

# EXTRAORDINARY COUNCIL

## —Agenda—

21 NOVEMBER 2007

<u>ITEM</u>		<u>PAGE</u>
1.	<b>MINUTES – 19 SEPTEMBER 2007</b>	
	To approve and sign as an accurate record the minutes of the Ordinary Council Meeting held on 19 September 2007.	
2.	<b>APOLOGIES FOR ABSENCE</b>	
3.	<b>MAYOR’S ANNOUNCEMENTS (IF ANY)</b>	
4.	<b>DECLARATIONS OF INTEREST</b>	
4.1	If a Councillor has any personal or prejudicial interest in a particular report they should declare an interest.	
4.2	A Councillor should not take part in the discussion or vote on a matter in which they have a prejudicial interest. They should withdraw from the meeting whilst the matter is under consideration unless the disability to participate has been removed by the Standards Committee, or unless a relevant exemption applies under the Council’s Code of Conduct.	
5.	<b>REPORTS</b>	
	To consider and determine the following:	
5.1	<u><a href="#">Report of the Standards Committee – Local Government and Public Involvement in Health Act 2007</a></u>	
5.2	<u><a href="#">Establishment of a Joint Overview &amp; Scrutiny Committee for Healthcare in London &amp; Appointment of Council Representatives</a></u>	
5.3	<u><a href="#">Review of Licensing Act 2003 – Statement of Licensing Policy 2007</a></u>	

**6. SPECIAL MOTIONS**

To consider and determine any special motions:

**[Special Motion No. 1 – Changes to Committee Memberships - Re: Maternity Leave Provision](#)**

**[Special Motion No. 2 – Minor Amendments to the Council Constitution](#)**

Jpc 13/11/07

# COUNCIL MINUTES

(ORDINARY COUNCIL MEETING)

WEDNESDAY 19 SEPTEMBER 2007



PRESENT:

The Mayor ( Councillor Minnie Scott Russell )  
Deputy Mayor ( Councillor Andrew Johnson)

Councillors:

Colin Aherne  
Mrs Adronie Alford  
Helen Binmore  
Nicholas Botterill  
Victoria Brocklebank-  
Fowler  
Jean Campbell  
Michael Cartwright  
Alex Chalk  
Stephen Cowan  
Gill Dickenson  
Belinda Donovan  
Gavin Donovan

Caroline Ffiske  
Rachel Ford  
Sarah Gore  
Stephen Greenhalgh  
Steve Hamilton  
Wesley Harcourt  
Lisa Homan  
Robert Iggulden  
Lucy Ivimy  
Donald Johnson  
Alex Karmel  
Jane Law  
Antony Lillis

Mark Loveday  
Reg McLaughlin  
Lisa Nandy  
Ed Owen  
Harry Phibbs  
Dame Sally Powell  
Greg Smith  
Frances Stainton  
Peter Tobias  
Mercy Umeh  
Rory Vaughan  
Eugenie White

### 31. MINUTES – 27 JUNE 2007

7.00pm - The minutes of the Ordinary Council Meeting held on 27 June 2007 were confirmed and signed as an accurate record, subject to correction of the voting record on Special Motion No.9 – 272 Bus Route. The voting should have been recorded as: For – 11, Against – 24, Abstentions – 1 and not as printed in the minutes.

The minutes of the Extraordinary Council Meeting held on 27 June 2007 also confirmed and signed as an accurate record.

### 32. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Adam, Bentley, Bethell, Bristow, and Burley.

### 33. MAYOR'S ANNOUNCEMENTS

The Mayor's Announcements were circulated and tabled at the meeting. (Copy attached as **Appendix 1** to these minutes).

### 34. DECLARATIONS OF INTEREST

No declarations of interest were made at this meeting of the council.

### 35. PUBLIC QUESTION TIME (20 MINUTES)

7.03pm – There were no public questions submitted for this meeting of the Council.

### 36. ITEMS FOR DECISION / COMMITTEE REPORTS

7.04pm – **Treasury Management Outturn Report**

The report and recommendation was formally moved for adoption by the Leader of the Council, Councillor Stephen Greenhalgh .

The report and recommendation was put to the vote:

FOR	23
AGAINST	0
ABSTENTIONS	10

The report and recommendation was declared **CARRIED.**

7.05pm - **RESOLVED:**

That the borrowing and investment activity for the period 1 April 2006 to 31 March 2007 be noted.

7.06pm – **Review of Polling Districts and Polling Places 2007**

The report and recommendation was formally moved for adoption by the Leader of the Council, Councillor Stephen Greenhalgh.

The report and recommendations were put to the vote:

FOR	Unanimous
AGAINST	0
ABSTENTIONS	0

The report and recommendation were declared **CARRIED.**

7.07pm - **RESOLVED:**

- 1 That the polling place for CPA polling district be Kenmont Primary School, Valliere Road.
- 2 That CPB polling district be combined with CPC polling district.
- 3 That electors north of Mund Street be transferred from NEB to NEA polling district.
- 4 That the polling place for NEB polling place be West Kensington Tenants Association Hall.
- 5 That King Henry Row, Broomhouse Road be transferred from PGB to PGA polling district.
- 6 That the polling place for PRC polling district be a temporary polling station at, or near, the TA Centre, Fulham High Street.
- 7 That RPA polling district be combined with RPB polling district, and that the polling place be Pocklington Lodge, Rylett Road.
- 8 That the polling place for SEA polling district be Parsons Green Club, Broomhouse Lane.
- 9 That a new polling district of SED be created, and that the polling place be The Wharf Rooms, Imperial Road.
- 10 That SBE polling district be combined with SBC polling district.
- 11 That the polling place for TWC be Community Hall, Lancaster Court
- 12 That polling arrangements for other polling districts be as currently designated and shown in Appendix 1 to the report.

7.08pm – **10<sup>th</sup> London Local Authorities Bill**

The report and recommendation was formally moved for adoption by the leader of the Council, Councillor Stephen Greenhalgh.

The report and recommendation was put to the vote:

FOR	Unanimous
AGAINST	0
ABSTENTIONS	0

The report and recommendation was declared **CARRIED.**

7.09pm - **RESOLVED:**

That the Council agrees to pass the formal resolution (as set out at Appendix 2 to the report) in order to participate in the 10<sup>th</sup> London Local Authorities Bill.

7.10pm – **Annual Report of the Audit Committee 2006/07**

The report and recommendation was formally moved for adoption by the Leader of the Council, Councillor Stephen Greenhalgh.

FOR	23
AGAINST	0
ABSTENTIONS	11

The report and recommendation was declared **CARRIED.**

7.11pm - **RESOLVED:**

That the Annual Audit Report 2006/07 be noted and approved.

**37. SPECIAL MOTIONS**

**Special Motion No. 1 – Fulham Schools Commission**

7.12pm – Councillor Antony Lillis moved, seconded by Councillor Stephen Greenhalgh, the special motion standing in their names:

“This Council welcomes the report of the Fulham Schools Commission and looks forward to working with Heads, staff, parents and pupils in the coming months to build on the Commission’s recommendations in the interests of the current and future pupils, parents and staff of our Borough schools.”

Speeches on the motion were made by Councillors Lillis and Greenhalgh

Under Council Procedure Rule 15(e)(vi), Councillor Reg McLoughlin moved, seconded by Councillor Stephen Cowan, an amendment to the motion to delete all words after “This Council welcomes...” and insert:

“...the recommendation by the Fulham School’s Commission that the Conservative Administration should improve Hurlingham & Chelsea Secondary School. It regrets the actions taken by the H&F Conservative Administration in undermining this school along with the waste of tens of thousands of pounds of public money in seeking to close it down.

We further congratulate the Fulham Schools Commission on calling for a review of the whole borough’s secondary education and note that this was proposed by the Labour Opposition and voted down by the Conservative Administration at the last Council meeting. We call on the Council to now back this proposal. This review should involve head teachers, staff, parents and the trade unions.

The Council agrees that the borough-wide review should initially focus on recommendations 4, 5, and 6 and so provide a carefully planned strategy for the 14-19 age group, the development of more effective links between primary and secondary schools and improved relations between H&F Council and its secondary schools. The review should seek to build a consensus with all key stakeholders on these areas prior to any structural changes to the schools being set in progress.”

Speeches on the amendment were made by Councillors McLoughlin, Cowan, Greenhalgh and Cartwright before being put to the vote.

FOR -	12
AGAINST -	23
ABSTENTIONS -	0

The amendment to the motion was declared **LOST**

Councillor Stephen Cowan (for the Opposition) and Councillor Antony Lillis (for the Administration) made a speech winding up the debate before the substantive motion was put to the vote.

FOR -	23
AGAINST -	0
ABSTENTIONS -	12

The substantive motion was declared **CARRIED**



7.51pm – **RESOLVED:**

This Council welcomes the report of the Fulham Schools Commission and looks forward to working with Heads, staff, parents and pupils in the coming months to build on the Commission's recommendations in the interests of the current and future pupils, parents and staff of our Borough schools.

**Special Motion No. 2 – Affordable Housing**

7.52pm – Councillor Adronie Alford moved, seconded by Councillor Harry Phibbs, the special motion standing in their names:

“The Council notes the Administration's objective to build 6000 new homes, of which 3000 will be affordable, over the next 10 years and calls on the Administration to create a housing ladder of opportunity that enables more hard working families to own their own homes in the Borough.”

Speeches on the motion were made by Councillors Alford, Phibbs and Binmore (maiden speech).

Under Council Procedure Rule 15 (e) (vi), Councillor Lisa Nandy moved, seconded by Councillor Lisa Homan, an amendment to the motion to delete all words after “This Council...” and insert:

“...is concerned that LBHF has cut the planned numbers of affordable homes to buy and to rent and calls on the Conservative Administration to prioritise affordability when agreeing new housing for the borough.

The Council welcomes the intervention of the Mayor of London to ensure that this borough's housing policies comply with the London Plan and to prevent LBHF's decline from being one of London's leading boroughs in delivering affordable housing to rent and to buy

This Council recognises that it has a duty to the 8,000 persons on the Council's waiting lists and looks to revise its housing policies to at least meet those achieved by the last Labour Administration.”

Speeches on the amendment were made by Councillors Nandy and Homan (for the Opposition) and Councillor Loveday (for the Administration) before it was put to the vote:

FOR -	13
AGAINST	25
ABSTENTIONS	0

The amendment to the motion was declared **LOST**

Councillor Campbell (for the Opposition) and Councillor Alford (for the Administration) made speeches winding up the debate before the substantive motion was put to the vote:

FOR	- 25
AGAINST	- 0
ABSTENTIONS	- 13

The substantive motion was declared **CARRIED.**

8.33 pm - **RESOLVED:**

The Council notes the Administration's objective to build 6000 new homes, of which 3000 will be affordable, over the next 10 years and calls on the Administration to create a housing ladder of opportunity that enables more hard working families to own their own homes in the Borough.

### **Special Motion No. 3 – Local Shops**

8.34pm - Councillor Stephen Greenhalgh moved, seconded by Councillor Frances Stainton, the special motion standing in their names:

“This Council notes the publication of an independent Commission on Retail Conservation set up by Kensington & Chelsea Council and the recent submission to the Council by the Fulham Society of "Renaissance in Fulham". As a result of increasing concern at the disappearance of independent retailers, this Council resolves to study these two reports and further consider ways in which to support shops and the local economy in Hammersmith & Fulham.”

Speeches on the motion were made by Councillors Greenhalgh and Stainton.

Under Council Procedure Rule 15 (e) (vi), Councillor Michael Cartwright moved, seconded by Councillor Rory Vaughan, an amendment to the motion to delete all after “..study these two reports”... insert:

“...and agrees to set up a similar Commission, involving local small retailers and other key stakeholders.”

Speeches on the amendment were made by Councillors Cartwright, Vaughan, Botterill, Owen and Loveday before it was put to the vote:

FOR	- 12
AGAINST	- 25
ABSTENTIONS	- 0

The amendment to the motion was declared **LOST.**

Councillor Harcourt (for the Opposition) and Councillor Greenhalgh (for the Administration) made closing speeches winding up the debate before the substantive motion was put to the vote:

FOR	- Unanimous
AGAINST	- 0
ABSTENTIONS	- 0

The substantive motion was declared **CARRIED**

9.13 pm - **RESOLVED**:

This Council notes the publication of an independent Commission on Retail Conservation set up by Kensington & Chelsea Council and the recent submission to the Council by the Fulham Society of "Renaissance in Fulham". As a result of increasing concern at the disappearance of independent retailers, this Council resolves to study these two reports and further consider ways in which to support shops and the local economy in Hammersmith & Fulham.

**Special Motion No.4 – Borough Housing Policy**

With the consent of the Council, this motion was withdrawn by the mover and seconder.

**38. INFORMATION REPORTS TO COUNCIL (IF ANY)**

There were no information reports to this meeting of the Council.

\* \* \* \* \* CONCLUSION OF BUSINESS \* \* \* \* \*

Meeting ended: 21.15p.m. - Wednesday, 19 September 2007.

.....  
MAYOR

**APPENDIX 1**

**ANNOUNCEMENTS BY  
THE MAYOR**

1. On 28<sup>th</sup> June, accompanied by Cllr Donald Johnson, I was delighted to attend Swanbank Court Sheltered Housing Scheme Summer party, Willow Bank, SW6
2. On 28<sup>th</sup> June, I attended the National Day reception for the Republic of Croatia, Fitzroy Square W1
3. On 29<sup>th</sup> June, I attended a photo-call for Standing Together Against Domestic Violence, Polish Centre, King Street, W6
4. On 29<sup>th</sup> June, I attended a photo-call for Shades Day, Furnivall Gardens, W6
5. On 29<sup>th</sup> June, I was delighted to attend the Hammersmith Science & Technology Challenge Day, for years 8/9 from local schools, Hammersmith & West London College, W14
6. On 29<sup>th</sup> June, I attended the Metropolitan Public Gardens Association AGM, Parliament Chamber of the Inner Temple, Temple EC4Y
7. On 3<sup>rd</sup> July, I attended the Performance of 'A Millers Tale' by H&F schools, National Army Museum, Chelsea Hospital Road, SW3
8. On 5<sup>th</sup> July, I presented a bouquet of flowers on behalf of the council to Joan Carroll on her retirement from St Augustine's School, SW6
9. On 8<sup>th</sup> July, I was honoured to attend a church service to celebrate the life of Granville Sharp, All Saints Church, SW6
10. On 10<sup>th</sup> July, I attended the Fulham Society Annual Summer Party, Lady Margaret School, Parsons Green, SW6
11. On 11<sup>th</sup> July, I was delighted to welcome and tour H&F with the London in Bloom judges, various areas in the borough
12. On 12<sup>th</sup> July, accompanied by my consort, I attended the High Sheriff of London's Garden Party, Kew Green, Richmond
13. On 12<sup>th</sup> July, accompanied by my consort, I attended the Virgin H.E.M.S Air Ambulance Charity Evening, Chelsea Physic Garden, SW3
14. On 17<sup>th</sup> July, I attended Groundwork West London, premier of 2 Short Films about Independent Travel for people with disabilities, Small Hall, HTH

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15. On 20<sup>th</sup> July, I attended the end of term drinks reception, Jack Tizzard School, W12
16. On 20<sup>th</sup> July, I was delighted to attend H&F Foster Carers annual Dinner and Dance reception, Hilton Hotel, Holland Park Avenue, W11
17. On 22<sup>nd</sup> July, I attended the Salamanca Day reception and sounding the retreat, Windsor Castle, Windsor
18. On 24<sup>th</sup> July, I visited H&F MIND, Bryony Road Adult Education Centre, White City, W12
19. On 24<sup>th</sup> July, I hosted a tea party for family and friends of Mrs Pamela Turner. Pamela won a gold medal for the over 70's in the freestyle swimming held in Australia. Mayor's Parlour, HTH
20. On 24<sup>th</sup> July, I attended the London Mayors' Association AGM and reception, Westminster city Hall, SW1
21. On 25<sup>th</sup> July, I was delighted to attend the launch party for the newly restored Compton Cinema Organ, Hammersmith Apollo, W6
22. On 6<sup>th</sup> September, accompanied by my consort, I attended the launch and Churchyard Keys ceremony, which was officially blessed by The Rt. Hon. Bishop of Kensington, St Johns Church, Walham Green, SW6
23. On 8<sup>th</sup> September, I attended the launch party for the Great River Race 2007, Riverside Car Park, Ham Street, Richmond
24. On 10<sup>th</sup> September, I attended the Faces of Freedom exhibition, Fulham Palace, SW6
25. On 12<sup>th</sup> September, I attended the Metropolitan Police Remembrance and Wreath Laying Ceremony, Hendon
26. Since 18<sup>th</sup> July, I attended 4 Citizenship Ceremonies during which, I presented each citizen with their official certificate, Council Chamber, FTH, SW6

# REPORT TO EXTRAORDINARY COUNCIL MEETING

# 5.1

## 21 NOVEMBER 2007

### CONTRIBUTORS

ACE  
HLS  
HCS

### REPORT OF THE STANDARDS COMMITTEE – LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

### WARDS

ALL

This report sets out the recommendations of the Standards Committee in relation to the proposed changes to the arrangements for dealing with complaints against Councillors.

### RECOMMENDATIONS:

1. That the membership of the Standards Committee be increased by one independent member at a date to be fixed by Council at a future meeting.
2. That the Assistant Chief Executive be authorised to advertise for an additional member and that applications be considered by the Standards Committee Appointment Panel.
3. That the Council receive a further report and recommendations from the Standards Committee in relation to its function in the new year.

## 1 INTRODUCTION

1.1 The Local Government and Public Involvement in Health Bill received Royal Assent on 30<sup>th</sup> October and is expected to come into force in time for the start of the next municipal year. It includes a number of important changes in the way the standards regime operates, and it is important that the Council anticipates and plans for the likely introduction of those changes

1.2 At present, complaints about councillors or independent or co-opted members are made directly to the Standards Board for England. The Standards Board carries out an initial “filter” procedure, deciding which complaints shall be dismissed without any investigation, which complaints should be referred back to the local standards committee for investigation and decision, and which complaints shall be investigated and determined by the Adjudication Panel for England (which is a central body organized and clerked by the Standards Board). When the provisions of the new Act come into force, this procedure will change and all complaints will be made directly to the standards committee of the council concerned.

1.3 Time restrictions will apply for the various decision stages, there will be requirements for regular returns on the fact and outcomes of complaints, and the Standards Board will retain the right to suspend the powers of local standards committees in some circumstances – most probably (although regulations have yet to be issued on this point) where a local standards committee is clearly not carrying out its functions correctly and responsibly. Reasons for decisions taken will be required to be given at every stage of the process.

1.4 It is likely that the new provisions will take effect from the start of the next municipal year (ie. May 2008).

1.5 Key processes which the council will need to plan for and organize are:

- (a) *Which body will take the “initial filter” decision?* This decision will determine whether a complaint is dismissed without investigation, is investigated and determined locally by or on behalf of the standards committee, or (in the case of the most serious allegations only) is referred to the Standards Board for England. This “initial filter” body will need to be in a position to meet up quickly following receipt of a complaint. Although guidance is awaited on this point, it is possible that members who take this initial decision will be conflicted and unable to take part in decision (b) below in relation to any one complaint.
- (b) *Which body will take the substantive decision on complaints referred – following the initial filter decision - for local investigation and decision?* This is a process with which the Standards Committee is already familiar,

although in future it is anticipated that a greater proportion of complaints will be referred for local determination rather than by the Standards Board.

- (c) *Which body will handle any appeals against decisions by the initial filter body that no action should be taken in respect of a complaint?* For obvious reasons, members of the initial filter panel will not be able to take part in any decision relating to an appeal on a decision they have taken.

1.6 It is almost certain that regulations will require at least one independent member of the Standards Committee to be on each decision-making body within the complaint process.

1.7 The Standards Committee considered these issues at their meeting on 29<sup>th</sup> October and will be considering the implications of the Act in detail at their meeting on 21<sup>st</sup> January 2008 and making recommendations to Council for its consideration.

1.8 What is clear however is that the current Standards Committee which comprises 3 councillors and 3 independent members is unlikely to be large enough to deal effectively with its new responsibilities because of the need to involve an independent member on any sub-committee and the fact that members involved in the filtering of complaints will certainly be unable to sit on any review panel and may be precluded from any substantive hearing. It is likely that the Committee will be recommending a similar arrangement to that currently in place for licensing. However, whilst the Council as a relatively large number of councillors to draw upon for these purposes it currently have only three independent members one of whom must be present for the committee to be quorate. Because of the need to advertise for additional independent members, convene the Standards Committee Appointment Panel to consider the applications and provide training, the Standards Committee recommends that the Council begins this process now in anticipation of the need to increase the membership of the committee by one independent member to enable the recruitment process to be completed before the start of the next Municipal Year.

## **2. COMMENTS OF HEAD OF LEGAL SERVICES**

These are contained in the body of the report.

## **3. COMMENTS OF THE DIRECTOR OF FINANCE**

The allowances payable to an additional independent member can be met from the existing budget.

### **LOCAL GOVERNMENT ACT 2000** **LIST OF BACKGROUND PAPERS**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext. of Holder of File/Copy</b>	<b>Department/ Location</b>
1.	Local Govt & Public Involvement in Health Act 2007	Michael Cogher Ext. 2700	ACE, Room 133a Hammersmith Town Hall



# REPORT TO EXTRAORDINARY COUNCIL MEETING

# 5.2

## 21 NOVEMBER 2007

### CONTRIBUTORS

ACE  
HLS

**ESTABLISHMENT OF A JOINT OVERVIEW & SCRUTINY COMMITTEE FOR HEALTHCARE IN LONDON & APPOINTMENT OF COUNCIL REPRESENTATIVES**

**WARDS**  
ALL

This report requests Council to endorse the appointment of the Chairman of the Health and Adult Social Care Scrutiny Committee as the representative and the Vice-chairman of the Committee as deputy representative from the London Borough of Hammersmith & Fulham to the London Joint Overview and Scrutiny Committee.

### **RECOMMENDATIONS:**

1. To endorse the recommendation of the Health and Adult Social Care Scrutiny Committee, at its meeting on 23 October 2007 as follows:-
  - That the Chairman of the Health and Adult Social Care Scrutiny Committee be appointed as the representative and the Vice-chairman of the Committee as deputy representative from the London Borough of Hammersmith & Fulham to the London Joint Overview and Scrutiny Committee.
  - That in the event of the Council being entitled to two places on the body, the Vice-chairman of the Committee be appointed as the second member.
2. That the Assistant Chief Executive be authorised to approve the Joint Scrutiny Committee's terms of reference in consultation with the Cabinet Member for Community and Children's Services and the Chairman of the Health and Adult Social Care Scrutiny Committee.

## 1 INTRODUCTION

### Healthcare for London: A Framework for Action

#### 1. Introduction

The Health and Adult Social Care Scrutiny Committee at its meeting on 23 October 2007 considered a report setting out the framework for a formal consultation on the models of care and delivery set out in *Healthcare for London: A Framework for Action*, the report commissioned by NHS London from Professor Sir Ara Darzi and published on 11 July 2007. The Committee resolved:

- (1) That the Chairman of the Health and Adult Social Care Scrutiny Committee be appointed as the representative and the Vice-chairman of the committee as deputy representative from the London Borough of Hammersmith & Fulham to the London Joint Overview and Scrutiny Committee.
- (2) That in the event of the Council being entitled to two places on the body, the Vice-chairman of the committee be appointed as the second member.

#### 2. Role of the Joint Overview and Scrutiny Committee (JOSC)

The framework proposes a two stage consultation process. Part of this will be a formal fourteen-week first-stage public consultation period led by PCTs, running from mid November 2007 through to early March 2008 (extended from the twelve week norm because of the holiday period). The London Borough of Hammersmith has agreed to support, in principle, the two stage consultation.

The role of the JOSC will be to respond to the consultation document issued by the Joint Committee of PCTs on the models of care outlined in *Healthcare for London: A Framework for Action*; to consider whether to refer the proposed models of care to the Secretary of State for Health on the grounds of (a) the proposals not being in the interests of the health service in London, or (b) the consultation procedure being inadequate; and to consider the Joint Committee of PCTs' response to the consultation..

The date of the first meeting of the JOSC, at which the terms of reference are to be agreed, has not yet been decided; the earliest possible date is 30 November 2007. This date would not allow the Council to approve the terms of reference as the next available Council meeting would be held in January 2008. Other boroughs have dealt with this by Council authorising a senior officer to approve the terms of reference.

## 2. COMMENTS OF HEAD OF LEGAL SERVICES

These decisions need to be authorised by Council. As the terms of reference are not yet available delegated authority is sought in order to approve them in a timely manner.

### LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS

#### LOCAL GOVERNMENT ACT 2000 – LIST OF BACKGROUND PAPERS

No.	Brief Description of Background Papers	Name/Ext. of holder of file/copy	Department/Location
1.	Council Constitution	Sue Perrin 020 8753 2094	ACE Hammersmith Town Hall
2.	Healthcare for London: A Framework for Action		



# REPORT TO EXTRAORDINARY COUNCIL MEETING

# 5.3

21 NOVEMBER 2007

**DEPUTY LEADER &  
CABINET MEMBER  
FOR ENVIRONMENT**

**Cllr Nick Botterill**

**CABINET MEMBER  
FOR CRIME &  
ANTISOCIAL  
BEHAVIOUR**

**Cllr Greg Smith**

**REVIEW OF LICENSING ACT 2003 –  
STATEMENT OF LICENSING POLICY 2007**

This report seeks approval for the Council's Statement of Licensing Policy, which has been publicly consulted upon.

The Licensing Act 2003 requires a licensing authority to prepare, consult and publish a statement of its licensing policy every three years.

Once approved, the statement of Licensing Policy will supersede the November 2004 policy and will be the key document which the Licensing Committee will use to assist in the determination of applications.

**WARDS**

**ALL**

**CONTRIBUTORS:**

PPS; LEGAL

**RECOMMENDATION:**

**That the Council's Statement of Licensing Policy, as set out in Appendix 1 to the report, be adopted.**

## **1.0 Introduction**

- 1.1** The Council adopted its policy by full council in November 2004 to allow the Licensing Committee to use it as an important consideration in the determination of licence applications. The current policy reflects the Licensing Act 2003 and the original guidance issued by DCMS (Department for Culture Media and Sports). The policy aims to provide the necessary protection to residents, whilst promoting greater choice and flexibility to businesses and their customers. The policy provides a basis for the Licensing and Sub committees to make consistent and transparent decisions for licensing applications.
- 1.2** The Licensing Act 2003 requires the Council to consult, determine and publish its policy with respect to the exercise of its licensing functions for each 3 year period beginning on 7 February 2007. As part of this process the Council carried out a consultation which included the responsible authorities, holders of premises licences, club premises certificates and representatives of businesses and residents in the area.
- 1.3** It would appear that the Council's Policy has worked well and has proven to be an effective tool for the committee in the determination of applications. Changes to the policy have therefore been mainly limited to those reflected in the DCMS published guidance which we are compounded to mirror and those considered appropriate from the consultation.
- 1.4** Consultation on the current Statement of Licensing Policy began in early July and closed on the 17<sup>th</sup> September. The Policy (Appendix 1) together with the covering letter and questionnaire (Appendix 2) have been sent to over a thousand stakeholders, and advertised on the councils web site.

## **2.0 Statement of Licensing Policy**

- 2.1** The Licensing Authority (the Council) is required to issue a statement of licensing policy. In formulating its Policy the Council must have regard to the legislation and statutory guidance issued under section 182 of the Act.
- 2.2** It is a legal requirement that the Council's reviewed statement of licensing policy must be in place by 7 January 2008. The Policy must make it clear that the licensing authority will primarily focus upon the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

## **3.0 Consultation**

- 3.1** The Council is obliged under the Act to consult with the chief officer of police for the area, the fire authority for the area and such persons/bodies as the council consider to be representative of future premises licence holders, club premises licence holders, personal licence holders and businesses and residents within the area.
- 3.2** Officers sent copies of the policy and a questionnaire to all statutory consultees. They went to all known licensed premises and residents groups within the borough. The policy was published on the council's web site with an online questionnaire was able

to submitted electronically via the web. Copies of the policy and the consultation questionnaire were sent to all councillors.

3.3 In total 1052 questionnaires were sent out and 112 (10.64%) responses were received.

3.4 All responses received were date stamped, logged and filed. The majority of responses were received on the SNAP questionnaire. A number of more technical trade responses were received in a letter format. Each response was subsequently examined and consideration given to the comments received.

## **Comments**

3.5 A report was presented on the review of the policy to The local Neighbourhoods Scrutiny Committee, on the 11th September 2007 was able to consider and comment on the changes to the council's current statement of licensing policy and make recommendations as appropriate.

## **4.0 Summary of key responses**

### **General Themes**

4.1 Several of the responses to the consultation exercise raised general issues running throughout the policy document.

### **Plain English/ Presentation**

4.2 The majority of consultees indicated that they considered that the licensing policy is clearly written and easy to understand. Two of the responsible authorities considered the policy wordy and could benefit from more subheadings

#### Officers' comment

4.3 By it's nature it concerns some technical terms and originally a Glossary was added for clarification, more terms were added. Officers have sought to improve the wording of some parts of the policy.

### **Proportionality**

4.4 5.4 Some trade representatives commented that licences, in particular for extended hours, must be considered in relation to the nature, type of activity and hours of operation proposed taking into consideration the individual premises and on their own merits.

#### Officers' comment

4.5 It is considered that the policy is well balanced and reflects the government's objective to increase flexibility for, and self-regulation by, the licensing industry whilst offering proper protection and safeguards for the whole community. It is recognised that in many cases not all of the criteria within the various policies will be relevant to a particular application. However the licensing policy should include all of the criteria

within its policy and it is the duty of the Licensing Committee to apply the material criteria to each individual application.

## **Responses and changes on Individual Sections**

4.6 The following paragraphs of this report summarise the remaining key comments on the licensing policy by reference to specific sections of it whether they arose from the consultation or internal review of the policy.

### **Section 1, 2 and 3 - Foreword, Introduction, Fundamental Principles**

4.7 This section has had a number of changes made as a result of the organisational changes to PPS (Public Protection and Safety). Various references to “the new legislation” have also been removed as the legislation is now no longer considered as new.

4.8 One applicant commented that paragraph 3.8 does not reflect what the Licensing Act says in terms of considering applications. Licensing Committees and applicants must all focus on the four licensing objectives in equal measure. To incorporate such an ambiguous phrase as “activities taking place at the licensed premises or members of the public living, working or engaged in normal activity” goes beyond the Act and will lead to debate as to what constitutes normal activity.

#### **Officers Comments**

4.9 It is felt that the policy actually reflects the guidance adequately and does not go beyond the scope of the act. The consideration of the objectives is carried out in equal measure. It is for the committee to apply these to each individual situation of the application and who the licensable activities would affect.

### **Section 7 – Prevention of Crime and Disorder**

4.10 The reviewed guidance by DCMS clarified this particular section. The need to take reasonable steps to prevent the occurrence of crime & disorder and public nuisance immediately outside a premises, for example on the pavement, in a beer garden, or in a smoking shelter where and to the extent that these matters are within a premises control and this has been reflected in our amended policy (Paragraph 7.2 point g)

#### **Officers comments**

4.11 The Police have requested that for certain events a comprehensive Risk Assessment for significant events is required by premises licence holders to ensure that crime and disorder matters are identified and addressed. This has been reflected in our amended policy (Paragraph 7.2 point h)

#### **Officers Comments**

4.12 The introduction where necessary of this requirement for significant events has been requested by the Metropolitan Police in conjunction with its CO14 Clubs and Vice Focus desk and the London Council’s Licensing sub group. Given the high number of events attracted within the borough we feel this would be a useful tool for the

targeting / control of events which could pose a significant threat to crime and disorder. A significant event definition was also been clarified in the glossary.

## **Section 8 - Public Safety**

4.13 The Regulatory Reform (Fire Safety) Order 2005 replaced much of the old fire safety legislation. Under article 43 of the Fire Safety Order any conditions imposed by the Licensing Authority that relate to any requirements or prohibitions that are or could be imposed by the order automatically cease to have effect.

Officers' comments

4.14 The necessary amendments to the wording of this section have been made. The above paragraph was inserted into the policy. Occupancy limits have however changed to Safe Capacities and will be imposed where necessary for the promotion of Public Safety and or the prevention of crime and disorder on relevant premises. this has been reflected in our amended policy (Paragraph 8.4)

## **Section 9 - The Prevention of Nuisance**

4.15 An addition including the effects of the smoking ban and the issues this could cause with noise outside premises was also raised. One consultee indicated that policy did not properly list the issues over the prevention of nuisance since the smoking ban as did the responsible authority.

Officers' comments

4.16 The policy has been amended to include specific reference to the issue of smoking. The new guidance also re iterated this fact and amendments were made to the policy on this matter, this has been reflected in our amended policy (Paragraph 7.2 point g)

## **Section 10 - Protection of Children from Harm**

4.17 The majority of consultees indicated that they considered that the policy adequately promoted the protection of children from harm. The Trading Standards service, as a responsible authority expressed an interest in being included specifically under this objective via the consultation.

Officers' comments

4.18 Minor amendments have been made to the policy. Trading Standards has formally been included in the policy, though this has always been the intention though silent within this part of the policy. They will specifically address matters regarding under age sales.

## **Section 11 – Transition Period**

4.19 This section was completely removed as this phase of the Licensing Act 2003 has elapsed.



## The remaining sections

### Section 16 – Temporary Event Notices

4.20 Minor clarifications to this section were made to make it more accurate, i.e. no more than 499 people, as the actual phrasing used in the legislation. The period of notice for these is also clarified as being a minimum of 10 **working** days.

No further changes of note were made to the policy.

### Summary: Conclusion

4.21 Officers have carefully considered all representations made in response to the consultation exercise and amended the licensing policy where considered appropriate. The key responses together with the consequential amendments to the draft policy have been summarised in this section of this report. The full representations are background papers to this report. The draft licensing policy statement attached at Appendix 1 includes all the changes made following the consultation responses. It would appear that the Council's Policy has generally worked well and has proven to be an effective tool for the committee in the determination of applications changes to the policy have therefore been limited to those in the DCMS published guidance which we are compounded to reflect and those considered appropriate from the consultation and is recommended to the Council for approval.

### 5.0 Comments of Head of Legal Services

5.1 The Head of Legal Services has read the report and is satisfied with its content.

### 6.0 Comments of Director of Finance

6.1 There are no specific financial implications with regard to the approval of the statement of Licensing Policy, although there are costs associated with enforcement and income derived from licences under the policy. These are allowed for within revenue budget of the Public Protection and Safety division with Environment Services.

## LOCAL GOVERNMENT ACT 2000

### LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext. of Holder of File/Copy	Department/ Location
1	Licensing Act 2003	Oliver Sanandres Ext 2213	Environment PPS 5 <sup>th</sup> Floor Town Hall Ext
2	Guidance issued under section 182 of the Licensing Act 2003  Coming into force when laid before Parliament on 28 June 2007	Oliver Sanandres Ext 2213	Environment PPS 5 <sup>th</sup> Floor Town Hall Ext

3	Statement of Licensing Policy	Oliver Sanandres Ext 2213	Environment PPS 5 <sup>th</sup> Floor Town Hall Ext
4	Full Council Meeting 24 November 2004	Oliver Sanandres Ext 2213	Environment PPS 5 <sup>th</sup> Floor Town Hall Ext
5	LOCAL NEIGHBOURHOODS SCRUTINY COMMITTEE – 11 <sup>th</sup> September 2007	Oliver Sanandres Ext 2213	Environment PPS 5 <sup>th</sup> Floor Town Hall Ext

## Appendix 1 – Statement of Licensing Policy



Reviewed Statement  
of Licensing Policy 201



# **STATEMENT OF LICENSING POLICY**

**Issued November 2007**

London Borough of Hammersmith &  
Fulham statement of licensing policy  
Issued November 2007

This policy has been prepared in accordance with guidance issued under Section 182 of the Licensing Act 2003. If you would like more information, please contact us:

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# 1 Foreword

- 1.1 The council will have regard to this policy when carrying out its functions under the Licensing Act 2003.
- 1.3 The Licensing Act 2003 requires the council to publish this statement of licensing policy. This policy will be used as a guide in decision making with regard to licensing matters.
- 1.4 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken, these are:

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

Each objective is of equal importance. It is important to note that there are no other licensing objectives, so that these four objectives are paramount considerations at all times.

- 1.5 Through this policy the council hopes that local people and visitors to Hammersmith & Fulham will have better opportunities to enjoy their leisure time safely without fear of violence, intimidation or disorder while on, arriving at or leaving licensed premises. In addition, and in response to concerns about the impact of longer trading hours on behaviour and disturbance at night, we have given the protection of local residents, whose lives can be blighted by disturbance and antisocial behaviour associated with the behaviour of some people visiting places of entertainment, a central place in our strategy.
- 1.6 Our aim is to target premises, which are causing problems within our communities and have a lighter touch for the majority of businesses and community activities, which enhance peoples' lives by providing worthwhile opportunities for the enjoyment of leisure time without having a negative impact. Premises that produce disorder, threaten public safety, generate public nuisance or threaten the well being of our children will be targeted for enforcement action.
- 1.7 Residents also have the benefit of the right to challenge a licensing decision of the Council, by appealing to the Magistrates Court.
- 1.8 Police powers to deal with any disorder have been strengthened and they have a key role in the prevention of crime and disorder on licensed premises. The council retains its power as local planning authority to control opening times of all new establishments seeking planning permission, where harm would otherwise arise.
- 1.9 An effective licensing policy, alongside other initiatives, can work towards promoting the positive aspects, such as increasing the leisure industry provision for the community and encouraging regeneration of town centres, as well as controlling the negative impacts such as increase in noise, nuisance, anti-social behaviour and crime and disorder.
- 1.10 The Unitary Development Plan (UDP) sets out the council's planning policies for developing land,

improving transport and protecting the environment. The council is required to determine planning applications in accordance with the UDP, the London Plan and any other material considerations.

- 1.11** Licensing applications will not be a re-run of the planning application. The granting by the licensing committee of any variation of a licence, which involves a material alteration to a building, would not relieve the applicant of the need to apply for planning permission or building regulation control where appropriate.
- 1.12** Hammersmith & Fulham is a socially diverse area with a cosmopolitan population, sharing the advantages and disadvantages of inner city life. This presents the challenge of securing the safety and amenity of residential communities while facilitating a sustainable entertainment and cultural industry. To date, the council has been successful in seeking to strike this balance, and has a proven track record of treating each application in a fair and considered way.
- 1.13** The majority of the nightlife is situated in the three town centres in the borough: Shepherds Bush, Hammersmith and Fulham. Each has a thriving social and artistic life. Green spaces have been protected and extended throughout the 1990s to improve the local quality of life. The borough is home to a world-renowned research and teaching hospital (forms part of Hammersmith Hospitals NHS Trust) and three major football teams (Chelsea, Fulham and QPR).
- 1.14** Our licensing policy is designed to build upon the work presently carried out by the council to maintain a dynamic, innovative and attractive place to live, work and relax. The council has prepared a number of strategies that contain visions, aims and objectives to promote, improve and protect the borough. Not only has this Licensing Statement been prepared to promote the four licensing objectives under the Licensing Act 2003, the council has had regard to the local strategies which have been developed for the borough, its residents, businesses, workers and visitors. The council intends to secure the proper integration with local crime prevention, planning, transport, tourism and cultural strategies and council's equality agenda by ensuring our licensing statement is consistent with their aims and objectives.
- 1.15** The council will seek to implement the policy in a positive and inclusive way for the whole community
- 1.16** The council's vision of the improvements it wishes to secure in the local quality of life comes under its objectives of
- Delivering value for money
  - Cracking down on crime and antisocial behaviour
  - A borough of opportunity
  - A cleaner greener borough
- 1.17** The council is keen to promote the cultural life of our borough and licensing will be approached with a view to encouraging all forms of licensable activity that are carried out in ways consistent with the licensing objectives.

- 1.18** The council may seek in its own name premises licences for appropriate public spaces within the borough. This will make it easier for people to organise suitable cultural events. We will consider any request for permission to use such public spaces for cultural activities having regard to the promotion of the four licensing objectives.
- 1.19** The legislation provides the entertainment and leisure industries with greater freedom and flexibility to meet the demands of its customers but also provides some extra powers for the council and the police, who we work closely with, to protect residents from disturbance.
- 1.20** Deregulation inevitably brings with it a higher degree of self-regulation by licence and certificate holders. This shift means that the primary responsibility for controlling activities on licensed premises firmly rests on the licence holders and managers of such premises. This council, with support from the other enforcement agencies will keep the activities of these licence holders under review. This means that all concerned must work closely together in partnership for the community of which both businesses and residents form a part.
- 1.21** The act requires the council to review the licensing policy every three years. All reviews will be subject to further consultation with all stakeholders and any revised policy will be published. Issues that arise concerning implementation of the policy will be recorded in an issue log and taken into account during any review.

## **2 Introduction and purpose**

- 2.1** The Licensing Authority for the London Borough of Hammersmith & Fulham (hereafter referred to as 'the council') makes this Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003. The policy relates to the following activities that are required to be licensed under the act (known as licensable activities):
- The retail sale of alcohol including licensing of individuals, premises, wholesale of alcohol to members of the public and purchases via the internet or mail order;
  - The supply of alcohol to members of club premises;
  - The provision of regulated entertainment in the presence of an audience. Regulated entertainment includes film exhibitions, performances of a play, indoor sporting events, boxing or wrestling events, live music performances, playing of recorded music, dance performances, provision of facilities for making music and provision of dance facilities;
  - The licensing of activities on a temporary basis (temporary event notices);
  - The provision of late night refreshment. Supply of hot food or drink from premises from 23.00 to 05.00 hours.
- 2.2** The two main types of licence issued under the legislation are personal and premises licences. Club premises certificates can also be issued for qualifying clubs carrying out qualifying club activities. Temporary Event Notices may be issued for licensable activities involving less than 500 people lasting less than 96 hours. References to licences in this document include certificates, temporary event notices or other permissions under the act.
- 2.3** The Policy has been drawn up in consultation with the following:
- Metropolitan Police;



- London Fire, Emergency and Planning Authority;
- Representatives of holders of premises licences in the borough;
- Representatives of holders of club premises certificates in the borough;
- Representatives of holders of personal licenses in the borough;
- Representatives of residents and businesses in the area, including resident groups, tenants associations and societies;
- The Area Child Protection Committee; Health service including PCT, Accident and Emergency and the London Ambulance service;
- British Transport Police;
- Public transport undertakers;
- Neighbouring authorities;
- British Institute of Inn keeping;
- Chamber of Commerce;
- Drug and alcohol action team;
- Crime and Disorder Reduction Partnership;
- Trade unions;
- Other relevant organisations that could be affected by this policy.

- 2.4** Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act. The conditions attached to licences will be focused on matters that are within the control of individual licensees. Accordingly, conditions will centre on the premises and in the vicinity of those premises. What is in the vicinity will depend on the facts of each individual case. But the council will primarily focus on the direct impact of the activities at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 2.5** Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour caused by people once they are away from the premises and therefore beyond the direct control of the licensee. Nonetheless, licensing is a key aspect of such control and licensing law is part of a holistic approach to the management of the night time economy.
- 2.6** However, as a matter of policy, the council expects every holder of a licence, certificate or permission to accept and be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the vicinity of their premises by taking appropriate measures and action consistent with that responsibility. Licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking area where and to the extent that these matters are within their control.
- 2.7** Every application made to the council will be considered on its own merits. This policy will be used as a basis in coming to consistent and transparent decisions on licence applications.
- 2.8** When this policy refers to the licensing authority's approach to the exercise of its decision making powers, this refers to those cases where its discretion has been engaged by the receipt of relevant representations.
- 2.9** The council has taken full account of the guidance issued to it by the Secretary of State under section 182 of the Licensing Act (available from [www.culture.gov.uk](http://www.culture.gov.uk)). Where it is necessary to depart

from that guidance, the council will give its reasons for doing so.

- 2.10** Additionally in formulating this policy document the council has had regard to the provisions of the European Convention on Human Rights, the Race Relations Act 1976 (amended 2000) and has taken into account the provisions of the Crime and Disorder Act 1998
- 2.11** The scope of this policy covers all applications made under the Licensing Act 2003. Designated sports grounds, events and exhibition centres are the subject of separate legislation. Consideration of applications for premises licences will be limited to those activities that are licensable under the 2003 Act.
- 2.12** Nothing in this policy will undermine any person from applying for a variety of permissions under the act.
- 2.13** This policy comes into force on 7 November 2007.

### **3 Fundamental principles**

- 3.1** In carrying out its licensing functions, the council will actively seek to promote the four licensing objectives set out in section 4 of the act, these are:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance;
  - The protection of children from harm.
- 3.2** To achieve these objectives the authority will use its full range of powers and engage all relevant responsibilities including those relating to planning, transport, crime and disorder. Accordingly, the authority will enter appropriate partnership arrangements, working closely with the police, the fire authority, local businesses, community representatives and local people in meeting these objectives.
- 3.3** The council has significant experience and awareness of the requirements of, and issues surrounding, the entertainment and leisure industry, and we will work with our stakeholders to ensure mutual co-existence.
- 3.4** This policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers.
- 3.5** Where relevant representations have been received by the council conditions, attached to licences and certificates will be, tailored to the individual style and characteristics of the premises and events concerned and will relate to the licensing objectives and be restricted to matters within the control of individual licence holders.
- 3.6** Necessary and proportionate conditions, which relate to the licensing objectives will be drawn in particular circumstances from the National Pool of Conditions, issued by the Department of Culture, Media and Sport. Further information regarding these conditions can be found at [www.dcms.gov.uk](http://www.dcms.gov.uk) however this does not preclude the council attaching

other conditions if deemed appropriate. Applicants should consider the National Pool of Conditions and incorporate them into their operating schedules, as they consider necessary to promote the licensing objectives. Applicants should also consider the needs of disabled people and, where reasonable, make appropriate provision for them, as outlined in the Disability Discrimination Act 1995.

- 3.7 Licence holders will be required to ensure that they and their premises comply at all times with any conditions attached to a licence.
- 3.8 In making decisions on licensing applications and in imposing conditions, the council will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned relating to the four licensing objectives.
- 3.9 All relevant representations will be considered during the decision making process, unless they are considered to be frivolous, vexatious or repetitious.

## **4 Cumulative impact**

- 4.1 In determining an application, where there has been a relevant representation, the authority will, where appropriate, take into account the cumulative effect that the existence of a saturation of premises in one area may have. A saturation of licensed premises can attract customers to the area to such a degree that it has an adverse impact on the surrounding area beyond the control of individual licence holders
- 4.2 Where the cumulative effect of many licensed premises within an area gives rise to problems of public disorder and nuisance in the surrounding area the council may consider it inappropriate for any further licensed premises to be established in the area or capacities to be increased. In such circumstances, an application for a licence for activities, which would undermine the promotion of any of the Licensing objectives would be refused.
- 4.3 Where there is sufficient evidence that a particular area had reached a point where existing activity is at such levels that if by granting them, they would contribute to the cumulative effect that the council wishes to mitigate, the council might adopt a special policy of refusing certain licence applications.
- 4.4 If such a policy were adopted it would not be absolute and each application would still have to be considered on its own merits.
- 4.5 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.
- 4.6 In coming to any decision regarding cumulative impact the council will also have regard to other mechanisms outside of the licensing regime which may also be available to address this issue, these are:

- Planning controls (where development or change of use is involved, or where trading hours are limited by planning conditions)
- Police enforcement of the normal law concerning disorder and anti-social behaviour. 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 events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises.
- 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.

## **5 Licensing hours**

**5.1** Where there is a relevant representation, the council will consider each particular case on its merits having regard in particular to the following matters:

- Whether the licensed activities are likely to cause an adverse impact especially on local residents, and, if there is potential to cause adverse impact, what, if any, appropriate measures will be put in place to prevent it;
- Whether there will be a substantial increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area;
- Whether there is a suitable level of public transport accessibility to and from the premises at the appropriate times;
- Whether the activity will be likely to lead to a harmful and unmanageable increase in car parking demand in surrounding residential streets suffering high levels of parking stress or on roads forming part of the Strategic London Road Network or the London Bus Priority Network leading to harm to the licensing objectives of the prevention of crime, disorder and nuisance;
- Whether the premises has an authorised or lawful use under town planning legislation;
- Whether there have been any representations made by the Police, or other relevant agency or representative.

**5.2** The licensing authority will closely scrutinise extended hours applications to ensure that the licensing objectives are met. In determining an application the licensing committee might decide that the circumstances are such that a restriction on hours is the only appropriate means to achieve the licensing objectives. If an hours restriction is imposed, the council will normally require that customers should be allowed a maximum of thirty minutes to consume alcohol.

**5.3** In determining representations to an application, which incorporates an external area to the premises, the licensing committee might decide that the circumstances are such that a restriction on hours in that area is the only appropriate means to achieve the licensing objectives.

- 5.4 The council will not normally approve an application for a licence unless the applicant can demonstrate that the premises have the appropriate (in terms of the activity and hours sought) planning permission or lawful use.
- 5.5 Exceptions may be made where special circumstances can be demonstrated by the applicant why the application should be considered and approved although the planning status of the premises has not been finalised.
- 5.6 It will be the normal policy of the council to allow shops, stores and supermarkets to provide sales of alcohol for consumption off the premises at any times (in line with permitted planning hours) when the retail outlet is open for shopping unless there are good reasons based on the licensing objectives for restricting those hours. Should there be evidence regarding street drinking issues and disorder issues in the vicinity of this type of premises, the council may restrict the hours of sale of alcohol.

## **6 Promotion of other strategies**

- 6.1 The council will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing. Only necessary, proportionate and reasonable licensing conditions will be imposed on such events. The council recognises that as part of implementing cultural strategies, account needs to be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dancing, street arts and theatre for the wider cultural benefit of the community.
- 6.2 Arrangements have been made for licensing committees to receive, when appropriate, reports on the needs of the local tourist economy.
- 6.3 The licensing authority will keep the licensing committee apprised of the employment situation in the area and the need for new investment and employment where appropriate.
- 6.4 The licensing authority will also report to local transport committees with regard to the need to disperse people from town centres in order to avoid concentrations of people that can produce nuisance and disorder.
- 6.5 The Race Relations Act 1976 as amended (2000) obliges public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The council has a race equality scheme, and will monitor this policy for any adverse impact on the promotion of race equality.
- 6.6 The council will ensure its various strategies and policies are joined up to achieve the licensing objectives in the interests of clarity for applicants and effective determination. This will include taking into account the following:
- Council enforcement policy;
  - Crime and Disorder reduction strategy;
  - Community Safety strategy;

- Drugs and Alcohol strategy;
- Equal opportunities policy;
- Cultural and Tourism strategies including promotion of live music and community events;
- Objectives of the Private Security Industry Authority;
- Responsibilities under Anti Social Behaviour Act 2003;
- Home Office Safer Clubbing Guide. See: [www.drugs.gov.uk/Reports](http://www.drugs.gov.uk/Reports);
- LACORS/TSI Code of Practice on Test Purchasing
- Health Act 2006
- Violent Crime Reduction Act 2006
- Clean Neighbourhoods and Environment Act 2005

## **7 Prevention of crime and disorder**

**7.1** The council will require the applicant to detail in their operating plan the steps proposed to ensure the deterrence and prevention of crime and disorder, on and in the vicinity of the premises, having regard to their location, character, condition, the nature and extent of the proposed use and the persons likely to resort to the premises.

**7.1** The council will require the licence holder to indicate what steps will be put in place to control the excessive consumption of alcohol and drunkenness on relevant premises in order to reduce the risk of anti social behaviour occurring elsewhere after customers have left the premises.

**7.2** The council will particularly consider the following matters where they are material to the individual application:

- a. The physical security features installed in the premises. This may include matters such as the position of cash registers, where alcohol is stored in off-licences, the standard of CCTV that is installed, adequate lighting, metal detection and search facilities or the use of toughened drinking glasses in pubs and clubs and/or the removal of glasses or glass bottles outside of the premises proposed to be admitted;
- b. Measures employed to promote sensible drinking, responsible serving and procedures for risk assessing promotions such as 'happy hours', which may contribute to the impact on crime and disorder, and plans for minimising such risks;
- c. The measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
- d. Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks
- e. The likelihood of any violence, public order or policing problem if the licence is granted;

- f. Whether design of the premises (including the provision of seated areas) has been considered having regard to reducing conflict and minimising opportunities for crime;
- g. The measures taken to control admission to the premises, and to take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside the premises, for example on the pavement, in a beer garden, or in a smoking shelter or area as a result of the smoking ban, where and to the extent that these matters are within their control, the use of Security Industry Authority registered door supervisors.
- h. The Licensing Authority recommends that for significant events as defined in the glossary, a comprehensive risk assessment is undertaken by premises licence holders to ensure that crime and disorder and public safety matters are identified and addressed. Accordingly, for premises that wish to stage promotions, or events the Licensing Authority recommends that applicants address the Risk Assessment and debrief processes in their operating schedule.

The Licensing Authority further recommends the Metropolitan Police Promotion Event Risk Assessment Form 696 and the After Promotion Event Debrief Risk Assessment Form 696A as useful and effective tools for this purpose. Where the Risk Assessment forms are used to assess the likely risks from any promotion or event, the Licensing Authority anticipates that these will be completed in consultation with the Metropolitan Police. Risk assessments should be submitted to the Metropolitan Police and the Licensing Authority within 14 days of any proposed event and debrief forms submitted within 14 days of the conclusion.

Forms 696 and 696A are available on the Metropolitan Police web site at <http://www.met.police.uk/> It is recommended that electronic completion and transmission of the forms is undertaken by licensees. E-mail addresses for submission are [ClubsFocusDesk-CO14@met.police.uk](mailto:ClubsFocusDesk-CO14@met.police.uk) and [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk)

- i. Any other such measures as may be appropriate, such as participation in a local pub watch scheme or other body designed to ensure effective liaison with the local community, 'music wind—down policies', restrictions on 'happy hours', and other examples of industry best practice;
- j. Past conduct and prior history of complaints proved against the premises;
- k. Whether a dispersal policy has been prepared to minimise the potential for disorder as customers leave the premises;
- l. Any relevant representations.

- 7.3** Where applicable, applicants must show that they can comply with the Home Office guidance Safer Clubbing in relation to the control of illegal drugs on their premises. They should agree a protocol with the council and the police on the handling of illegal drugs found on their premises.
- 7.4** Conditions will, so far as possible, reflect local crime prevention strategies, and the council will also have regard to the views of the local Crime and Disorder Reduction Partnership.
- 7.5** It is recommended that applicants discuss the crime prevention procedures in their premises with the council and the police before making a formal application. Licences for any form of public entertainment will be subject to conditions to prohibit entertainment (including film exhibitions) which are likely to lead to disorder or stir up hatred or incite violence towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

## **8 Public safety**

- 8.1** The council will require the applicant to detail in their operating plan the steps proposed to ensure the physical safety of people using the relevant premises or place
- 8.2** Where a relevant representation is made in respect of an application involving the supply or consumption of alcohol in sports grounds, such as football stadiums, the council will consider the application very carefully. Conditions may need to be applied as to when and where alcohol can be sold/supplied in order to promote all the licensing objectives with a particular emphasis on the protection of public safety and crime and disorder.
- 8.3** Where relevant representations are made by the police over an application from one of the premises situated in the vicinity of one of the football stadiums in the borough for a new licence or a variation to an existing licence the council will consider imposing conditions requiring the service of alcohol exclusively in plastic bottles and cups, for four hours before the start and four hours after the end of the sporting event.
- 8.4** Maximum occupancy limits in the premises licence will be specified only where necessary for the promotion of public safety or the prevention of disorder. Where a capacity limit is already specified in a fire risk assessment, the council will not normally include a limit as a licence condition. From 1<sup>st</sup> October 2006 the Regulatory Reform (Fire Safety) Order 2005 ('the Fire Safety Order') replaced previous fire safety legislation. As such any fire certificate issued under the Fire Precautions Act 1971 will have ceased to have effect. Under article 43 of the Fire Safety Order any conditions imposed by the licensing authority that relate to any requirements or prohibitions that are or could be imposed by the Order automatically cease to have effect.
- 8.5** The exception to this will be in cases where the council and the enforcing authority for the fire safety order are one and the same body. For example in designated sports-grounds and stands where the council enforce the fire safety order. In such circumstances fire safety conditions should not be set in new licences, but conditions in



existing licences will remain in force and be enforceable by the licensing authority

**8.6** Safe capacities will be imposed where necessary for the promotion of public safety or the prevention of disorder on the relevant premises. If no safe capacity has been imposed through other legislation, a responsible authority may consider it necessary for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. In certain circumstances, capacity limits may be necessary in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile. The types of premises subject to safe capacities will be the following:

- Nightclubs
- Cinemas
- Theatres
- Other premises where regulated entertainment is being provided within the meaning of the act

**8.7** The council will, where appropriate, attach conditions to a licence to ensure public safety, dealing with the following:

- Checks on equipment at specified intervals
- Standards to be maintained, e.g. temporary electrical installations to comply with British Standards;
- The number of people on the premises to ensure it is appropriate having regard to the activities taking place and reliable ways of counting the number;
- The steps taken to manage the risk from glass, the use of bottle bins, glass collectors and door supervisors to prevent glass being taken off the premises;
- The use of door supervisors to manage the entrance and exit from the premise and, to protect public safety as customers leave the premises;
- The provision of air conditioning and ventilation and the availability of drinking water;
- Measures to protect against overcrowding.

**8.8** The council will consider whether any measures or restrictions are placed on alcohol sales to prevent binge drinking and promote 'sensible drinking'.

## **9 The prevention of nuisance**

**9.1** The council will require the applicant to demonstrate within the operating plan how they intend to prevent nuisance arising, prevent disturbance and protect amenity so far as is appropriate to ensure that the licensing objectives are met. Where there is a relevant representation regarding extended hours, the council will not permit an extension unless it is satisfied that the licensing objectives would be met. Refer back to paragraph 7.2 point g.

**9.2** In considering an application, the council will consider the adequacy of proposed measures to remove or effectively manage the potential for nuisance and anti-social behaviour.

**9.3** The council will particularly consider the following matters where they are material to the individual application:

- a. The proximity of residential accommodation;
- b. The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity;
- c. The steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- d. The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises. This will usually be of greater importance between 11.00 pm and 7.00 am than at other times of the day;
- e. The steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
- f. The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;
- g. The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
- h. The provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- i. The level of likely disturbance from associated vehicular and pedestrian movement to and from the premises;
- j. The use of gardens and other open-air areas, including those for the use of smoking;
- k. The delivery and collection areas and delivery/collection times;
- l. The siting of external lighting, including security lighting that is installed inappropriately;

- m. The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);
- n. The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees;
- o. The history of the applicant in controlling anti-social behaviour and preventing nuisance;
- p. The generation of odour, e.g. from the preparation of food;
- q. Any other relevant activity likely to give rise to nuisance;
- r. Any representations made by the Police, or other relevant agency or representative;
- s. Whether a dispersal policy has been prepared to minimise the potential for disturbance as customers leave the premises.

## **10 Protection of children from harm**

**10.1** The council will require operating plans to specify the measures and management controls in place to protect children from harm. Where appropriate a written childcare policy which is available and should be included in the induction of staff.

**10.2** The legislation recognises the right of licence holders (serving alcohol) to allow accompanied children into their premises at any time. The council will not normally seek to limit their access (above that specified in the act) to any premises unless it is necessary for the prevention of physical, moral or psychological harm. Where this is considered likely, upon consideration of a relevant representation, conditions will be imposed that restrict children from entering all or part of licensed premises:

- a. At certain times of the day;
- b. When certain licensable activities are taking place;
- c. Under certain ages, e.g. 16 or 18;
- d. Unless accompanied by an adult.

**10.3** The council will particularly consider if:

- a. There is entertainment or services of an adult nature commonly provided;
- b. There have been convictions, FPN's or cautions for serving alcohol to minors or premises with a reputation for under-age drinking;
- c. There is a known association with drug taking or dealing;

- d. There is a significant element of gambling on the premises;
- e. There is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held);
- f. There are licensable activities that are likely to appeal to minors/children under 16 taking place during times when children under 16 may be expected to be attending compulsory full-time education;
- g. There have been representations from police, the Local Safeguarding Children Board, Trading Standards or other relevant agency or representative.

- 10.4** Where there are restrictions (whether imposed by statute or by the council) on the sale or supply of goods or the provision of services or the showing of films or other entertainment to children below a certain age, then the licensee will be required to demonstrate that they have in place a system for verifying the age of the children intended to be supplied with such goods, services or entertainment. Training should be given to all persons who might be in a position to serve or refuse such children. The training should include a basic understanding of the law, seeking proof of age, verifying the authenticity of proof of age cards and handling and recording refusals.
- 10.5** Conditions may be imposed on licences for premises where children will be present at places of public entertainment to the effect that a sufficient number of adults must be present to control the access and egress (including safe transport home) and to ensure their safety.
- 10.6** The council will expect operating plans to specify the measures and management controls in place to prevent alcohol being served to children, other than in those limited circumstances permitted by the act.
- 10.7** The council commends the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older. The council recommends that the applicant refer to the Retailer Alert Bulletin by which the Portman Group tells licensed retailers, which products have been found to be in breach of the code, and should be removed from sale.
- 10.8** The council will expect the operating schedule for premises with film exhibition to include a stipulation that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification.
- 10.9** In relation to pubs, restaurants and clubs, the council will expect licensees to have due regard to the guidelines issued by the National Association of Cigarette Machine Operators (NACMO). Cigarette machines should be sited in a position

where they are clearly visible to members of staff so that attempted purchases by young people can be challenged.

**10.10** Nothing in the above interferes with the right of a licence holder to preclude children from their premises. Conditions requiring the admission of children to premises cannot be attached to licences.

**10.11** The 'Responsible Authority' in relation to the protection of children from harm is the council's Local Safeguarding Children Board and in particular the child protection officer. The Trading Standards service will also have certain responsibilities particularly in relation to the underage sales of age restricted products.

## **11 Premises licences**

**11.1** An application for a premises licence must be made in the prescribed form to this authority. The application must be accompanied by:

- The required fee;
- An operating schedule;
- A plan of the premises in a prescribed form;
- If the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor. This person will normally have been given day to day responsibility for running the premises by the premises licence holder;
- Copies of the appropriate certificates.

**11.2** Officers will determine on a case-by-case basis which applications require an inspection, and will arrange for such inspection.

**11.3** Applicants will be informed if the council is not minded to conduct an inspection.

**11.4** The council will proactively monitor licensable activity within the borough and carry out a programme of risk based inspections.

## **12 Planning permission**

**12.1** Applications for premises licenses should normally relate to premises with an existing lawful use for the activities proposed.

**12.2** The council's Planning Policies are set out currently in its Unitary Development Plan and subsequently in the Local Development Framework, supplemented by additional guidance on A3 use of restaurants and cafés, A4 use of public houses and A5 use for take aways. Additional policies are set out in the London Plan, which is also part of the statutory development plan for the borough. For further information contact Planning Department on 020 8753 1084.

- 12.3** The strength of these policies is that there is an obligation both on the council, as local planning authority, and the decision maker on any appeal, to give considerable weight to them. This helps to ensure consistency in the decision making process.
- 12.4** In general, planning permissions authorise the development or change of use of land and buildings in the public interest, whereas licences relate to the specific circumstances and proposed licensable activity within a particular premises and the suitability of the operator and may cover only a part of the premises.
- 12.5** In many cases where an application is made for a new licence or variation, the town planning use will already be authorised by a previous planning permission or because the premises has a long-standing lawful use. Therefore, a new application for planning permission is often not required. However, the existing planning permission might, and if recently granted is very likely to have conditions restricting the use of the premises in some way: e.g. the hours of operation. In that case, anybody seeking a licence to operate beyond those hours would first need to seek and obtain a revised planning permission or a variation or removal of the relevant planning condition.
- 12.6** In general, the planning position should be resolved before a licence application is made. The council may refuse to grant a licence if the:
- a. Activity to be authorised would amount to an unlawful use of the premises;
  - b. Hours being sought exceeded those authorised by any planning permission.
- 12.7** The council may nonetheless determine a licence application without evidence of a lawful planning use where the applicant satisfactorily demonstrates special reasons justifying such an approach.

## **13 Operating schedule**

- 13.1** Operating schedules for premises licences are the key to ensuring compliance with the four licensing objectives. In the vast majority of cases, the terms of the operating schedule will translate into the licence conditions that set out how the business will be run.
- 13.2** The council considers that it would be beneficial if operating schedules include all the following:
- a description of the style and character of the business to be conducted on the premises (for example, a supermarket, or a cinema with 6 screens and a bar, or a restaurant, or a public house with two bars, a dining area and a garden open to customers);
  - the licensable activities to be conducted on the premises;
  - the times during which it is proposed that the relevant licensable activities are to

take place. This should include the time the premises will be open, the time the last customer will be able to enter the premises, the time the last drink will be served and the time all customers will have left the premises. Detail should also be provided on how this will be managed/controlled;

- Any other times when the premises are to be open to the public;
- Where the licence is required only for a limited period, that period;
- Where the licensable activities include the supply of alcohol, the name and address of an individual who must hold a valid personal licence to be specified as the designated premises supervisor and be responsible on a day-to-day basis for conducting business in the premises in a manner consistent with the terms and conditions of the licence, in accordance with the act and in pursuit of the licensing objectives;
- Where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both;
- Where the licensable activities include the supply of alcohol what seating and where will they be provided;
- Where the licensable activities include dance to describe the type of dancing in broad terms, such as if dancing will be done by professionals or it will be for members of the public, where it will take place on the premises, if the dancing involves striptease or lap dancing;
- Where appropriate, details of the accessibility of the premises for disabled people. The council will apply the “Technical Standards for Places of Entertainment” to new premises providing entertainment and premises that are having refurbishment works carried out. These standards cover access for disabled people, such as adequate access and means of escape, audible and visible means of communication, toilet facilities, etc;
- Whether music and dance venues and performance venues will use equipment or special effects, e.g. moving equipment, vehicles, pyrotechnics, strobe lights, smoke machines, etc;
- The steps which the applicant proposes to take to promote the licensing objectives.

**13.3** Prospective holders of new premises licences, and those seeking variations to existing premises licences are advised to consult with the council and the various responsible authorities at the earliest possible stage in order to reduce the risk of dispute arising.

**13.4** The council will seek to impose the minimum conditions necessary to promote the licensing objectives. For those premises, which present the lowest risk to public safety and the other licensing objectives, the council will adopt a light touch approach to regulation.

**13.5** Operators of licensed premises will have to comply with planning, environmental health, fire safety, licensing and building control legislation when opening or adapting licensed

premises. The council will seek to avoid confusion and duplication by not imposing licence conditions relating to matters that are required or controllable under other legislation, except where they can be exceptionally justified to promote the Licensing Objectives.

- 13.6** During the course of its inspections, the council may refer to any other agency any circumstance it finds that appears to it to be a contravention of the legislation enforced by that agency.

## **14 Consultation**

- 14.1** The applicant will be expected to advertise the application in accordance with the Regulations made under the Licensing Act 2003.
- 14.2** The council will carry out a consultation process in accordance with the regulations made under the Licensing Act 2003. In exceptional circumstances the council may consider it appropriate to carry out a more extensive form of public consultation. The council will publicise details of applications received.

## **15 Applications for personal licences**

- 15.1** In order to obtain a personal licence the requirements are that the applicant must:
- Be aged 18 or over;
  - Possess a licensing qualification accredited by the Secretary of State;
  - Not have forfeited a personal licence within five years of his or her application;
  - Produce a Criminal Record Bureau certificate;
  - Not have an objection notice from the police about the grant of a personal licence following notification of any unspent relevant offence or foreign offence; or must show that that such an offence should not lead to refusal on crime prevention grounds;
  - Pay the appropriate fee to the council.
- 15.2** Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act are strongly encouraged to first discuss their intended application with the police and the council before making an application.
- 15.3** A personal licence is valid for 10 years. A designated premises supervisor must hold a personal licence.

## **16 Temporary event notices**

- 16.1** The Licensing Act 2003 provides for certain occasions when small scale events (no more than 499 people at a time and lasting for no more than 96 hours) do not need a licence providing that a minimum of 10 working days notice is given to the police and the council. The police are the only ones that can object to a Temporary Event Notice if the event is likely to undermine the crime prevention objective.



- 16.2 Where police representation is received (by means of a counter notice) the council will hold a hearing.
- 16.3 The council will consider whether the limitations set down by the act in terms of numbers and duration of events and capacities are being observed.
- 16.4 It is recommended in general that the Council and police be given at least 28 calendar days notice of the events, to allow them to help organisers plan their events safely.
- 16.5 Organisers of temporary events are strongly advised to contact the council and the Police for advice at the earliest opportunity when planning events, to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.

## **17 Enforcement policy**

- 17.1 The council operates a proactive inspection regime that is based on inspections involving risk assessments. These inspections are linked to the enforcement policy, which targets premises failing to support licensing objectives. Relevant action will be taken after each visit in accordance with this policy.
- 17.2 Premises that produce disorder, threaten public safety, generate public nuisance or threaten the well being of our children will be targeted for enforcement action.
- 17.3 The sale of alcohol to minors is a criminal offence and this council will conduct appropriate covert test purchasing exercises in response to complaints and local intelligence. The Licensing Act 2003 permits the use of children under the age of 18 to undertake test purchases.
- 17.4 The council has a long-established enforcement Policy, based around the principles of consistency, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat which also takes into account the Attorney General's Guidelines to Crown Prosecutors for bringing prosecutions.
- 17.5 A graduated response will be taken where offences against legislation are found or where conditions have been contravened. For instance an isolated administrative offence, such as failing to maintain certain records, may be dealt with purely by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety may result in a referral for prosecution.
- 17.6 The council will seek to work with the police and other responsible authorities in enforcing licensing legislation. We will strive to have a joint enforcement protocol with all the relevant agencies.
- 17.7 Enforcement will be focussed on premises or persons found to be failing in terms of the licensing objectives.

## **18 Dealing with complaints**

- 18.1** Where a representation is made to the council, the council will consider whether it is valid. In determining whether a representation is valid the council will first consider if the complaint made is irrelevant, vexatious, frivolous or repetitious.
- 18.2** Where an interested party (such as a local resident, business or their representative) has made:
- a. Valid representations about licensed premises; or
  - b. A valid application for a licence to be reviewed then the council may initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern.
- 18.3** This process will not override the right of any interested party to ask that the council consider their valid representations, or for any licence holder to decline to participate in a mediation meeting.
- 18.4** At any stage, following the grant of a premises licence, a responsible authority, such as the police or the fire authority, or an interested party, such as a resident living in the vicinity of the premises, may ask the council to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 18.5** The council will review a licence where it is alleged that the licensing objectives are being breached and there is evidence to show this. The council will regard applications for the review of any premises licence, particularly seriously, where they involve evidence of:
- Use of licensed premises for the sale and distribution of drugs and the laundering of the proceeds of drugs crimes;
  - Use of licensed premises for the sale and distribution of illegal firearms;
  - Evasion of copyright in respect of pirated or unlicensed films and music;
  - Underage purchase and consumption of alcohol;
  - Use of licensed premises for prostitution or the sale of unlawful pornography;
  - Serious risks to children;
  - Use of licensed premises for unlawful gaming and gambling;
  - Use of licensed premises as a base for organised criminal activity;
  - Use of licensed premises for the organisation of racist, homophobic, sexual abuse, attacks or any discriminatory behaviour;
  - Use of licensed premises for the sale of smuggled tobacco or goods;
  - The use of licensed premises for the sale of stolen goods;
  - Incidents of disorder;
  - Instances of public nuisance where there have been disregard to warnings;
  - Serious risks to public safety which the management is unable or unwilling to correct;
  - Frequently operating outside permitted hours.

**18.6** Where the council considers that action under its statutory powers is necessary it may seek to Issue a warning, simple caution, prosecute or bring a licence before the committee to:

- Modify the conditions of the premises licence;
- Exclude a licensable activity from the scope of the licence;
- Remove the designated premises supervisor;
- Suspend the licence for up to three months;
- Revoke the licence.

**18.7** Interested parties (including residents) aggrieved by decisions of the council are entitled to appeal to the magistrates court.

## **19 Administration, exercise and delegations of functions**

**19.1** The Licensing Committee will consist of up to fifteen councillors that may sit annually to discuss policy, review delegated decisions and administrative matters. The council will review this policy at least every three years. Any changes to the policy will include full consultation of all interested parties.

**19.2** A sub-committee of three councillors will determine applications where representations have been received from interested parties and responsible authorities. Ward councillors will not serve on a sub-committee involving an application within their own ward.

**19.3** The Licensing Committee will also deal with other licensing matters not associated with the Licensing Act 2003, such as massage and special treatments, street trading or Gambling Act, etc.

**19.4** Where a councillor who is a member of a Licensing Committee or a subcommittee has had direct involvement in the affairs of an application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the premises licence in question.

**19.5** Each decision of the Licensing Committee or its sub-committee(s) shall be accompanied with clear reasons for the decision. A summary of the decision will be posted on the council's website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the council.

**19.6** The council's authorised officers will deal with licence applications where either no representations have been received, or where representations have been received and the parties agree that a hearing is not necessary.

**19.7** Council officers will make the decisions upon whether representations are frivolous or vexatious. Where representations are rejected, the person making that representation will be given written reasons for the decision.

**19.8** The Licensing Committee will regularly receive, review, comment upon and consider other relevant policies relating to employment, transport, cultural development and

community safety as far as they affect its licensing function.

# Glossary

## Appeals

Appeals against decisions of the licensing authority are to the magistrates' court for the area in which the premises are situated. The appeal must be lodged within 21 days of being notified of the council's decision. On appeal a magistrates' court may, dismiss the appeal; substitute its own decision; remit the case to the licensing authority with directions; and make an order for costs.

## Designated premises supervisor

The person in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder themselves (who must also be a Personal Licence holder.)

## Extended hours application

Any application that seeks to extend the hours of operation of the premises to which it relates. Whilst all applications will be thoroughly scrutinised with a view to the promotion of the licensing objectives, particular care might need to be taken when an extension of hours is requested. In such circumstances, there might be greater potential for impact on residential occupiers that might amount to a public nuisance. An hours restriction might be the only method of promoting the licensing objectives, particularly in the light of advice in PPG 24 Planning and Noise which recognises a distinction that noise might have on residential occupants between the hours of 11pm and 7am compared with the rest of the day.

## Interested party

Residents and persons involved in businesses in the vicinity of premises where an application or premises licence or a qualifying club certificate has been made, or a body representing such persons. See **vicinity**

## Late night refreshment premises.

Premises where refreshment is provided at any time between the hours of 11.00pm and 5.00am. This includes the supply of hot food or hot drink to members of the public whether for consumption on or off the premises.

## Licensable activities

Those activities under the Licensing Act 2003, which require a licence from the council include the following:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- The provision of regulated entertainment;
- The provision of late night refreshment.

## Licensing authority

In the Licensing Act 2003 licensing authorities in London are defined as the councils of London boroughs.

## Personal licences

A licence which:

- Is granted by a licensing authority to an individual;
- Authorises that individual to supply alcohol, or authorise the supply of alcohol, in accordance with the premises licence.

## Regulated entertainment

Includes both entertainment and entertainment facilities, where the following takes place in front of an audience and is provided for the purpose of entertaining that audience:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment (indoors and outdoors);
- A performance of live music;
- Any playing of recorded music;
- A performance of dance;
- Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance.

*NB If the music is incidental to the main purpose of the event then this will not require a licence, such as provision of a jukebox. A karaoke machine would constitute regulated entertainment and therefore require a licence. Musical instruments made available for members of the public would also constitute an entertainment facility.*

## Relevant representation

A representation by an interested party or a responsible authority that relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

## Responsible authorities

These include:

- Chief Officer of Police;
- The Fire Authority;
- The enforcing authority for health and safety at work;
- The Planning authority;
- The local authority responsible for minimising or preventing the risk of pollution or harm to human health;
- The recognised body responsible for the protection of children from harm;
- Trading standards.

## **Special event**

This definition relates to events that require a Promotion Event Risk Assessment Form 696 and 696A

A significant event will be deemed to be any occasion in a premises licensed under the provisions of the Licensing Act 2003, where there will be a live performer(s) – meaning musicians, DJs, MCs or other artists; that is promoted in some form by either the venue or an outside promoter; where entry is either free, by invitation, pay on the door or by ticket.

## **Security Industry Authority (SIA.)**

An authority that implements the Private Security Industry Act 2001, their key role is managing and issuing of licences for people working in particular areas of the private security business, including door supervisors.

## **Variation**

A variation is a material change to a premises licence and would include an increase in the capacity of the premises, a change in the hours of operation of the premises, and change to the way the premises is to operate in regard to the operating schedule or a request to vary an existing condition attached to the premises licence.

## **Vicinity**

Incidents regarded as being “in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. In addressing this matter, the Council will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

# Contact point

For further information about this policy please contact [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk)

or write to:

London Borough of Hammersmith & Fulham  
Licensing Section Public Protection and Safety  
5th Floor Town Hall Extension  
King Street, Hammersmith  
London W6 9JU  
Phone: 020 8753 1081 Fax: 020 8753 3922

Email: [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk)

Website: [www.lbhf.gov.uk](http://www.lbhf.gov.uk)



## Appendix 2 – Consultation Letter

	<b>Date as Postmark</b>
	<b>When telephoning please ask for the Licensing Section.</b>
	E-mail: <a href="mailto:licensing@lbhf.gov.uk">licensing@lbhf.gov.uk</a>

Dear Sir / Madam

### **Statement of Licensing Policy Review 2007**

The Licensing Act 2003 requires a licensing authority to review and re-publish its licensing policy every three years. As part of this process we are consulting our stakeholders.

Please find enclosed a copy of our current licensing policy, a short questionnaire and stamped addressed envelope. Thank you for taking the time to participate in this consultation process and I look forward to receiving your comments. Please provide paragraph numbers when commenting on individual sections where possible.

In order to be considered all comments must be received by **5 pm on the 17<sup>th</sup> September 2007.**

Further copies of our current policy and the questionnaire are available on our website [www.lbhf.gov.uk](http://www.lbhf.gov.uk) or additional paper copies may be requested by emailing [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk) or telephoning 020 8753 1084 and asking for the licensing section.

If you have any queries relating to the above please contact me on 0208 753 2213.

Yours faithfully,



Oliver Sanandres  
Safety and Licensing Manager



SNAP Consultation  
Questionnaire



# Review of Licensing Policy

All responses must be received by 5pm on 17th September 2007, in order to be considered.

Please answer the questions by placing a tick in the appropriate box. If you wish to add any comments please feel free to do so, if there is insufficient room please attach a separate sheet.

## Part 1 - Your Details

1 **Name:**

2 **Address:**

3 **Telephone no:**

4 **Email address:**

5 **Name of Organisation (if applicable)**

6 **Are you a:**  
*Resident* .....       *Business* .....       *Visitor* .....       *Other* .....

*If other please state:*

Part 2 About the policy

**7 How did you obtain a copy of this policy? (Statement of licensing policy 2004)**

- Council's website.....      sent to me through the post.....      saw it advertised and contacted the Council.....  
h&f news.....      Other.....

**8 Do you feel the policy is clearly written and easy to understand?**

- Yes.....      No.....      I don't have an opinion ....

If NO, please state why:

**9 Do you think the issues listed under licensing hours (on page 14) that the Council will consider in determining an application are appropriate?**

- Yes       No       I don't have an opinion

If No, please state why

**10 Do you think the issues listed under crime and disorder (on page 16) that the Council will consider in determining an application are appropriate?**

- Yes       No       I don't have an opinion

If No, please state why:

11 Do you feel the policy (on page 18) adequately promotes The Public Safety Objective ?

Yes

No

I don't have an opinion

If No, please state why:

12 Do you think the issues listed under the prevention of nuisance (on page 19) that the Council will consider in determining an application are appropriate?

Yes

No

I don't have an opinion

If No, please detail:

13 Does the policy (on page 21) adequately promote The Protection of Children From Harm Objective?

Yes

No

I don't have an opinion

If No, please state why:

14 Please detail any additional circumstances you feel that the Council should be particularly concerned about, when reviewing a license which are not listed on pages 29/30.

■

**15 If you feel there is something this Policy has not adequately addressed please detail below? Please note that any issue must relate to one of the four licensing objectives which can be found on page 7**

**16 Please use this space below to make any additional comments on the current statement of licensing policy.**



Part 3 About You

You do not have to provide this information but if you do we will keep your details confidential and we will only use them to compile statistics which cannot be related back to you.

17 If you agree that we can use your information in this way, please tick this box.

18 Are you male or female?

Male

Female

19 What age group are you?

16-24

25-44

45-64

65+

20 Do you have any long term illness, health problem or disability which limits your daily activities or the work you can do?

Yes

No

21 Are you in work?

Yes

No

22 What is your ethnic group?

White .....

Mixed Race

Asian or  
Asian  
British .....

Black or  
Black  
British .....

Chinese or  
other ethnic  
group .....

Please specify if you have ticked other ethnic group

23 What language do you normally speak at home? Please specify

Thank you for taking the time to complete this questionnaire. Please return to:

Safety and Licensing  
Public Protection & Safety Division  
5th Floor Town Hall Extension  
London Borough of Hammersmith & Fulham  
King Street, Hammersmith  
London W6 9JU

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**SPECIAL MOTION NO. 1 – CHANGES TO COMMITTEE MEMBERSHIPS - RE:  
MATERNITY LEAVE PROVISION**

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Standing in the names of:

- (i) Councillor Frances Stainton
- (ii) Councillor Donald Johnson

“Due to maternity leave, the following temporary changes to Scrutiny and Regulatory Committee memberships will be made, effective from the day after the Extraordinary Council meeting:

Cllr. Helen Binmore – to come off Education & Children’s Services Scrutiny Committee, Housing Scrutiny Committee and Planning Applications Committee.

Cllr. Harry Phibbs – already a member of Education & Children’s Services Scrutiny Committee, to be appointed as Chairman in replacement of Cllr. Helen Binmore.

Cllr. Lucy Ivimy – to be appointed a member of Education & Children’s Services Scrutiny Committee.

Cllr. Alex Chalk – to be appointed a member of Planning Applications Committee.

Cllr. Victoria Brocklebank-Fowler – to be appointed a member of Housing Scrutiny Committee.

Cllr. Stephen Greenhalgh – to come off Pensions Fund Investment Panel.

Cllr. Nicholas Botterill - already a member of Pensions Fund Investment Panel, to be appointed as Chairman to replace Cllr. Stephen Greenhalgh.

Cllr. Mike Adam - a member of Pensions Fund Investment Panel to be appointed as Vice-Chairman.

Cllr. Lucy Gugen - to be appointed a member of Pensions Fund Investment Panel.

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**SPECIAL MOTION NO. 2 – MINOR AMENDMENTS TO THE COUNCIL  
CONSTITUTION**

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Standing in the names of:

- (i) Councillor Frances Stainton
- (ii) Councillor Donald Johnson

That the Council notes that its constitution currently:-

- (a) provides for the guillotine provisions to apply to the Planning Applications Committee (Council Procedure Rules paragraph 24.1)
- (b) contains inconsistent provisions in relation to the question as to who presides at a meeting of an Overview and Scrutiny Committee in the absence of the Chairman (Council Procedure Rules paragraph 17.6 and Overview and Scrutiny Procedure Rules paragraph 8).

In order to correct these anomalies, the Council resolves:-

(a) To amend the Constitution as follows:-

- (i) that the Planning Applications Committee be added to the list of Committees to which the guillotine does not apply in paragraph 24.1 of the Council Procedure Rules;
- (ii) that paragraph 8 of the Overview and Scrutiny Procedure Rules takes precedence over paragraph 17.6 of the Council Procedure Rules, and that the following sentence be added to paragraph 17.6 of the Council Procedure Rules:-

“In the case of an Overview and Scrutiny Committee, the provisions of paragraph 8 of the Overview and Scrutiny Procedure Rules shall take precedence over this provision.”

(b) That the Monitoring Officer be instructed to amend the Constitution accordingly.