHOL PREMISES GAMING PERMIT

(UNLICENSED) FEC GAMING MACHINE PERMITS

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

Statement of Principles

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

from the criteria relating to criminal convictions) the applicant has met the above.

5.15 As these premises are open to children and young persons, the Licensing Authority will require additional information when an applicant applies for this Permit, as follows:

- (i) A plan of the premises to a scale of 1:100, showing the exits/entrances to the premises, location of gaming machines, and the location of safety equipment such as fire extinguishers and indicating the location of appropriate clear and prominent notices and barriers, such Notices to state:
 - (a) That no unaccompanied child will be permitted to remain on the premises if that person is required by law to attend school;
 - (b) Highlighting the need to play responsibly;
 - (c) The number and location of Category D machines;
- (ii) Evidence of staff training by way of a Premises Log Book, covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises;
- (iii) The amount of space around gaming machines to prevent jostling of players or intimidation.
- (iv) Location and supervision of Automated Teller Machines
- (v) Proof of Age scheme
- (vi) Evidence that the applicant has complied with Health and Safety and Fire Safety legislation.
- (vii) Details of opening hours.
- (viii) Details of external appearance of premises
- (ix) Numbers of staff employed
- (x) Insurance documents and any other such information the Licensing Authority will from time to time require.
- (xi) Any other policies or procedures in place to protect children from harm.

5.16 The above statement of principles will apply in relation to initial applications only and not to renewals.

5.17 With regard to renewals, the Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

5.18 Where an applicant fails to comply with the above requirements, the Licensing Authority may refuse the application. Where there is such a refusal, the Licensing Authority will notify the applicant of its intention to refuse and the reasons for the refusal. The applicant will then have an

opportunity to make representations orally, in writing or both and will have a right of appeal against any decision made.

- 5.19 Where the Permit has been granted the Licensing Authority will issue the permit as soon as is reasonably practicable and in any event in line with the Regulations issued by the Secretary of State. The permit will then remain in effect for 10 years unless surrendered or lapsed.
- 5.20 As these premises particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues and will also consider an applicant's suitability for FEC permits and factors taken into account will include the Applicant's criminal record and previous history and experience of running similar premises, if any.

CLUB GAMING AND CLUB MACHINES PERMITS

5.21 Members Clubs and Miners' Welfare Institutes (not Commercial Clubs) may apply for a Club Gaming Permit or Club Gaming Machine Permit.

5.22 Club Gaming Permit

Club gaming permits allow the premises to provide:

- i) Up to three machines of categories B, C or D
- ii) Equal chance gaming; and
- iii) Games of chance as set out in regulations.

5.23 Club Gaming Machine Permit

A club gaming machine permit will enable the premises to provide up to three machines of categories B, C or D.

5.24 Before granting a permit, the Licensing Authority will wish to be satisfied that applicants for these permits meet the statutory criteria for members' clubs contained in sections 266 and 267 of the Gambling Act and may grant the permit provided the majority of members are over 18.

5.25 The Licensing Authority recognises that there is a 'fast track' procedure for premises holding a Club Premises Certificate under the Licensing Act 2003 and that there is no opportunity for objections to be made by the Commission or the Police and the grounds upon which the Licensing Authority can refuse a permit are reduced.

ALCOHOL LICENSED PREMISES GAMING MACHINE PERMITS

5.26 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of categories C and/or D. The premises licence holders merely need to notify the Licensing Authority that they intend to exercise their automatic entitlement to gaming machines in their premises.

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

Statement of Principles

- 5.30 This Licensing Authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not have access to the adult-only gaming machines. ~~The Licensing authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.~~
- 5.31 Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- ~~5.32 A plan must accompany applications indicating where, and what type, of gambling machines are to be provided. This plan may take the form of an amendment to the plan attached to the premises licence issued under the Licensing Act 2003.~~

- 5.32 The Licensing Authority will usually expect holders of gaming machine permits to ensure that the gaming machines are sited in accordance with any relevant code of practice issued by the Gambling Commission and to ensure that they can be adequately supervised whilst in use.
- 5.33 It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an adult entertainment centre premises licence.
- 5.34 It should be noted that the Licensing Authority is empowered to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 5.35 It should also be noted that the holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.
- 5.36 Notifications and applications for two or three machines will be determined by Licensing Officers. Those for four to five machines will be determined by Licensing Officers' in consultation with the Chairman of the Licensing (Licensing Act 2003) Committee. Applications for more than five machines will be referred to a Licensing sub-Committee for determination.

PRIZE GAMING PERMITS

- 5.37 The licensing authority may prepare a statement of principles which they propose to apply in exercising their functions which may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit.
- 5.38 Prize gaming may be provided in bingo premises as a consequence of their bingo operating licence. Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs providing none of the gambling facilities at the fair amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.
- 5.39 In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

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

Statement of Principles

- 5.43 This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not have access to unequal chances prize gaming. ~~The authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.~~
- 5.44 A plan must accompany applications indicating where, and what type, of prize gaming is to be provided.
- 5.45 The grounds for decision making as regards renewals are the same as for initial applications.
- 5.46 Where the Licensing Authority intends to refuse the application for a permit, it will notify the applicant of its intention to refuse it stating the reasons and offering the applicant an opportunity to make representations orally or in writing or both.

PART 6 TEMPORARY AND OCCASIONAL USE NOTICES

TEMPORARY USE NOTICES (TUN)

~~6.1 A Temporary Use Notice may only be granted to a person or company holding a relevant Operating Licence and there are a number of statutory limits as regards TUNs. Section 218 of the Act refers to a 'set of premises' and provides that a set of premises is the subject of a temporary use notice if 'any part' of the premises is the subject of a notice.~~

6.1 A Temporary Use Notice ("TUN") is a notice which authorises a person or an organisation to conduct gaming activities for a temporary period of time at a particular premises. However, a TUN may only be granted if the premises user is already in possession of a relevant Operating Licence. The London Borough of Hillingdon is bound by a number of statutory limits as regards TUNs. Section 218 of the Act refers to a 'set of premises' and provides that a set of premises is the subject of a temporary use notice if 'any part' of the premises is the subject of a TUN.

6.2 The reference to a 'set of premises' prevents one large premise from having a temporary use notice in effect for more than 21 days in a year by giving notification in relation to different parts of the premises and re-setting the clock.

6.3 The Licensing Authority will decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building / site.

6.4 In considering whether a place falls within the definition of a 'set of premises' the Licensing Authority will look at the ownership/occupation and control of the premises and the Licensing Authority will consider whether different units are in fact different 'sets of premises'. An example would be a large exhibition centre with different exhibition halls. This would be considered properly as one premise and would not be granted a temporary use notice for each of its exhibition halls.

6.5 A TUN must be lodged with the Licensing Authority not less than three (3) months and one (1) day before the day on which the gambling event will begin. The person who is giving the TUN must ensure that the notice and copies are with the Licensing Authority and named responsible authorities within seven (7) days of the date of the notice.

6.6 On receipt of a TUN the Licensing Authority will send a written acknowledgement as soon as is reasonably practicable and this may be by way of e-mail.

- 6.7 If no objections are made within 14 days of the date of the temporary use notice, the Licensing Authority will grant and return the notice with an endorsement of validity.
- 6.8 If objections are received within 14 days of the date of notice, a hearing will be held to consider the issue of a TUN. Those who raise objections may offer modifications to the notice that will resolve their objections. If all participants to a hearing agree that a hearing is unnecessary, the hearing may be dispensed with.
- 6.9 The Licensing Authority may object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises. The Licensing Authority and other bodies to which the notice is copied may give notice of objection but they must have regard to the Licensing Objectives and where there are such objections, they must give a notice of objection to the person who gave the TUN, such notice will be copied to the Licensing Authority.

OCCASIONAL USE NOTICES (OUN)

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

PART 7 REGISTRATION OF SMALL SOCIETY LOTTERIES

DEFINITION OF SMALL SOCIETY LOTTERY

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

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

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

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

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

THE LICENSING AND REGISTRATION SCHEME

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

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

lotteries, the Licensing Authority will have due regard to the Gambling Commission's Guidance.

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

opportunity to make representations. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.

- 7.12 Where a Society employs an external lottery manager, they will need to satisfy themselves that they hold an Operator's Licence issued by the Gambling Commission and the Licensing Authority will expect this to be verified by the Society.

PART 8 DECISION MAKING

THE LICENSING COMMITTEE

- 8.1 The Licensing Committee will consist of at least 10 Members. Licensing Sub-committees consisting of 3 Committee Members will hear any relevant representations from Responsible Authorities and interested parties. Any of these individuals or groups may specifically request a representative to make representations on the applicant's behalf. This could be a legal representative, a friend, an MP or a Ward Councillor.
- 8.2 Where a councillor who is a member of the licensing committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.
- 8.3 The Licensing Committee will not place themselves in situations where their honesty or integrity may be questioned, will make decisions on their merit and will reach their own conclusions on the issues laid before them and will act in accordance with those conclusions taking into account as necessary and proper, the views of others.
- ~~8.4 The decision determined by the Sub-Committee will be accompanied with clear, cogent reasons for that decision, having had due regard to the Human Rights Act 1998 and all other legislation. The decision and the reasons for that decision will be sent to the Applicant and those who have made relevant representations as soon as practicable.~~
- 8.4 Licensing Authorities must have regard to the licensing objectives when exercising their functions in relations to premises licences, temporary use notices and some permits.
- 8.5 The decision determined by the Sub-Committee will be accompanied with clear, cogent reasons for that decision, having had due regard to being reasonably consistent with the Licensing Objectives; the Human Rights Act 1998; any relevant code of practice under Section 24 of the Gambling Act 2005; any relevant guidance issued by the Commission under Section 25 of the Gambling Act 2005; and this Statement of Policy. The decision and the reasons for that decision will be sent to the Applicant and those who have made relevant representations as soon as practicable.

DELEGATION OF DECISION MAKING RESPONSIBILITIES

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

PART 9

APPENDIX A

SCHEDULE OF CONSULTEES TO DRAFT POLICY

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

Association of British Bookmakers
Association of Licensed Multiple Retailers
British Amusement Catering Association
British Beer and Pub Association
British Casino Association
British Holiday & Home Parks Association
British Greyhound Racing Board
British Institute of Innkeeping
Business in Sport and Leisure Ltd
Casino Operators Association, UK
Community Trade Union
Federation of Licensed Victuallers
Gamcare
Help the Aged
Hillingdon Chamber of Commerce
Leisure Link Group
Remote Gambling Association
Responsibility in Gambling Trust
Rugby Football Union
Society of Independent Brewers
The Bingo Association
The Football Association
The Lotteries Council x 2
The Racecourse Association
The Working Men's Club & Institute Union

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

All Elected (Ward) Councillors, London Borough of Hillingdon Council
All "Responsible Authorities" as defined under the Gambling Act (*see Appendix 3 for list and contact details*)
All six Directorates within London Borough of Hillingdon Council
Alcoholics Anonymous (AA)
Community Safety and Strategic Partnership; and /or
Crime and Disorder Reduction Partnership
Gamblers Anonymous
Government Organisations: (LGA, ODPM, LACORS)
Hillingdon Action Group for Addiction Management (HAGAM)
Hillingdon Association of Voluntary Services
Hillingdon's Children and Young People's Partnership Board (CYPSPB)
Hillingdon Community and Police Consultative Group
Hillingdon Drug and Alcohol Services
Hillingdon and Ealing Citizens Advice Bureau (HECA): Hayes, Ruislip & Uxbridge Bureaus
Hillingdon Law Centre
Hillingdon Mind
Hillingdon Primary Care Trust
Hillingdon Public Libraries (*for members of the public*)
Hillingdon Salvation Army
Hillingdon Samaritans
Hillingdon Youth Offending Service
Hillingdon Tenants and Residents Associations

Hillingdon Federation of
Community Associations & similar
bodies
Local Licensing Solicitors in
Hillingdon
Local Strategic Partnership
(*Hillingdon Partners*) – (*See
Council website for list of
members*)
Uxbridge Initiative
Uxbridge Magistrates Court

London Boroughs of: Brent, Ealing,
Hammersmith & Fulham, Harrow
and Hounslow
(*West London Alliance Members*)
And:
Slough Borough Council
Spelthorne Borough Council
Hertfordshire County Council
South Bucks District Council
Three Rivers District Council

NEIGHBOURING LONDON,
COUNTY AND DISTRICT
COUNCILS

CURRENT HOLDERS OF
LICENCES, PERMITS etc. IN
HILLINGDON:

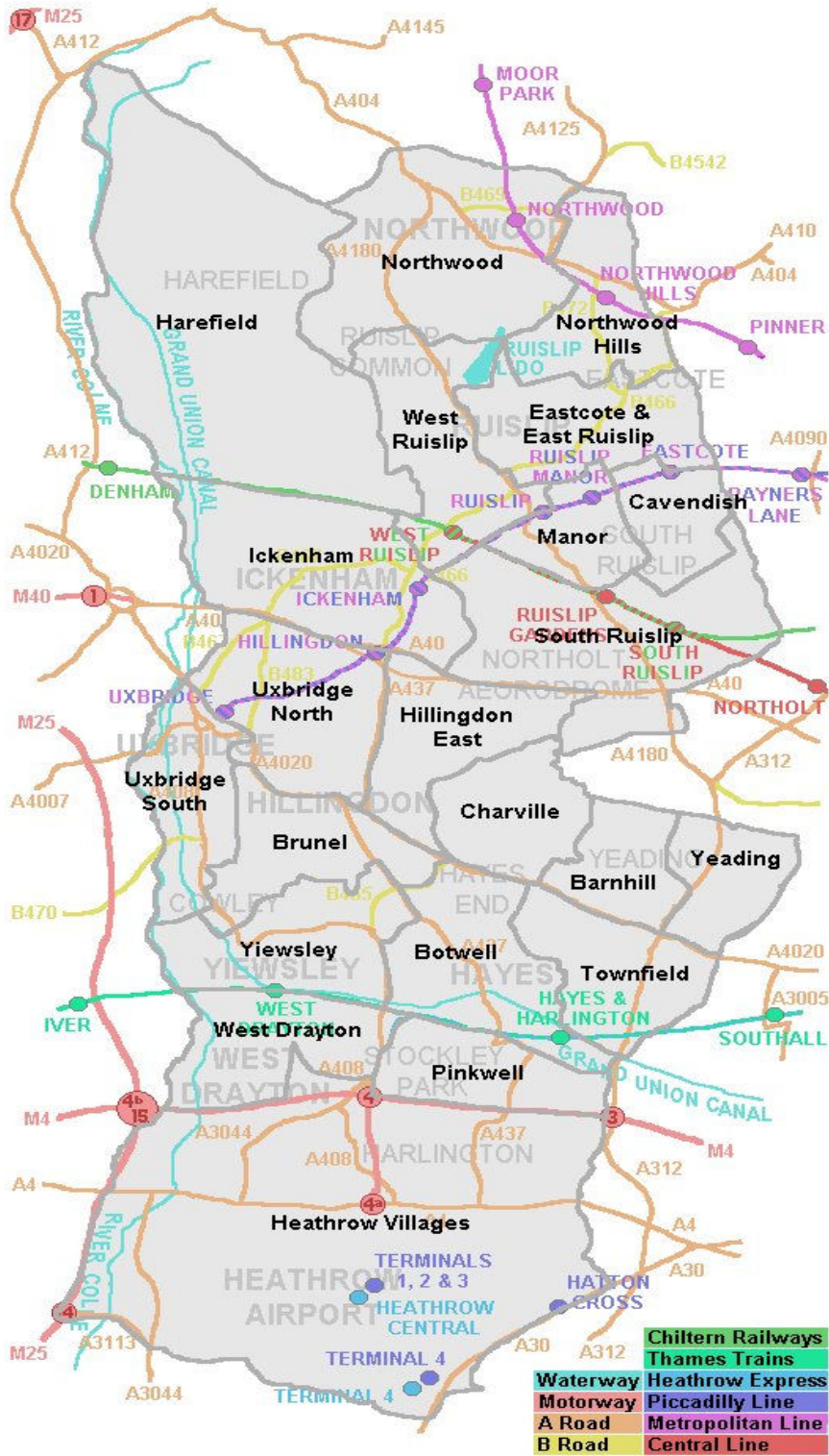
Persons holding Amusement
Arcade Permits
Persons holding bingo licences or
bingo certificates
Persons holding betting and
bookmakers permits
Representatives of Premises
Licence holders with section 34
gaming permits (including
Breweries that hold Premises

Licences for premises that sell
alcohol)
Gaming Machine suppliers who
regularly apply for Gaming Permits
in Hillingdon
Representatives of Qualifying
Clubs with Club Premises
Certificates
Persons/representatives who hold
Society Lottery Registrations in
Hillingdon

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

APPENDIX B

MAP OF HILLINGDON



APPENDIX C

SCHEDULE OF RESPONSIBLE AUTHORITIES

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

Hillingdon Licensing Authority
c/o The Licensing Service Manager
Dept of Environment & Consumer
Protection London Borough of
Hillingdon
Civic Centre, Uxbridge
UB8 1UW

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

Chief Officer of Police, London
Borough of Hillingdon
c/o Licensing Sergeant
Northwood Police Station
2 Murray Road
Northwood
HA6 2YW

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

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

Hillingdon Planning Authority
c/o The Development Control
Manager
Department of Planning &
Transportation
London Borough of Hillingdon

Civic Centre, Uxbridge
UB8 1UW

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

Local Safeguarding Children Board

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

HM Revenue & Customs
Greenock Accounting Centre
Custom House
Custom Quay, Greenock
PA15 1EQ

Authority for Vulnerable Adults
*(Yet to be decided by the Secretary
of State)*

Authorities for Vessels:
Navigation Authority
The Enforcement Agency
The British Waterways Board
The Secretary of State

APPENDIX D

SUMMARY OF DELEGATION OF POWERS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			X (to be approved by Executive Councillor)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X

Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

Agenda Item 6

TITLE: UNIVERSAL REPORT TEMPLATE - GUIDANCE

Committee	The Licensing Committee
Officer Contact	Beejal Soni -
Papers with report	Table of Delegations for Licensing Functions

HEADLINE INFORMATION

Purpose of report	<p>To advise Members of changes to the Licensing Act 2003 with regard to minor variations and the requirements for a Designated Premises Supervisor in Community Premises as a result of reforms promoted by the Department for Culture, Media and Sport (DCMS).</p> <p>To advise Members that a DPS at certain community premises can be replaced by a Management Committee.</p>
Contribution to our plans and strategies	Does this report contribute to delivering any plan or strategy of the council, if so state which here.
Financial Cost	No financial estimates currently available
Relevant Policy Overview Committee	Not Applicable
Ward(s) affected	All

RECOMMENDATION

The Licensing Committee is asked to consider this report and to:

- (a) delegate to the Head of Licensing Services the power to grant or refuse minor variations;
- (b) approve the amendment of Appendix A of the London Borough of Hillingdon Statement of Licensing Policy to reflect the above recommendation.
- (c) Note that a Designated Premises Supervisor at certain community premises can be replaced by a Management Committee.

INFORMATION

Reasons for recommendation

Failure to respond to legislative changes or set delegations at an appropriate level may result in unworkable or avoidable licensing processes, and have an efficiency impact on the Council.

Due to the strict fifteen working day deadline for determining minor variation applications made under Sections 41a or 86a of the Licensing Act 2003, failure to delegate responsibility to officers may make the system unworkable and result in unnecessary hearings, refunding of prescribed fees and increased risk of legal challenge.

Alternative options considered / risk management

No alternative decision is available

Supporting Information

Minor Variations – Current Position

Members will recall that Section 34 of the Licensing Act 2003 (“the Act”) provides that the holder of a premises licence may apply to the relevant licensing authority for variation of the licence. A variation is required for any change to any aspect of the licence, including any feature shown on the plan of the premises. Section 84 of the Act makes comparable provision in relation to club premises certificates.

In order to apply for a variation, the licence or certificate holder must complete a prescribed variation application form and send it, together with the prescribed fee, the original licence and the revised plan (if appropriate) to the licensing authority. They must also copy all documents to the seven ‘responsible authorities’ (the police, fire and rescue authority, etc), advertise the application in the local paper (or circular) and place a blue notice with details of the application at or on the relevant premises.

The licensing authority must grant the application after 28 days unless it receives ‘representations’ from interested parties (local residents and businesses in the vicinity of the premises) or from any of the responsible authorities. Representations must relate to one or more of the four licensing objectives.

If representations are received, the licensing authority must hold a hearing to consider them (unless all parties agree this is unnecessary) and take any steps it considers necessary for the promotion of the licensing objectives, including adding to or modifying the conditions of the licence or certificate or rejecting all or part of the application. If the application is refused, the applicant may appeal to the local magistrates’ court for the relevant petty sessions area.

Amended Minor Variation Process

The Act has been amended, via Legislative Reform Order Statutory Instrument 1772 / 2009, in order to allow for the provision of a new ‘minor’ variations process. The Government state that this “will provide a quicker, less bureaucratic and cheaper route for the approval of small, low risk changes to licences and club certificates” and will relate to approximately 30% of variation applications. The new process came into force on 29th July 2009.

Minor variations will generally fall into the following four categories:

- i) Minor changes to the structure or layout of a premises;
- ii) Small adjustments to licensing hours;
- iii) The removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and,
- iv) The addition of certain licensable activities.

However variations to:

- extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
- to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises

are excluded from the minor variations process and must be treated as full variations in all cases. Applications to reduce licensing hours for the sale of alcohol or to move (without increasing) the licensed hours between 07.00 and 23.00 will be normally classed as minor variations.

In all cases the overall test for a licensing authority will be whether or not the proposed variation would impact adversely on any of the four licensing objectives.

Under the minor variation process, licence and club certificate holders will still be required to apply to a licensing authority for the variation, but the process will differ from the full variation process currently in place, in the following respects:

- The applicant will not be required to advertise the minor variation in a newspaper, or circular, however it must be displayed on a white notice (to distinguish it from the blue notice used for full variations and grant applications) for a period of 10 working days at or on the relevant premises.
- They will not be required to copy the application to responsible authorities.
- Interested parties will have a period of 10 working days to make relevant representations to the licensing authority (as opposed to 28 calendar days for a full variation or grant application).
- Licensing authorities will be required to consider any relevant representations received from interested parties within the time limit referred to above. However there is no provision to hold a hearing (as for a full variation or grant application), but licensing authorities must take any representations into account in arriving at a decision.
- With respect to responsible authorities, licensing authorities will be required to copy the application to those they consider appropriate in each case. This obligation will apply only if the authority is in any doubt about the impact of the variation on the licensing objectives. The authority will be required to take into account any views expressed by the authorities they consult. As with interested parties there will be no formal hearing to consider these views, but they will have a bearing on (and may even be decisive of) the authority's view as to whether the changes proposed in the application amount to a "minor variation" of the licence or certificate.
- As interested parties have 10 working days to make representations, the authority must therefore wait until this period has elapsed before determining the application.
- However the authority must inform the applicant of its decision to grant or reject the variation within, at the latest, 15 working days or the application is treated as refused and the fee must be returned to the applicant.
- There will be no right of appeal. If the application is refused, the applicant may resubmit a revised application through the minor variations procedure or submit a full variation application.
- Where the applicant agrees, the licensing authority may treat an application and/or the accompanying fee as a fresh application and/or a fresh fee submitted to accompany it. In such cases the 15 working day period for determining the application will recommence (the Government state that this element of the policy was included to ensure that there will be scope for flexibility in the way the applicant and licensing authorities deal with the consequences of the authority's failure to comply with the 15 working day deadline). The applicant's agreement will be required for any deemed resubmission of the application or the fee.

- Applicants will pay a flat rate fee to the licensing authority of £89 per application (rather than the current banding of between £100 and £635).

The Government have amended the Guidance, issued under Section 182 of the Act, to include these new processes. For Members' information, new guidance on these matters as issued by the DCMS will be provided separately.

Community Premises

At present a premises licence that authorises the supply of alcohol includes the mandatory condition that require a designated premises supervisor to be specified and, and that every sale of alcohol at such premises is to be authorised by a personal licence holder.

The modifications that are proposed would permit a management committee of a community premises to include in its application for a premises licence authorising the sale of alcohol an application for an alternative licence conditions to apply instead of the normal mandatory condition. Community Premises are defined as any church or chapel hall (or similar building), any village, parish or community hall (or similar building).

The alternative licence condition is the condition that every supply of alcohol under the premises licence must be made or authorised by the management committee.

Representations may be made by the Police if they believe the inclusion of the alternative condition instead of the mandatory condition would undermine the crime prevention objective.

If no representations are made, and the authority is satisfied that the arrangements for the management of the premises are sufficient to ensure adequate supervision of the supply of alcohol, then the alternative licence condition is to be included.

When asked to consider a Review of a Premises Licence for Community Premises with the alternative licence condition, the licensing authority may determine that the normal mandatory licence condition should apply instead of the alternative condition if it is necessary for the promotion of the licensing objectives.

Premises that currently hold a licence which includes the mandatory conditions may make an application for variation to include the alternative licence conditions instead. This has to be a full variation application and cannot be done via the new minor variation process.

Financial Implications

The changes involved in implementing and exercising the new procedure will be contained within existing budgets.

The fee for the application for minor variations, which has been set by Government at £89.00 on the basis of cost recovery, will be allocated accordingly within existing budgets for the processing of licensing applications. It is not possible to estimate how many applications will be received and thus what income will be received.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

The new process will reduce the administrative and oversight burden on church and village halls. It will also create a quicker and cheaper process for any applicant wishing to apply for minor variations.

Consultation Carried Out or Required

DCMS carried out a consultation in 2007 and 2008 on amending the Licensing Act 2003 to provide for a new 'minor variations' process and relaxing the supervision of alcohol sales in Community Premises. The changes fit around the Government's drive for 'Better Regulation' in terms of simplifying regulatory oversight of business activities in line with the general thrust of the 'Hampton Review' recommendation of reducing the administrative burden of regulation.

CORPORATE IMPLICATIONS

Legal

All applications have to be processed in accordance with the requirements of the legislation. The Licensing Act is prescriptive in terms of the procedure to be adopted in terms of applications for minor variations. The proposed delegation will ensure that licensing applications are dealt with in accordance with the legislation.

The Licensing Committee is authorised to delegate licensing functions to the Licensing Service where it considers that such delegations are necessary.

Corporate Property

Where reports include asset / property matters corporate property services MUST be consulted.

BACKGROUND PAPERS

- The Licensing Act 2003.
- Statutory Instrument 1772 / 2009 - "The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009".
- The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009

Appendix A

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	SUB-COMMITTEE	OFFICERS
Application for the grant or renewal of a personal licence	If a Police objection	If no objection made
Application for personal licence, with unspent convictions	If a Police objection	If no objection made
Application for premises licence/club premises certificate	If a representation made	If no representation made
Application for provisional statement	If a representation made	If no representation made
Application to vary premises licence/club premises certificate	If a representation made	If no representation made
Application to vary designated premises supervisor	If a Police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a Police objection	All other cases
Application for Interim Authorities	If a Police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc		All cases
Decision to object when local authority is a consultee and not the lead authority	All cases	
Revocation of Personal Licence where convictions come to light after grant of renewal	All cases	
Determination of a police representation to a temporary event notices	All cases	
Determination of minor variation applications for premises licences and club premises certificates		All cases

Agenda Item 7

METROPOLITAN POLICE INVOLVEMENT AT LICENSING SUB-COMMITTEE HEARINGS

Committee	The Licensing Committee
Officer Contact	Beejal Soni -
Papers with report	Amended Protocol for making representations and sub-committee hearings
NOT FOR PUBLICATION This report contains confidential or exempt information	Part 2 reasons to be inserted here.

HEADLINE INFORMATION

Purpose of report	To advise Members on the presence and involvement of the Metropolitan Police Services at Licensing Sub-Committee hearings where no representations are received from the Metropolitan Police Services
Contribution to our plans and strategies	A Safer Borough
Financial Cost	Nil
Relevant Policy Overview Committee	Not Applicable
Ward(s) affected	All

RECOMMENDATION

The Licensing Committee is asked to consider this report and to:

- (a) approve the amendment of the protocol for making representations and sub-committee hearings

INFORMATION

Reasons for recommendation

On 2 July 2009 the Licensing Committee requested the Committee requested that Legal

officers provide an opinion on the legality of obtaining information from Metropolitan Police Services at a Sub-Committee Hearing where no representations had been received from the Metropolitan Police Services

Alternative options considered / risk management

No alternative decision is available

Supporting Information

In order to reach a fair and equitable decision, it is important that the Sub-Committee be provided with all information relevant to the hearing. Where submissions are made to the sub-committee by residents relating to crime and disorder, information held by the Metropolitan Police Service may be relevant in addressing these concerns.

Where crime and disorder concerns are raised by residents but no representations received from Metropolitan Police Services, it is likely that the sub-committee will have to reach a decision on the concerns raised without access to the best information available.

Regulation 18 of Licensing Act 2003 (Hearings) Regulation SI 2005 No. 44 allows additional information to be submitted to the committee (with consent) to an existing representation at the time of the hearing. The Regulations also permit the sub-committee to ask questions to any persons present.

There have been no definitive interpretations of the relevant sections of the Regulations. However, the reference to "any person present" could be interpreted as permitting the sub-committee to ask questions to the Metropolitan Police Services if they are present at a hearing.

In light of this conclusion, the existing protocol for making representations and sub-committee hearings has been amended to ensure that members of the public are aware that questions may be asked of any party present at the hearing. For ease of reference, the changes are highlighted in a red font colour.

Financial Implications

Nil

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

The new process will assist sub-committee in addressing all concerns before it.

Consultation Carried Out or Required

No consultation required.

CORPORATE IMPLICATIONS

Legal

The Legal implications have been incorporated into the body of this report. In order for the amended protocol to come into effect, the amendment must be approved by the full Licensing Committee.

Corporate Property

Where reports include asset / property matters corporate property services **MUST** be consulted.

BACKGROUND PAPERS

- The Licensing Act 2003.
- The Licensing Act 2003 (Hearings) Regulation SI 2005 No. 44



Licensing Act 2003

Amended Protocol for making representations and sub-committee hearings

This protocol outlines the procedures that will be followed:

- When making representations
- On receiving the Notice of the Hearing
- Before, during and after the hearing

Full details of the regulations surrounding sub-committee hearings are available for download on the Department of Culture, Media and Sport's website by [clicking here](#).

Version agreed by the Licensing Committee – October 2009
Published by the Cabinet Office, Democratic Services

It is important that you carefully read these procedures before you make a representations to an application or wish to attend and be heard at a Licensing sub-committee hearing

1 making representations

Am I eligible to make a representation?

Representations and objections to an application can only be made by parties or authorities entitled to do so under Government legislation – the Licensing Act 2003. The parties or authorities that can make representations are set out below:

An **interested party** which would be anyone who is directly affected by activity at the licensed premises in question, such as:

- A person living in the vicinity of the premises
- A body representing persons living in the vicinity of the premises, e.g. a Residents Association.
- A person involved in a business in the vicinity
- A body representing persons involved in such business e.g. Trade Association.

A **responsible authority**, which are namely:

- Metropolitan Police Service
- The London Fire & Emergency Planning Authority
- Hillingdon Council's Planning & Transportation and Environment & Consumer Protection Services
- Health and Safety bodies
- Bodies relating to the protection of children from harm, e.g. Area Child Protection Committee

What happens if nobody makes any representations?

It is important to note that under the terms of the Licensing Act 2003 the Licensing Service must grant all new premises licence applications and variation applications if no relevant representations are received either from interested parties or responsible authorities.

When do I make a representation?

Any interested party or responsible authority may make written representations about an application. Generally these must be made at any time up to and including 28 working days after the day on which the application was received.

Contact Info:

To make representations or related queries please contact:

Hillingdon Licensing Service

Tel: (01895) 277433

Email: licensing@hillingdon.gov.uk

Fax: (01895) 250011

Write to: 4W/01 Civic Centre, High Street, Uxbridge, Middlesex, UB8 1UW

You should make your representations **within the time limit specified** in the notice put up at the premises or contained in the newspaper advertisement relating to the particular application. **Representations received after the time limit cannot be accepted.** Time limits are given in the attached Appendix (part 1)

What information should I provide in the representation?

When making your representation you must give details for the reasons for objection. Representations will only be relevant if they relate to the four licensing objectives:

- (1) The Prevention of Crime and Disorder;**
- (2) Public Safety;**
- (3) The Prevention of Public Nuisance; and**
- (4) The Protection of Children from Harm.**

For more information about the Licensing Objectives please read Hillingdon's Licensing Policy carefully as this document outlines the issues the Licensing Service will consider in respect of applications that have received relevant representations. You can get a copy of the Licensing policy by [clicking here](#) or contacting the Licensing Service by telephoning (01895) 277433.

Representations should fully explain the nature of the points made, reflect the Licensing Objectives outlined above provide in detail any evidence relied upon to back up those points. Concerns or fears about what might happen if the licence is granted cannot be taken into account unless they relate to the Licensing Objectives.

What format should the representation take?

All representations must be given in writing. However, the Hillingdon Licensing Service agrees to accept relevant representations, with accompanying evidence, by email to allow compliance with the time limits, but where this is done, the full name and postal address should given in the email and **representations must be immediately confirmed in writing afterwards.**

Can we send in a petition?

Yes, petitions can be submitted in accordance with the same rules that apply for representations. Petitions should outline their purpose and potential signatories should note that a copy will be supplied by the Hillingdon Licensing Service to the applicant. Each person signing the petition should print their full name and address. Petitioners should all live within the 'vicinity' of the premises in question.

The Licensing Act 2003 regulations do not allow for petitions to be presented, without notice, to the sub-committee hearing.

Can the Licensing Service reject a representation?

Representations can be rejected if they are received after the time limits set, anonymous or in the opinion of the Licensing Service they are found to be vexatious, frivolous or repetitive and the writer will be notified of this decision. The Hillingdon Licensing Service may also seek to mediate between the parties to see if agreement can be reached without the need for a licensing hearing.

Where do I send the representation?

Please send your representation to the Hillingdon Licensing Service at the address given at the top of Section 1 of this protocol. If sent elsewhere, it may not be received in time to be allowed. **Members of the sub-committees should not be approached with any representations as this may prejudice the application.**

What if there are a number of similar representations?

It is possible that there may be a number of similar representations, which if all heard would make the hearing unmanageable. At the procedural briefing, held just before the hearing starts, the Hillingdon Licensing Service will ask that you agree a spokesman to speak on behalf of related representations.

What happens next?

A copy of all relevant representations will be provided, in full, to the applicant. Relevant representations will then be considered as part of the business at a Licensing sub-committee hearing along with the application. The papers for the sub-committee hearing, including relevant representations, will be available to the press and public as part of the Notice of Hearing.

Where an application is to be decided at a sub-committee hearing, applicants and those who have made relevant written representations in connection with the application, will be invited to attend and will have speaking rights.

2 on receiving the Hearing Notice

What is the Notice of Hearing?

The Licensing Sub-committee hearing will normally be held within the period of 20 working days from when the consultation period ends. The Hillingdon Licensing Service will give appropriate notice of the hearing, which depends upon the type of application to be considered. Exact timings are attached in the Appendix (parts 2&3).

A Notice of the Hearing will be sent to all parties accompanied by:

- Date, time and location of the actual hearing and a procedural briefing to be held beforehand;
- This procedure note, the report from the Council's Licensing Officer with relevant representations attached;
- Confirmation that a party may be assisted / represented by a person who does not have to be legally qualified;
- Confirmation that a party to the hearing may address the authority, give further information on a point on which the authority requires clarification and, if considered by the authority to be required, question another party to the hearing;
- The consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the party's absence); and
- A note of any particular points on which the Hillingdon Licensing Service wants clarification.

Contact Info:

To give notice or any queries relating to the hearing please contact:

Clerk to the Committee

Tel: 01895 277655

Email: nwilliams@hillingdon.gov.uk

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

What do I do when I receive the Notice of Hearing?

On receipt of the Notice of Hearing, all parties must inform the Clerk to the Committee – normally no later than 2 working days before the hearing – whether they:*

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

*In the Appendix (part 4), full details are given of the deadline by which you should give your notice. All objectors and applicants are also reminded of their right to have a legal representative at the hearing.

If a party does not notify the above to the Clerk to the Committee before the relevant deadline they will not be entitled to speaking rights at the hearing.

The Sub-Committee may ask questions of any submitted at the hearing will only be considered with the agreement of all parties present.

IT IS IMPORTANT THAT YOU REPLY TO THE NOTICE
If I want to withdraw my representations - how do I do this?

Any party may withdraw their representations by contacting the Clerk to the Committee by phone, letter or email, providing they give notice no later than 24 hours before the hearing. If, during hearing, any party wishes to withdraw their representations they may do so orally by informing the Chairman.

What happens if I cannot attend the sub-committee hearing?

If you have made a representation and are unable to attend the sub-committee hearing, the sub-committee will only hear and consider any evidence and arguments put forward by or on behalf of the applicant and other parties present in relation to the written objections received. The sub-committee will take into account, in considering the importance to be attached to the objection, that the objector was not available to be questioned about their statements.

Can you accommodate any special needs I may have?

Yes, if any person, who intends to be present at the hearing, has any special needs, (for example in connection with access, hearing, language or vision) this should be brought to the attention of the Clerk to the Committee prior to the hearing in order that appropriate provision may be made.

Can the date of the hearing be changed?

Unfortunately, the Hillingdon Licensing Service cannot be flexible in the dates for hearings as the Licensing Act 2003 sets a strict legal deadline by which hearings must be heard.

3 **before the hearing**

You will have been notified of the date and time of the Licensing Sub-committee hearing. The hearings will normally take place at the Civic Centre, High Street, Uxbridge in one of the Committee Rooms.

How do I get to the Civic Centre?

Parking may be available via the entrance to the Civic Centre in the High Street by contacting the Clerk to the Committee in advance. Parking is also available in the nearby Chimes Shopping Centre Car Park. Bus routes 207, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away.

Please enter from the main reception where you will be directed to the relevant Committee Room. Please switch off your mobile phone when entering the room and note that Hillingdon Council operates a no-smoking policy in its offices.

Will the hearing be in public?

There may be other members of the public and press that attend the hearing to observe the proceedings, but they will not be allowed to speak. At any hearing, the applicant may attend in person or, if the application or objection is made by an organisation or corporate body, a duly authorised representative may be present, who is able to speak on their behalf can do so.

The hearing will take place in public. However, in exceptional circumstances, when the sub-committee considers that it is in the public interest, it may exclude the public from all or any part of a hearing. Hearings will normally take place during the day.

I have some new evidence - may I present it?

The sub-committee **will not** normally allow the production of new written evidence not previously submitted as relevant representations by any party. In the case where the sub-committee does allow new evidence, all other parties must give their consent before it is heard.

If new material is permitted, the hearing may need to be adjourned to allow time to consider it and for other parties to respond to it. Accordingly, any application to have new material considered should demonstrate exceptional reasons for its admission. It is, therefore important for parties to ensure that all evidence is submitted in writing as soon as possible and in accordance with the relevant timescales.

Members of the Sub-Committee may question any party or other person appearing at the hearing in connection with any evidence submitted.

Will I be briefed on procedure before the hearing?

Yes, in the notice of hearing, you will have been asked to attend a procedural briefing before the hearing starts. All parties will be asked to attend this briefing so that the Council's Licensing Officer or Legal Advisor can outline the procedures to be followed at the hearing.

What if there are a number of objectors present?

At the briefing, in the event of a large number of representations, the Licensing Officer or Legal Advisor will ask that a spokesman is agreed amongst those present who have similar representations.

Who are the people on the Licensing sub-committee?

Three elected Councillors of the London Borough of Hillingdon sit on a Licensing sub-committee and it is only they who can determine the application. Its minimum membership is two. Councillors who sit on the sub-committees have been trained in the new Licensing regulations and have experience of determining applications of various kinds.

One of the Councillors will be the Chairman of the hearing and it will be he/she who will call interested parties and responsible authorities to speak and ensure time limits are adhered to as set out in the procedures.

Other people who will be present along with the Councillors include:

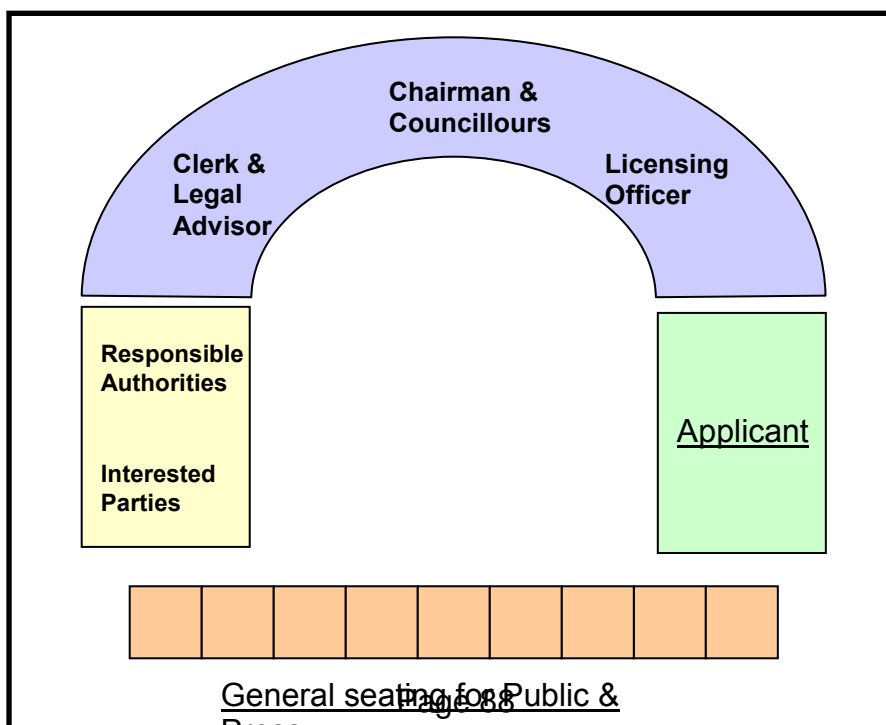
- The **Council's Licensing Officer** who will introduce the Officer report and outline his/her role.
- A **Legal Adviser** whose role is to assist the Committee with legal advice and to ensure that a fair and balanced hearing takes place.
- A **Clerk to the Committee** whose role is to summarise and record decisions on individual matters and to provide help and assistance to members of the public attending such meetings.

4 during the hearing

The procedure at the sub-committee hearing will, in general, be based on those used in a court of law. Although the strict rules of evidence will not apply, they will be observed to a great extent, because this is the best way of hearing the evidence from all parties. The hearing will take the form of a discussion led by the sub-committee Councillors. The sub-committee will seek clarification on the issues from the parties as it considers appropriate.

Where shall I sit at the hearing?

Once you have attended the procedural briefing, you will be directed into the relevant Committee Room. The set up of the room for those involved will generally be as shown below:



In general, how will the hearing be conducted?

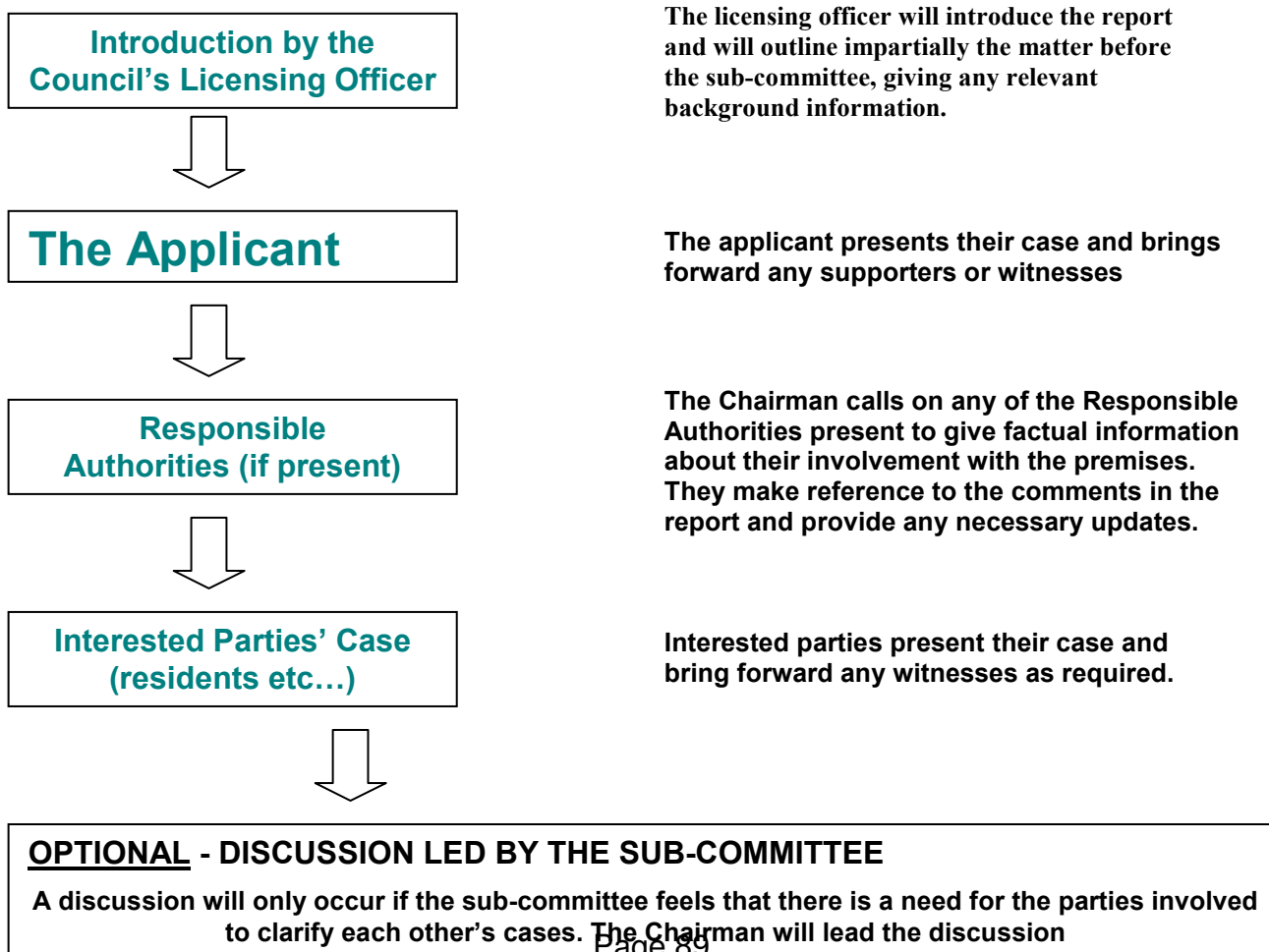
The procedure to be followed at the hearing will normally be as shown in the flow chart below, although all procedural matters will be subject to the discretion of the Chairman. All persons present will be requested to identify themselves and to give the reason for their presence. The sub-committee may consider any request from a party for another person to appear at the hearing as their representative.

It is important to note that cross-examination will not normally be permitted. Evidence, discussion and address must be relevant to the four licensing objectives. Repetition should also be avoided. The sub-committee will seek to prevent irrelevant and repetitive matters.

If, during its deliberations, the sub-committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point the hearing may be reconvened to deal with that issue. The sub-committee can also ask for procedural, technical or legal matter from officers present at any time during the proceedings.

What is the 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, which will have been prepared in advance by the Clerk to the Committee and will then outline the procedure that will be followed for the remainder of the hearing. The procedure is as follows:





Closing remarks from each party

The responsible authorities and interested parties make brief closing remarks on the application under question. The applicant makes the final closing remarks.



Sub-committee deliberates

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



Chairman announces the decision

Parties may return to the room when asked and the Chairman announces the decision. The Chairman reminds the applicant that the decision will be sent to them in writing. There can be no further questions or statements

Can a Councillor sit on a sub-committee if the application is in their ward?

Councillors who sit on a sub-committee are advised to take steps to minimise their involvement in any application prior to its consideration by the sub-committee so that decisions are seen to be reached at the hearing impartially and with an open mind. Councillors should not appear to be acting both as an advocate on behalf of their residents and as an adjudicator on an application.

If a Councillor on the sub-committee has already taken a view on an application in advance of the hearing, they should not be present for the hearing of the application and should leave the meeting room for that item. They should also not visit any premises under consideration prior to the hearing. In any cases of doubt, the Councillors should not sit on the sub-committee for a particular application. In this instance, a substitute Councillor may need to be found from the main Licensing committee of the Council or the hearing may continue as long as two of the three Councillors are still present.

The agenda papers will show which ward each Councillor sits for and the reports from the Council's Licensing Officer will detail which ward the application is in.

Can a ward Councillor make a representation?

If a ward Councillor, who does not sit on the sub-committee, wishes to make an objection to an application they may only do so if they make a written relevant representation as an Interested Party, in the same way as any other member of the public, using the procedures outlined in this protocol. Ward Councillors, who do not sit on the sub-committee, may speak at a sub-committee hearing as an advocate or witness for either the applicant or an Interested Party, unless the Councillor believes they have a personal interest that is also prejudicial.

At the hearing, the ward Councillor should disclose whether they have been in contact with the applicant, agent, Interested Party or responsible authority beforehand. They should also not communicate during the hearing with any Councillors who sit on the sub-committee. They may visit the premises concerned beforehand.

What power does the Chairman have to control the meeting?

Under the Licensing act 2003, the Chairman may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or may permit the person to return only on such conditions as he or she may specify.

How will the sub-committee make its final decision?

Once the sub-committee has heard from officers and the parties to the hearing and has had answers to its questions, the sub-committee will usually withdraw to make its decision on the application. The sub-committee must disregard any information given or evidence produced by a party or witness, which is not relevant to the application, representations or notice or the promotion of the licensing objectives.

Members of the sub-committee have a duty to behave impartially, not to predetermine the issue and not to discuss matters with press or residents. In making its decision the sub-committee must state in respect of premises licences why refusal or attachment of conditions is necessary in order to promote a particular licensing objective, and in respect of all other applications the reasons why applications are refused or revoked, taking into account the evidence presented by all parties during the hearing.

Where the sub-committee considers it necessary to impose conditions upon the licence, the relevant conditions will be drafted by the legal advisor. Comments on the proposed conditions will then be invited from the parties present. The sub-committee will thereafter make a final decision with regard to the conditions to be imposed.

5 after the hearing

When will we get formal notice of the decision?

The Chairman will normally announce the Sub-committee's decision in public at the end of the hearing and the reasons for the sub-committee's decision. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

The Council's Legal Advisor will send applicants a decision letter shortly after the meeting outlining the decision and any conditions that are attached to the application. In addition, a letter will be sent to all those who made relevant written representations in connection with the application. This will confirm the decision made; any conditions attached to an approval or the reasons for refusal. Details of the respective appeal rights will also be sent with this notice.

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

Can we appeal against the decision?

Following the decision, the applicant or any person who has made a relevant representation in respect of a particular application can appeal to the Magistrates Court.

How can I find out about other applications in my area?

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

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 Licensing Service during working hours.

CUMULATIVE IMPACT POLICY

Committee

The Licensing Committee

Officer Contact

Beejal Soni – 01895 556 425

HEADLINE INFORMATION

Purpose of report

To advise Members of the outcome of enquiries regarding the introduction of saturation policies to a parade of shops

Contribution to our plans and strategies

A safer neighbourhood

Financial Cost

Nil

Relevant Policy Overview Committee

Not Applicable

Ward(s) affected

All

RECOMMENDATION

The Licensing Committee is asked to note the contents of this report.

INFORMATION

Reasons for recommendation

On 2 July 2009 the Licensing Committee requested the The Committee requested that Legal officers liaised with the trainer to gain the correct information regarding the introduction of saturation policy in the London Borough of Hillingdon. This report has been prepared following discussion with Poppleston Allen, and consideration of the legislation, Statement of Licensing Policy for the London Borough of Hillingdon.

Alternative options considered / risk management

No alternative decision is available

Supporting Information

Cumulative Impact Policy

Where the number, type and density of licensed premises are unusually high, serious problem of nuisance and disorder have sometimes arisen or have begun to arise outside or some

distance from licensed premises. This has been described as the cumulative impact of the increasing capacity of all premises together.

It is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together is greater in these cases than the usual impact from customers of individual premises.

In these circumstances, a licensing authority may receive representations from a responsible authority or interested party that an area is becoming saturated with certain premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. Such representation would need to be based on evidence.

The presence of multiple licensing premises might be creating exceptional problems of disorder over and above the impact from any individual premises. If this is the case it might lead the licensing authority to consider, the impact of multiple premises on the four licensing objectives in the area and through consultation, if adopting a special policy not to grant licences would be one solution in helping control the problem. Any such "saturation policy" has to be contained within the authority's Local Statement of Licensing Policy.

Steps to be taken to adopt a Special Policy

The Guidance issued by the Department for Culture Media and Sport under section 182 of the Act (paragraphs 13.24 to 13.39) details the steps to be followed in considering whether to adopt a special policy within the statement of licensing policy.

The steps to be followed are:

- 1) Identification of concern about crime and disorder or public nuisance.
- 2) Consideration of whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent.
- 3) Identification of the boundaries of the area where problems are occurring.
- 4) Consultation with those specified by the Licensing Act 2003 as part of the general consultation required in respect of the whole of the statement of licensing policy;
- 5) Subject to that consultation, inclusion of a special policy about future premises licences or club premises certificate applications from that area within the statement of licensing policy;
- 6) Publication of the special policy as a revision to the statement of licensing policy required by the Licensing Act.

Due to its nature, the majority of evidence on crime and disorder incidents will be held by the Police or the Crime and Disorder Reduction Partnership.

Effect of Cumulative Impact Policies

The effect of adopting a special policy of this kind would be to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact would normally be refused, following relevant

representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Limitation on Special Policies Relating to Cumulative Impact Policies

However the introduction of a special policy does have its limitations. Para13.33 of the Guidance issued under section 182 of the Licensing Act states:

“It would normally not be justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. Special policies will usually address the impact of a concentration of licensed premises selling alcohol for consumption on the premises”.

It should also be noted that the purpose of the adoption of a special policy would be to maintain the current position of the number of licensed premises in an area. Such a policy would not enable the licensing authority to withdraw or cut back licences it has already issued. It does not allow a licensing authority to impose quotas that would prevent an application being considered upon its own merits. Additionally it would not allow the licensing authority to set limits on the hours of licences that it grants following the adoption of a Cumulative Impact Policy.

It should also be noted that the purpose of the adoption of a special policy would be to maintain the current position of the number of licensed premises in an area. Such a policy would not enable the licensing authority to withdraw or cut back licences it has already issued. It does not allow a licensing authority to impose quotas that would prevent an application being considered upon its own merits. Additionally it would not allow the licensing authority to set limits on the hours of licences that it grants following the adoption of a Cumulative Impact Policy

The effect of not having a Special Policy

The absence of a special policy does not prevent any Responsible Authority or Interested Party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Act allows for such consideration but the individual merits of each application must always be considered

Other Measures to Control Cumulative Impact

Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and beyond the control of the licence holder.

The licensing authority has recognised that as well as the licensing function there are a number of mechanisms for addressing issues of unruly behaviour, which occur away from licensed premises. Sections 3 and 5 of the Council’s revised Statement of Licensing Policy, various legislation and Council initiatives cover these areas as follows:

- positive measures to create a safe and clean city environment in partnership with local businesses, transport operators and other departments of the London Borough of Hillingdon.
- powers of the Council to designate parts of the Council as places where alcohol may not be consumed publicly;

- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- police powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance; and
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.
- the Violent Crime Reduction Act 2006 empowers local authorities to designate Alcohol Disorder Zones to tackle alcohol related crime and disorder.

The Council currently addresses a number of crime and disorder issues through the Community Safety Partnership in line with the strategic objectives for crime and disorder reduction.

The London Borough of Hillingdon currently has no Cumulative Impact Policy

At the present time the Council has not adopted a Cumulative Impact Policy.

It must also be noted that the Responsible Authorities including the Metropolitan Police had not during the consultation period for the revised statement of Licensing Policy raised their concerns that there may be a negative cumulative impact on one or more of the licensing objectives in any geographic location within the London Borough of Hillingdon.

The absence of such a policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Act allows for such consideration but the individual merits of each application must always be considered.

The Act also enables residents and businesses in the vicinity of the premises ("interested parties") to make relevant representations about any application for new licences or for variations to existing licences. This gives the local community a greater say than ever before in licensing decisions.

In addition, responsible authorities and interested parties have the power to apply for a review by the licensing authority of existing licences, on a ground relating to the promotion of one or more of the licensing objectives. Such a review can result in the modification of the licence, its suspension, or ultimately, revocation.

Financial Implications

Nil

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

None

Consultation Carried Out or Required

The London Borough of Hillingdon carried out a consultation in 2007 on a Revised Statement of Licensing Policy. This consultation included consideration of a Cumulative Impact Policy.

CORPORATE IMPLICATIONS

Legal

The introduction of a Special Policy would require a formal variation to the current Statement of Licensing Policy. This would require approval from full Council following consideration by Cabinet.

In light of the limitation stated in Para13.33 of the Guidance issued under section 182 of the Licensing Act, it is not recommended that Cumulative Impact Policies be applied to a parade of shops specifically for concerns relating to off-licences.

Corporate Property

Not Applicable

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Agenda Item 9

Response to consultation on selling alcohol responsibly

Committee

Licensing Committee

Officer Contact

Ed Shaylor (01895 277532) or Norman Stanley (01895 277433)

Papers with report

None

Ward(s) affected

All

SUMMARY

To inform the Licensing Committee about the response sent from Hillingdon in respect of the consultation document published by the Home Office entitled **Safe. Sensible. Social:-. Selling alcohol responsibly: A Consultation on the new Code of Practice for Alcohol Retailers.**

This response was sent with the consent of the Chairman of this committee and the Cabinet Member for Environment following the discussion at this meeting on 2nd July 2009 and liaison between the Council's Head of Community Safety, Licensing Service Manager and Hillingdon Police's Licensing Officer

RECOMMENDATION

That the Licensing Committee notes the response to the consultation document.

INFORMATION

The Home Office published for consultation a code of practice for licensed retailing, which includes proposed mandatory and discretionary conditions for premises licences intended to reduce the health related harms and crime and disorder resulting from the irresponsible marketing and sale of alcohol.

The Home Office invited responses from licensing authorities (i.e. Local Authorities), public health authorities, the public and the industry itself.

The code of practice includes mandatory and discretionary conditions for premises licences, which are likely to be strongly opposed by the licensed trade.

It is proposed that, if adopted, the conditions which may be applied to premises licences, will be included under the Policing and Crime Bill, which is currently before Parliament.

The package consists of:-

- **Mandatory conditions** that will apply nationally to all new and existing alcohol licences. Breach of conditions will be an offence.
- **A statutory requirement** for alcohol unit content and health information to be provided at point of sale, under the Food Safety Act. Breach of conditions will be an offence.
- **Discretionary local conditions** that can be applied by licensing authorities to groups of two or more licensed premises in their area who are experiencing particular problems. Breach will be an offence.

The Proposed Mandatory Conditions

- (a) A ban on specified irresponsible alcohol promotions such as drinking games, speed drinking and all-inclusive offers.
- (b) A ban on alcohol being dispensed directly in the mouth of customers.
- (c) A requirement that specified minimum measures of alcohol are readily available in licensed premises.
- (d) A requirement that free tap water should be available for customers.
- (e) Online or mail order suppliers of alcohol must have a robust age verification system in place to prevent under age sales.
- (f) A requirement for units of alcohol information to be available at point of sale for a representative sample of drinks and health guidelines to be posted up in off-trade premises.

Proposed Discretionary Local Conditions

- (a) Bans the discounted sale of alcohol where the discount applies at particular times of the day or week (e.g. happy hours) at key times.
- (b) Bars “pub crawl” offers of discounted drinks at key times.
- (c) Requires a risk review to be carried out by the licence holder and a management plan agreed with the licensing authority.
- (d) Requires regular collection of empty or abandoned glasses during key times.
- (e) Bans the serving of alcohol in glass containers at key times.
- (f) Prevents customers leaving licensed premises with unsealed glass containers at key times.
- (g) Requires toilets to be checked regularly during key times.
- (h) Requires Security Industry Authority licensed door staff to be on duty.
- (i) Requirement for an incident record to be maintained.
- (j) Licensee must consult with police and local authority on dispersal policy.
- (k) CCTV must be in operation on the premises.
- (l) Requirement to display information on location of public transport links and phone numbers for local taxis.
- (m) Requirement for a direct telephone line to local licensed taxi companies.
- (n) Live text or radio pager link with police to be in place at premises.
- (o) “Challenge 21” scheme must be in operation.
- (p) Bulk discounts must not be offered during stipulated times.

Hillingdon’s response was as follows:

The cost of re-issuing licenses and dealing with appeals

1 Hillingdon is concerned that the proposals add bureaucracy to a system on which the Licensing Act intended to reduce the bureaucratic burden. This will show itself in the cost of re-issuing every licence in the borough with the new conditions, in terms of Licensing Committee time, licensing officer time and production costs of new licences. As we have 900 licensed premises, the cost could run to several thousand pounds.

The possible negative effect on businesses and local economy

2 The majority of licensees are responsible people attempting to run a profitable business. We have no problem with the mandatory conditions as these are all eminently sensible, but we think the discretionary conditions should only be used in hotspot locations where there is a real problem with disorder associated with drinking. There is a danger that Licensing Committees will come under pressure from local

councillors or residents to impose discretionary conditions in relatively low risk areas. We are also concerned that there may be pressure to use discretionary conditions arising from government targets – in other words a presumption that discretionary conditions will be used, and questions asked (or adverse publicity) from the centre if they are not.

The difficulty of imposing discretionary conditions

- 3 Several discretionary conditions are not concise and are difficult to interpret into a licence condition which would stand up to legal scrutiny. For example, how to define “key times”. If discretionary conditions are wanted, we would have to review all the licensed premises in that location, incurring more cost. As premises cannot be exempted, all must comply, and the additional costs to businesses are substantial. We think that food led outlets such as restaurants should be able to be exempted from discretionary conditions imposed in an area – for example the use of plastic glasses or CCTV is not reasonable in a low risk restaurant

Additional discretionary condition

- 4 An additional condition should be added that the personal licence holder must be on the premises between stipulated times when the venue is open.

We think it would be better to use existing licensing legislation and review processes to impose discretionary conditions on individual premises which are causing a problem. This would leave the new power to impose conditions on all establishments in an area to be used only in high risk areas where it is not possible to isolate which premises is the source of the problem.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report as these proposals are currently at the consultation stage.

However the implementation of these proposals could potentially involve the reissue of all existing Premises Licences and Premises Licence Summaries. This would have significant resource implications for the Licensing Service if no additional funding was provided as part of this implementation. This will be highlighted as a potential issue for the Council’s Medium Term Financial Forecast (MTFF).

LEGAL IMPLICATIONS

The consultation complies with well-known principles set out in *R v North and East Devon HA ex parte Coughlan* [2001 QB 213 para. 108] “To be proper, consultation must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for consideration and proposals to allow those consulted to give intelligent consideration and intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken”. Consequently, this consultation can be regarded as a formal process for getting the input of relevant stakeholders on the specified issues.

Councillors should note that a result of this consultation is that the proposals currently before the Licensing Committee may differ from the final proposals eventually tabled to Parliament.

BACKGROUND PAPERS

The Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003

The London Borough of Hillingdon's Statement of Licensing Policy

The Policing and Crime Bill

Agenda Item 10

Review of the Department for Culture, Media and Sport's "Yellow and Red Card" proposal	
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Committee	Licensing Committee
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Officer Contact	Norman Stanley Licensing Service Manager 01895 277418
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Papers with report	Department of Culture, Media and Sport paper on "Problem Premises on Probation" - Red and Yellow Cards: How it would work.
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Ward(s) affected	"All"
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SUMMARY

To seek the Licensing Committee's views in respect of the DCMS's proposal in respect of the Yellow and Red Card system.

RECOMMENDATION

That the Licensing Committee advises the Licensing Service Manager of their views, in order for him to respond to the DCMS.

INFORMATION

The Department for Culture, Media and Sport has written to all Chief Executives to encourage local authorities to consider adopting the Red and Yellow Card system.

The DCMS's proposals are set out in the appendix annexes hereto.

The DCMS has requested that local authorities inform them as to whether or not they think the proposal is a good idea and whether or not if they intend to adopt the scheme.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

None

BACKGROUND PAPERS

- (a) The DCMS's information paper, headed, "Problem Premises on Probation" – Red and Yellow Cards :- How it would work.
- (b) The Licensing Act 2003
- (c) Guidance issued under section 182 of the Licensing Act 2003

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“PROBLEM PREMISES ON PROBATION” – RED AND YELLOW CARDS : HOW IT WOULD WORK

The problem

1. In many cases, revocation of a premises licences effectively kills any business which is focused on retailing alcohol. This means that the not only the business owner suffers, but most people working there will lose their livelihoods. Many of these workers will be entirely innocent of any wrong-doing. There is also an impact on those who rely indirectly on income from the premises - such as local food suppliers or cleaning contractors, and the closure of a premises can deprive some communities of their local shop or restrict local consumer choice. Enforcement agencies that apply for reviews and local councillors sitting on licensing committees are well aware of this potential impact and it can lead to a reluctance to use the powers in the Act to revoke the licence instantly for any failure to promote the licensing objectives. This risks patchy enforcement and uneven solutions to alcohol-related problems around the country.
2. In addition, in many cases, enforcement agencies will prefer to negotiate additional voluntary conditions with problem premises against the threat of review as an immediate, pragmatic and less bureaucratic solution. While this may be a reasonable approach in many cases, there is a risk that some premises are not being dealt with as firmly as necessary, particularly given the level of test purchase failures. Nor are voluntary agreements particularly visible, lessening the deterrent effect on other premises.
3. Government wishes to support the enforcement agencies and licensing authorities by providing clear guidance on a “yellow card / red card” system, which would ensure a firm response to problems, but which give premises an opportunity to reform. The intention is that such a system would be highly visible and send a clear message to alcohol retailers, and the public, that action will be taken against those who act contrary to the licensing objectives and the law.
4. The proposed interventions below would not prevent the giving of an instant red card in an appropriately serious case. It should be realised that a “test purchase”

failure often masks multiple offences that have gone undetected.

Supporting enforcement agencies

5. The Government will encourage enforcement agencies – mainly the police, trading standards officers and environmental health officers – to seek more reviews in the knowledge of the yellow card/red card system described below. This will mean not giving informal warnings. It will mean that on identifying problem premises, the licensing authority will be engaged faster than it might have been in the past.

6. Enforcement agencies would be encouraged to seek reviews when local intelligence suggests that individual premises are selling to children or causing other crime problems or causing noise nuisance.

7. Under the law, the licensing authority must then hold a hearing so long as the application relates to one of the four licensing objectives and is made by a responsible authority or by an interested party like a local resident or another local business.

First intervention

8. Responsible authorities will be encouraged to propose a package of tough new conditions to be added to the existing conditions which are designed to combat the identified problem. The kinds of conditions that we have in mind are set out in Annex A. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises. Such action should be supplemented where appropriate by:

- Removal of the designated premises supervisor and his/her replacement (the manager is removed);
- Suspension of the licence for between 1 day and 3 months according to the circumstances.
- Restriction on trading hours – cutting hours of trading in alcohol.
- Clear warning that a further appearance will give rise to a presumption of revocation.

9. If appropriate following review, the licensing authority should consider these packages of conditions and actions to challenge problem premises more aggressively.

10. For example, requiring a major supermarket to make all alcohol sales through a single till manned by a person aged 25 years or older in order to tackle sales to underage. Over a year, this would potentially cost such a supermarket £millions. It would also make them reflect on their levels of supervision at other stores.

11. In addition, enforcement agencies should make the premises in question a priority for test purchases and more regular inspections.

12. The aim would be to put the premises on probation. Effectively, they are given a yellow card. They are put on notice that the next offence or breach would mean an automatic second intervention – a red card.

Second intervention

13. In the absence of improvement, enforcement agencies should seek another review. The licensing authority again must grant a hearing.

14. If satisfied on the issue of the lack of improvement, the licensing authority should look to **revoke the licence**. The action should be publicised in the area as an example to other retailers.

Implementation

15. Requires:

- Development with the Home Office of a toolkit and guidance for police, trading standards and ethos;
- Initial letters to Leaders of local authorities and Chief Executives;
- Ultimately, stronger statutory Guidance to be laid in Parliament for licensing authorities themselves.

16. Central Government cannot tell licensing authorities what to do. The review powers are devolved to them. Similarly, central Government cannot direct enforcement agencies how to enforce the law. It would remain their judgement when and how to act.

ANNEX A

POSSIBLE TOUGH CONDITIONS TO BE ASSEMBLED INTO PACKAGES

n.b. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises.

GREATER CONTROL OVER SALE

1. Designated checkout(s) for alcohol sales (supermarket). Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
2. Personal licence holder/DPS to be on site at all times during sales of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
3. Personal licence holder/DPS to supervise and authorise every individual sale of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
4. SIA registered security staff to be present at points of sales to support staff refusing sales to u-18s and drunks.
5. Alcohol sales only to be made only by person aged not less than 25 years. Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
6. CCTV installed at all points of sale and recorded. Recordings can be examined by a constable or trading standards officer to determine sales to minors or drunks

TRAINING

7. All staff to read and sign a declaration that they understand the law every time they start a shift.
8. Train all staff engaged in selling alcohol in alcohol awareness (not just personal licence holders). All new staff to be trained within two weeks of commencing employment. Evidence of training to be retained in writing and to be available for inspection by any authorised person and training standards officers. Impact on all licensing objectives.

ALCOHOL SALE BANNED AT CERTAIN HOURS

9. No alcohol sales Mon – Fri between 4pm and 8.30pm. Impact on protection of

children from harm or targeted hours reflecting times when local intelligence indicates under 18s may be purchasing alcohol.

10. No alcohol sales --- Friday to Sunday. Impact on all four licensing objectives.

ALCOHOL DISPLAYS

11. No displays of alcohol or advertising of alcohol promotions that can be seen from outside the premises.

12. No alcohol stocks promoted alongside goods likely to appeal to children (eg. confectionary, toys).

CUTTING DOWN ON SHOPLIFTING

13. SIA registered security staff to be present at alcohol aisles during opening times to prevent attempted under age sales or theft.

14. Location of alcohol stocks/displays not to be sited near the entrance/exit to deter shoplifting.

15. No direct public access to alcohol products – like tobacco, alcohol to be kept behind a dedicated kiosk.

NAMING AND SHAMING

16. Display an external sign/yellow card to state which of the licensing act objectives they have breached and what action has been taken against them.

OTHERS

17. Maintain a log of all under attempted purchases from those who appear to be under 18 or drunk.

18. Children aged under [18 years] not to be present or (not more than one child at any one time) on premises (other than children living on the premises or of the people working on the premises); or only children under 18 accompanied by an adult to be permitted on the premises during retailing hours. Impact on protection of children from harm.

19. Products to be labelled (a label stuck to the bottle or can) to show the details of the shop from which it was bought. Purpose would be to provide evidence of unlawful sales if product found commonly in possession of persons under 18.

20 Designated single items --- beer, alcopops and cider ---- not to be sold to any person. Impact on protection of children from harm. Purpose would be to reduce sales to children and drunks. Alternative would be to prescribe sales of beer, alcopops and cider in quantities of less than four.

21. CCTV installed, monitored and 24 hour recordings kept for a week and made available to constables and persons authorised under the 2003 Act to help identify attempted proxy purchasing.

Metropolitan Police Bottle Marking Scheme

Committee	Licensing Committee
Officer Contact	Sharon Garner 01895 277230
Papers with report	None
Ward(s) affected	Uxbridge North & Hillingdon East

SUMMARY

An interim report to update the Licensing Committee on the Metropolitan Police bottle marking scheme conducted by Sgt Anthony Bennett and the Safer Neighbourhood Teams in the Uxbridge North and Hillingdon East Scheme.

RECOMMENDATION

That the Committee note the update.

INFORMATION

Between June 2009 and August 2009, 13 premises in Uxbridge North and Hillingdon East Wards took part in the Metropolitan Police's bottle and can marking scheme.

This scheme was funded in full by the Metropolitan Police to the sum of £5,184.

On Wednesday 26th August 2009 8 out of the 13 premises were visited by Sharon Garner to assess from the licensees how effective the scheme was.

Four questions were asked of the licensees, namely:

- Do you think the scheme is a good idea - of which all bar 1 licensee said yes.
- Have any bottles been identified by the Police as coming from your premises – all replied no.
- How long did it take for the bottles/cans to be marked – 2 licensees stated that they marked the bottles/cans as they were sold, 1 licensee employed an extra member of staff at his own expense to mark up all stock, the other licensees stated that it took a long time to mark up their stock.
- Would you be prepared to carry on with the scheme at your own expense – all replied no, it is too expensive.

A press release from the Metropolitan Police Service regarding the scheme and other measures taken to reduce the sale of alcohol to underage persons is being prepared to be released at a date unknown.

Information from the Metropolitan Police indicates that there is no further funding for the scheme to continue.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

N/A

BACKGROUND PAPERS

None

Agenda Item 12

TOTAL NUMBER OF PREMISES AND PERSONAL LICENCES GRANTED UNDER OFFICER DELEGATED POWERS AND BY LICENSINGSUB-COMMITTEES UP TO 31st AUGUST 2009

Premises Licences

Type of Licence	No. Issued
Clubs	97
Entertainment Premises	51
Hotels	34
Off Licences	269
Public Houses	156
Restaurants	145
Take Aways	75
Other	12
Total	839

Personal Licences

Personal Licences	1806
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Temporary Event Notices (TENS)

Issued from September 2008 August 2009	399
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Period September 2008 - August 2009														
New premises licence applications by type and month														
	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Totals	
Clubs												3	3	
Entertainment prems				1									1	
Hotels													0	
Off Licences		1	1	1	1	2	3	2	2		2	2	17	
Pubs													0	
Restaurants	1	1							1	2	3		8	
Take Aways		1		1					1	1			4	
Other							1					1	2	
Totals	1	3	1	3	1	2	4	2	4	3	5	6	35	
Variation applications by type and month														
	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Totals	
Clubs											1		1	
Entertainment prems		1											1	
Hotels													0	
Off Licences			2			2		1	1	1		2	9	
Pubs	1						2		1	1	1		6	
Restaurants		1	1	2	2	1	1				2		10	
Take Aways		1											1	
Other			1										1	
Totals	1	3	4	2	2	3	3	1	2	2	4	2	29	

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A list of all premises licences that have been determined using delegated licensing officer powers from July 2009 to September 2009

Date Determined	Premises	Applicant	Licensable Activities	Operating Hours
7-Jul-09 New premises	Deli Atlantida, 70 High Street, Northwood, HA6 1BL <i>New Premises Licence for the sale of alcohol</i>	Antonio Neves	Sale of Alcohol	0800 - 2330 each day
10-Jul-09 Variation	Costcutters, 105 High Street, Ruislip, HA4 8JN <i>Variation to extend the licensed hours</i>	Karunairuban Theivendranathan	Sale of alcohol	0000 - 2400 each day
22-Jul-09 New Premises	Café Rouge, Terminal 4, Heathrow Airport, TW6 3XA <i>New Premises licence for late night refreshment and the sale of alcohol</i>	Café Rouge Restaurants Ltd	Late Night Refreshment Sale of alcohol	0000 - 2400 each day
01-Jul-09 Variation	The Laurels, 153 High Street, Ruislip, HA4 1JY <i>Variation to extend licensed hours</i>	Lisa Gaukroger	Sale of Alcohol	1100 - 2330 Monday to Wednesday 1100 - 0030 Thursdays 1100 - 0100 Fridays 1100 - 0130 Saturdays 1200 - 2400 Sundays
5-Aug-09 New Premises	R & P Convenience Store, 4 The Parade, High Street, Cowley <i>New premises licence for the sale of alcohol</i>	Maheshbhai Dahyabhai Patel	Sale of Alcohol	0500 - 2330 Monday to Thursday 0500 - 2400 Friday to Saturday 0500 - 2200 Sundays
12-Aug-09 Variation	Shangrila International Buffet, 148 High Street, Ruislip, HA4 8LT <i>Variation to the internal layout of the premises</i>	Sae Choy Ltd	Sale of alcohol Regulated entertainment	1200 - 2300 each day
12-Aug-09 New premises	Central News, 63 Coldharbour Lane, Hayes, UB3 3EE <i>New premises licence for the sale of alcohol</i>	Hiten Ranjikan Patel	Sale of Alcohol	0600 - 1930 Monday to Saturday 0700 - 1400 Sundays
18-Aug-09 New premises	Victoria Café, 65 Victoria Road, Ruislip, HA4 9BH <i>New premises licence for the sale of alcohol</i>	Fahrettin Gurbuz	Sale of Alcohol	0800 - 2300 each day

A list of all premises licences that have been determined using delegated licensing officer powers from July 2009 to September 2009

18-Aug-09 Variation	Old Abbotstonians RFC, Pole Hill Open Spaces, Hayes <i>Variation to extend the licensed hours</i>	Old Abbotstonians RFC	Supply of Alcohol Regulated entertainment	1000 - 0100 Sunday to Thursday 1000 - 0200 Friday to Saturday
28-Aug-09 Minor variation	Express Foods, 384 Uxbridge Road, Hayes, UB4 0SE <i>Minor variation to move the counter</i>	Kultar Singh Kapoor	Sale of alcohol	0800 - 2300 Monday to Saturday 1000 - 2230 Sundays
3-Sep-09 New premises	Caffe Nero, Terminal 4 Departures, Heathrow Airport, TW6 1AP <i>New premises licence application for late night refreshment</i>	Caffe Nero	Late Night Refreshment	0000 - 2400 each day
9-Sep-09 New premises	Coppermill Care Home, 10 Canal Way, Harefield, UB9 6TG <i>New premises licence application for the sale of alcohol</i>	Coppermill Care Ltd	Sale of alcohol	1200 - 1830 each day
09/09/09 New premises	Uxbridge Conservative Club, Fairfield, 46 Harefield Road <i>New premises licence for activities to non-members</i>	Uxbridge & District Conservatives	Sale of alcohol Regulated entertainment Late night refreshment	0900 - 0230 each day
15/09/09 Variation	Stir Crazy, 280 High Street, Uxbridge, UB8 1LQ <i>Variation application to alter the internal layout and to include a marquee in the licensed area</i>	Mrs Stephanie Barrett	Sale of alcohol Regulated entertainment Late night refreshment	1000 - 0030 Monday to Wednesday 1000 - 0230 Thursday to Saturday 1000 - 0100 Sundays
15/09/09 Minor variation	The Grange, Rickmansworth Road, Northwood, HA6 2RB <i>Minor variation to include the sale of alcohol with meals</i>	Lido Catering Company Ltd	Sale of alcohol Late night refreshment Regulated entertainment	1000 - 2300 Monday to Saturday 1200 - 2230 Sundays

A list of Licensing Sub-Committee decisions from July to September 2009

Date Determined	Premises	Reason for Hearing	Decision
4th August 2009 Variation	Carpenters Arms, 1370 Uxbridge Road, Hayes, UB4 8JJ <i>Variation application to extend the licensed hours of operation</i>	Letters of representation from 2 local residents	Licence granted with restrictions and extra conditions.
2nd September 2009 New premises	Punjab Cuisine, 95-97 High Road, Ickenham, UB10 8LB <i>New premises licence application for the sale of alcohol and regulated entertainment</i>	Letter of representation from 1 local resident	Licence granted in full with one extra condition
7th September 2009 New premises	Tasties, 114 High Street, Yiewsley, UB7 7BE <i>New premises licence application for the sale of alcohol, late night refreshment and regulated entertainment</i>	Letter of representation from the Chamber of Commerce	Licence granted with minor restrictions

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Wednesday, September 2, 2009

www.uxbric

NE

New restaurant hits opposition to drinks licence

RESIDENTS FEAR PROBLEMS DUE TO ALCOHOL

By **DAN COOMBS**

dancoombs@trinitysouth.co.uk

AN INDIAN restaurateur is facing opposition to his application to sell alcohol because his neighbours fear noise and disruption.

Harpreet Dhaliwal has applied for a licence to serve alcohol at Punjabi Cuisine, and to entertain diners with live music and dancers at the restaurant in High Road, Ickenham.

The planned restaurant and take-away would seat up to 60 people, and the singers and dancers would only be present on certain, advertised dates.

Mr Dhaliwal has also promised the restaurant would install CCTV, in an attempt to allay residents' fears about alcohol consumption and rowdiness.

One letter of objection was received by the council. A neighbour, Christopher Hill, who lives in High Road, said: "If awarded, three premises in a row will be licensed (for alcohol) out of a total of six in the arcade.

"As the nearest house to this arcade, I am concerned about further food outlets with a licence opening, as this will lead to further noise and disruption late at night.

"There is often loud noise, car noise, until late at night.

"We regularly have glasses in our garden and broken glass in the street, which will be further exacerbated if this application is successful.

"The main issue is that this will attract further vehicles to an area which cannot cope with the existing traffic created by customers visiting Tesco and Domino's Pizza.

"An additional restaurant will add to the pressures of parking, litter and late-night noise in an area which is already becoming blighted by the existing pressures being placed upon it."

A Hillingdon Council licensing committee has been called for tonight (Wednesday) to decide on the application for the currently vacant premises.

● What do you think? Email dancoombs@trinitysouth.co.uk



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