

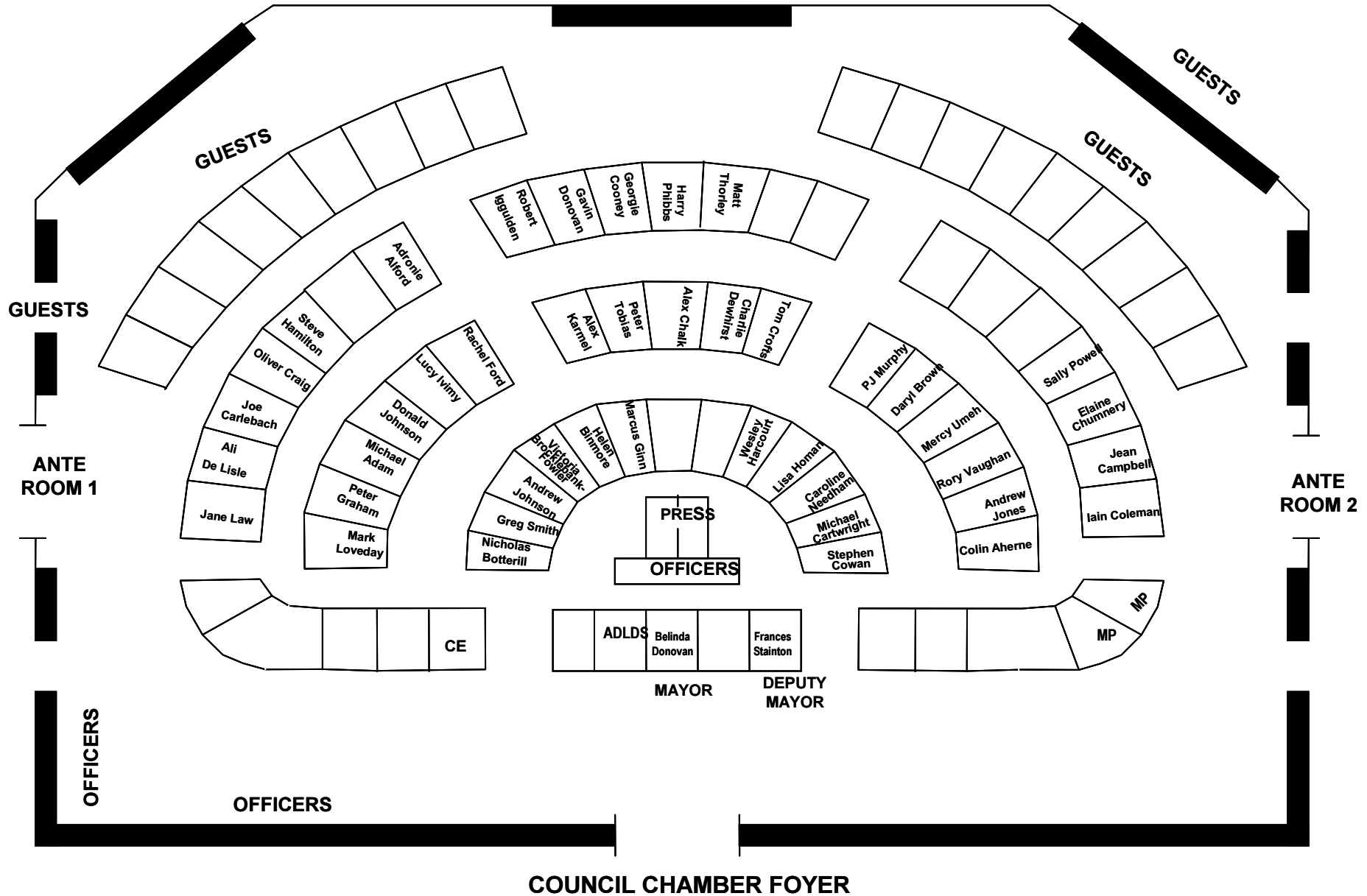
# COUNCIL AGENDA

(Ordinary Council Meeting)

Wednesday 4 July 2012



# COUNCIL CHAMBER SEATING 2012/13





The Mayor (Councillor Belinda Donovan)  
Deputy Mayor (Councillor Frances Stainton)

ADDISON

Alex Chalk (C)  
Belinda Donovan (C)  
Peter Tobias (C)

HAMMERSMITH  
BROADWAY

Michael Cartwright (L)  
Stephen Cowan (L)  
PJ Murphy (L)

RAVENSCOURT PARK

Charlie Dewhirst (C)  
Lucy Ivimy (C)  
Harry Phibbs (C)

ASKEW

Lisa Homan (L)  
Caroline Needham (L)  
Rory Vaughan (L)

MUNSTER

Michael Adam (C)  
Adronie Alford (C)  
Alex Karmel (C)

SANDS END

Steve Hamilton (C)  
Ali de Lisle (C)  
Jane Law (C)

AVONMORE &  
BROOK GREEN

Helen Binmore (C)  
Joe Carlebach (C)  
Robert Iggulden (C)

NORTH END

Daryl Brown (L)  
Georgie Cooney (C)  
Tom Crofts (C)

SHEPHERDS BUSH  
GREEN

Iain Coleman (L)  
Andrew Jones (L)  
Mercy Umeh (L)

COLLEGE PARK &  
OLD OAK

Elaine Chumnerly (L)  
Wesley Harcourt (L)

PALACE RIVERSIDE

Marcus Ginn (C)  
Donald Johnson (C)

TOWN

Oliver Craig (C)  
Vacancy  
Greg Smith (C)

FULHAM BROADWAY

Victoria Brocklebank-  
Fowler (C)  
Rachel Ford (C)  
Matt Thorley (C)

PARSONS GREEN AND  
WALHAM

Nicholas Botterill (C)  
Mark Loveday (C)  
Frances Stainton (C)

WORMHOLT AND  
WHITE CITY

Colin Aherne (L)  
Jean Campbell (L)  
Dame Sally Powell (L)

FULHAM REACH

Gavin Donovan (C)  
Peter Graham (C)  
Andrew Johnson (C)



# SUMMONS

Councillors of the London Borough of  
Hammersmith & Fulham  
are requested to attend the  
Meeting of the Council on  
Wednesday 4 July 2012  
at Hammersmith Town Hall, W6

The Council will meet at 7.00pm.

25 June 2012  
Town Hall  
Hammersmith W6

Derek Myers  
Chief Executive

# Full Council Agenda

4 July 2012

<u>Item</u>		<u>Pages</u>
<b>1.</b>	<b>MINUTES</b>	101 - 113
	To approve and sign as an accurate record the Minutes of the Annual Council Meeting held on 30 May 2012.	
<b>2.</b>	<b>APOLOGIES FOR ABSENCE</b>	
<b>3.</b>	<b>MAYOR'S/CHIEF EXECUTIVE'S ANNOUNCEMENTS</b>	
<b>4.</b>	<b>DECLARATIONS OF INTERESTS</b>	
	If a Councillor has any prejudicial or personal interest in a particular report he/she should declare the existence and nature of the interest at the commencement of the consideration of the item or as soon as it becomes apparent.	
	At meetings where members of the public are allowed to be in attendance and speak, any Councillor with a prejudicial interest may also make representations, give evidence or answer questions about the matter. The Councillor must then withdraw immediately from the meeting before the matter is discussed and any vote taken, unless a dispensation has been obtained from the Standards Committee.	
	Where members of the public are not allowed to be in attendance, then the Councillor with a prejudicial interest should withdraw from the meeting whilst the matter is under consideration, unless the disability has been removed by the Standards Committee.	
<b>5.</b>	<b>PUBLIC QUESTIONS (20 MINUTES)</b>	
	The Leader/relevant Cabinet Member to reply to questions submitted by members of the public:	
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<b>6.</b>	<b>ITEMS FOR DISCUSSION/COMMITTEE REPORTS</b>	
<b>6.1</b>	<b>LOCALISM ACT 2011 - MEMBERS' COMPLAINT PROCEDURES, APPOINTMENT OF INDEPENDENT PERSONS AND CHANGES TO THE CONSTITUTION</b>	115 - 143
<b>6.2</b>	<b>REVISED STATEMENT OF LICENSING POLICY 2012</b>	144 - 310

<b>6.3</b>	<b>APPOINTMENT OF MONITORING OFFICER</b>	<b>311 - 312</b>
<b>7.</b>	<b>SPECIAL MOTIONS</b> To consider and determine any Special Motions:	
<b>7.1</b>	<b>SPECIAL MOTION 1 - RIGHT TO BUY</b>	<b>313</b>
<b>7.2</b>	<b>SPECIAL MOTION NO. 2 - ACCIDENT AND EMERGENCY SERVICES</b>	<b>314</b>
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<b>7.4</b>	<b>SPECIAL MOTION NO. 4 - LEGAL CHALLENGES</b>	<b>316</b>
<b>7.5</b>	<b>SPECIAL MOTION NO. 5 - CHILD POVERTY</b>	<b>317</b>
<b>7.6</b>	<b>SPECIAL MOTION NO. 6 - OBJECTION TO THE CONSERVATIVE-LED GOVERNMENT'S LOCAL HOSPITAL CLOSURES</b>	<b>318</b>
<b>8.</b>	<b>INFORMATION REPORTS - TO NOTE</b> There are no information reports to consider.	

# **COUNCIL MINUTES**

(ANNUAL COUNCIL MEETING)

WEDNESDAY 30 MAY 2012





PRESENT

The Mayor Councillor Belinda Donovan  
Deputy Mayor Councillor Frances Stainton

Councillors:

- |                             |                    |                  |
|-----------------------------|--------------------|------------------|
| Michael Adam                | Oliver Craig       | Donald Johnson   |
| Colin Aherne                | Tom Crofts         | Andrew Jones     |
| Adronie Alford              | Ali De-Lisle       | Alex Karmel      |
| Helen Binmore               | Charlie Dewhirst   | Mark Loveday     |
| Nicholas Botterill          | Gavin Donovan      | PJ Murphy        |
| Victoria Brocklebank-Fowler | Rachel Ford        | Caroline Needham |
| Daryl Brown                 | Marcus Ginn        | Harry Phibbs     |
| Jean Campbell               | Peter Graham       | Sally Powell     |
| Joe Carlebach               | Stephen Greenhalgh | Greg Smith       |
| Michael Cartwright          | Steve Hamilton     | Matt Thorley     |
| Alex Chalk                  | Wesley Harcourt    | Mercy Umeh       |
| Elaine Chumnerly            | Lisa Homan         | Rory Vaughan     |
| Georgie Cooney              | Robert Iggulden    |                  |
| Stephen Cowan               | Andrew Johnson     |                  |

**1. ELECTION OF MAYOR 2012/13**

7.00 pm – Councillor Frances Stainton, as the outgoing Mayor, took the Chair at the start of the meeting.

Councillor Mark Loveday, proposed, seconded by Councillor Alex Karmel, that Councillor Belinda Donovan be elected Mayor of the London Borough of Hammersmith and Fulham for the 2012/13 Municipal Year.

There being no further nominations, the proposal was formally put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

Councillor Belinda Donovan was duly declared Mayor of the Borough for the 2012/13 Municipal Year, following which she made the statutory Declaration of

Minutes are subject to confirmation at the next meeting as a correct record of the proceedings and any amendments arising will be recorded in the minutes of that subsequent meeting.

Acceptance of Office and signed the statutory undertaking to observe the Code of Conduct for Councillors.

Under Standing Order 21 (d), the Mayor suspended the meeting while she put on the Mayor's robes.

The motion was declared **CARRIED**.

(The meeting was adjourned until 7.10pm)

The Mayor announced that she had decided to appoint Mr David Brough, Mr Charles Forsyth and Mr Andrew MacDonald as her consorts for the 2012/13 Municipal Year. The Mayor then announced that she had appointed Councillor Frances Stainton as Deputy Mayor for the 2012/13 Municipal Year.

The Leader of the Council, Councillor Stephen Greenhalgh, moved that the past Mayor's badge be presented to Councillor Frances Stainton in recognition of her service to the Council in undertaking the office of Mayor, and in carrying out other associated civic duties as a Councillor, which was unanimously agreed.

The Leader made a speech about the excellent work the outgoing Mayor had undertaken during her term of office. Councillor Stephen Cowan, Leader of the Opposition, also thanked the outgoing Mayor for her work. Councillor Frances Stainton accepted her badge and made a brief speech. The Deputy Mayor had chosen Mrs Pauline Lyle-Smith to be her deputy Mayoress.

A vote of thanks was given to the past Consorts Mr William Proger and Comte Edouard de Guitaut and past Mayoress Mrs Pauline Lyle-Smith for their work in supporting the past Mayor in carrying out her civic functions. Mr William Proger, Comte Edouard de Guitaut and Mrs Pauline Lyle-Smith then came forward to receive their respective badges.

## **2. MINUTES**

The minutes of the Extraordinary Council Meeting held on 19 March 2012 were confirmed and signed as an accurate record.

## **3. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Iain Coleman, Councillor Lucy Ivimy, Councillor Jane Law and Councillor Peter Tobias.

Under Standing Order 15 (e) (ix), Councillor Michael Cartwright moved that the meeting now be adjourned, due to the High Court judgement relating to the Shepherds Bush Market SPD. It was advised that the reason for adjourning the meeting was inappropriate. Under Standing Order 15 (e) (viii), Councillor Alex Karmel moved that the question now be put. The motion was put to the vote:

FOR	13
AGAINST	28
NOT VOTING	0

The motion was declared **LOST**.

**4. MAYOR'S/CHIEF EXECUTIVE'S ANNOUNCEMENTS (IF ANY)**

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

**5. DECLARATIONS OF INTERESTS**

7.36 pm - The Mayor advised Councillors that, in relation to agenda item 6.3 – Councillors' Allowances Scheme, the Standards Board had advised that it was necessary for all Councillors to declare their allowances as personal interests under the Code of Conduct. In order to manage this with the minimum of disruption, all Councillors present in the Chamber would be deemed as having declared a personal interest in this item (unless the Councillor objects), and this fact would be duly noted and recorded in the Minutes.

This was agreed unanimously.

**6. ITEMS FOR DISCUSSION/COMMITTEE REPORTS**

**6.1 Party Appointments for 2012/13 Municipal Year**

7.37pm - The report of the Chief Executive on the various appointments made by the Party Groups on the Council for 2012/13 was noted.

**7. SPECIAL MOTION 1 - APPOINTMENT OF THE LEADER**

7.38pm Under Standing Order 15(e) iii, the Mayor agreed that Special Motion 7.1 Appointment of the Leader take precedence on the agenda and be considered. This was agreed.

Councillor Greg Smith moved, seconded by Councillor Mark Loveday, the special motion standing in their names.

"This Council agrees the appointment of Councillor Nicholas Botterill as the Leader of the Council".

The motion was put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The motion was declared **CARRIED**.

On behalf of the Council, the Mayor congratulated Councillor Nicholas Botterill on his election as the Leader of the Council for the next four years. The Leader, Councillor Nicholas Botterill addressed the Council. Councillor Stephen Cowan made a speech on behalf of the Opposition.

7.44pm **RESOLVED:**

This Council agrees the appointment of Councillor Nicholas Botterill as the Leader of the Council.

## **8. ITEMS FOR DISCUSSION/COMMITTEE REPORTS**

### **8.1 Annual Review and Adoption of the Council's Constitution**

7.45pm - The report of the Monitoring Officer on the Council's Constitution was moved for adoption by the Leader of the Council, Councillor Nicholas Botterill.

Speeches on the report were made by Councillors Andrew Jones, Colin Aherne and Stephen Cowan (for the Opposition) and Councillor Mark Loveday (for the Administration).

The Monitoring Officer's report and recommendations were put to the vote:

FOR	28
AGAINST	13
NOT VOTING	0

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

7.54pm **RESOLVED:**

- (1) That the updates, amendments and corrections proposed to the Council Constitution, as set out in Appendix 1 to the report, be agreed; and
- (2) That, subject to agreement of the above, the Council's Constitution be re-approved and re-adopted for the 2012/13 Municipal Year.

### **8.2 Councillors' Allowances Scheme**

7.55pm - The report and recommendation was formally moved for adoption by the Leader of the Council, Councillor Nicholas Botterill.

The report and recommendation was put to the vote:

FOR	28
AGAINST	0
NOT VOTING	13

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

7.57pm **RESOLVED:**

That the update to the Councillors' Allowance Scheme 2012/13 as set out in the report be noted.

8.3 Petitions: Annual Report 2011/12

7.58pm - The report and recommendations were formally moved for adoption by the Leader of the Council, Councillor Nicholas Botterill.

The report and recommendations were put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

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

7.58pm **RESOLVED:**

(1) That the Council continue to operate the Petitions Scheme as outlined in paragraph 2.4 of the report be agreed;

(2) That the operation of the Council's Petitions Scheme be noted.

9. **SPECIAL MOTIONS**

9.1 Special Motion 2 - Appointment by the Leader of the Deputy Leader and Cabinet Members and their Respective Portfolios

7.59pm – Councillor Nicholas Botterill moved, seconded by Councillor Alex Karmel, the special motion standing in their names.

"This Council notes the following appointments by the Leader to the Cabinet and their respective portfolios."

The motion was put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The motion was declared **CARRIED.**

7.59pm **RESOLVED:**

This Council notes the following appointments by the Leader to the Cabinet and their respective portfolios.

LEADER  
(+REGENERATION, ASSET MANAGEMENT  
AND IT\*) Councillor Nicholas Botterill

DEPUTY LEADER  
(+ RESIDENTS SERVICES\*\*) Councillor Greg Smith

CABINET MEMBER FOR CHILDREN'S  
SERVICES Councillor Helen Binmore

CABINET MEMBER FOR COMMUNICATIONS  
(+CHIEF WHIP) Councillor Mark Loveday

CABINET MEMBER FOR COMMUNITY CARE Councillor Marcus Ginn

CABINET MEMBER FOR HOUSING Councillor Andrew Johnson

CABINET MEMBER FOR  
TRANSPORT AND TECHNICAL SERVICES\*\*\* Councillor Victoria  
Brocklebank-Fowler

\* Includes Economic Development

\*\* Includes Licensing and Public Protection and Safety.

\*\*\* Includes Planning.

The following Cabinet Assistants Members were also appointed:-

Councillor Harry Phibbs (Communications)  
Councillor Belinda Donovan (Crime  
Councillor Georgie Cooney (Education)  
Councillor Adronie Alford (Housing)  
Councillor Frances Stainton (Parks)  
Councillor Ali de Lisle (Street Scene)

9.2 Special Motion 3 - Appointment of Chairmen and Memberships of Regulatory, Scrutiny and Other Committees 2012/13

8.00pm – Councillor Nicholas Botterill moved, seconded by Councillor Greg Smith, the special motion standing in their names:

"This Council agrees the appointments of Chairmen and Memberships of Regulatory, Scrutiny and other Committees under its Constitution for the Municipal Year 2012/13, as set out in the motion.

This Council also notes their respective Portfolios / Terms of Reference, as set out in the Council's Constitution."

Under Standing Order 15 (e) (vi), Councillor Nicholas Botterill moved an amendment to the special motion to appoint Councillor Helen Binmore to the Fostering Panel and Councillor Georgie Cooney to the Corporate Parenting Board.

The motion as amended was put to the vote:

FOR	Unanimous
AGAINST	0
ABSTENTIONS	0

The motion as amended was declared **CARRIED.**

8.00pm **RESOLVED:**

This Council agrees the appointments of Chairmen and Memberships of Regulatory, Scrutiny and other Committees under its Constitution for the Municipal Year 2012/13, as set out in the motion, as amended, and also notes their respective Portfolios/Terms of Reference, as set out in the Council's Constitution.

9.3 Special Motion 4 - Council Appointments to Local Government Organisations 2012/13

8.01pm - Councillor Mark Loveday moved, seconded by Councillor Alex Karmel, the special motion standing in their names.

"This Council agrees the Council's appointments to Local Government Organisations for 2012/13, as set out in Appendix 1".

The motion was put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The motion was declared **CARRIED.**

8.01pm **RESOLVED:**

That the Council agrees the appointments to Local Government Organisations for 2012/13, as set out in the Appendix of the report.

9.4 Special Motion 5 - Council Calendar 2012/13 and 2013/14

8.02pm - Councillor Victoria Brocklebank-Fowler moved, seconded by Councillor Andrew Johnson, the special motion standing in their names:

"This Council agrees that, for the Municipal Years 2012/13 and 2013/14, meetings of the Council, its Committees and Panels, be held on the dates specified, as set out in the Council Calendar, attached as Appendix 1".

The motion was put to the vote:

FOR	unanimous
AGAINST	0
NOT VOTING	0

The motion was declared **CARRIED.**

8.02pm **RESOLVED:**

This Council agrees that, for the Municipal Years 2012/13 and 2013/14, meetings of the Council, its Committees and Panels, be held on the dates specified, as set out in the Council Calendar, attached as an Appendix 1 to the motion.

## **10. INFORMATION REPORTS - TO NOTE**

### 10.1 To Receive the Leader's Annual Report (Oral)

The Leader, Councillor Nicholas Botterill, made a speech earlier on during the meeting.

### 10.2 Overview and Scrutiny Annual Report 2011/12

8.03pm - The Council received the Annual Scrutiny report of the work undertaken by the Overview and Scrutiny Board, Select Committees and Scrutiny Task Groups during the course of the 2011/12 Municipal Year.

8.03pm **RESOLVED:**

That the Overview and Scrutiny Annual Report be received.

### 10.3 Summary of Attendance at Principal Committee Meetings of the Council in 2011/12

8.03pm - The summary report of Members' attendance at principal committee meetings of the Council in 2011/12 was duly noted.

### 10.4 Special Urgency Decisions - Monitoring Report

8.03pm - The report was noted.

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

Meeting started: 7.00 pm  
Meeting ended: 8.03 pm

Mayor .....



**ANNOUNCEMENTS BY  
THE MAYOR**

1. On 20<sup>th</sup> March, I attended the 'Music at the Heart of Fulham event', St John's Church, Walham Green Fulham, SW6
2. On 21<sup>st</sup> March, I was delighted to attend and officially start the H&F Mini Marathon Trial Race, Fulham Football Club, SW6
3. On 21<sup>st</sup> March, I hosted and presented with Mrs Sandy Cahill, Deputy Lieutenant, to H&F Cadets' Award Ceremony, Mayor's Parlour, HTH
4. On 22<sup>nd</sup> March, I attended the opening of the St Andrew's Star Centre, St Andrews Fulham Fields, W14
5. On 23<sup>rd</sup> March, I attended the opening of the New East Wing Extension of the Maidstone Museum and Bently Art Gallery, Maidstone Kent
6. On 24<sup>th</sup> March, I attended with Councillor Julie Mills, Mayor of The Royal Borough of Kensington and Chelsea, the 4<sup>th</sup> Para Freedom of the Borough Ceremony, Parade and Dinner reception, Liverpool Town Hall, Liverpool
7. On 25<sup>th</sup> March, accompanied by my Consort, I attended the London Mayor's Charity Walk from Whittington Hospital in Highgate to the Mansion House, EC4
8. On 27<sup>th</sup> March, I was honoured to speak and officially unveil a commemorative plaque in memory of Marine Sam Alexander MC. Sam grew up and went to school in the borough. The ceremony conducted by the Rev Simon Downham was attended by members of Sam's unit, 42 Commando. The H&F Deputy Lieutenant was in attendance. Hammersmith Bridge, W6
9. On 28<sup>th</sup> March, accompanied by my Consort, I was delighted to host a Charity concert and tour of Fulham Palace and Bishops Park, SW6 in Aid of Walking With The Wounded.
10. On 29<sup>th</sup> March, accompanied by my Consort, I attended Her Majesty The Queen, Diamond Jubilee North London Lunch, which HRH The Duke of Edinburgh, H&F Deputy Lieutenant and representatives from the H&F community were in attendance. Waltham Forest Town Hall, Walthamstow E17
11. On 30<sup>th</sup> March, I attended and presented medals to the winners and runners up in the H&F Mayor's Football Cup Competition, Ravenscourt Park, W6
12. On 30<sup>th</sup> March, I attended and spoke at the Brain of the Year awards evening, The Simpsons, Strand, WC2
13. on 3<sup>rd</sup> April, I was delighted to greet Mr Akira Kobayashi, Deputy Director General, City Bureau of the Land and Ministry of Japan, to the H&F Japanese Garden, Hammersmith Park, W12

14. On 3<sup>rd</sup> April, I attended the dinner for Perspective Ukraine Foundation evening, Great Hall, One George Street, SW1
15. On 7<sup>th</sup> April, I attended the Mayor of Wandsworth charity Boat Race event onboard the Golden Salamander, Putney Pier SW15
16. On 8<sup>th</sup> April, I attended the Friends of Normand Park Easter Event, Normand Park, SW6
17. On 13<sup>th</sup> April, I attended the Mayor of Redbridge Charity Race Night, Coral Romford Stadium, Romford
18. On 16<sup>th</sup> April, I attended a photo call and welcomed a charity runner, Mr Mike Chandler, the Royal Mail Postman who raised £20,000 for the Haven, Effie Road, SW6
19. On 16<sup>th</sup> April, I attended the GLL Sport Foundation evening, BT Tower
20. On 16<sup>th</sup> April, I attended the German Ambassadors 'Talk with Musical Illustrations' event, Belgrave Square SW1
21. On 18<sup>th</sup> April, I officially spoke at the opening of the new Waitrose Parsons Green Store, cutting their splendid ribbon, Parsons Green, SW6
22. On 18<sup>th</sup> April, accompanied by my Mayoress, I attended the UK China and Culture Association celebration of 100 Day countdown to the 2012 Olympics, High Holborn WC1V
23. On 20<sup>th</sup> April, accompanied by my Mayoress, I attended the Mayor of Merton's Charity Tour of the All England And Lawn Tennis Club, Wimbledon
24. On 21<sup>st</sup> April, I attended the Mayor of Barnet's Charity Dinner, Emerald Suite North London Business Park, Barnet
25. On 22<sup>nd</sup> April, I attended, spoke and presented the H&F RFC Awards, Hurlingham Park, SW6
26. On 23<sup>rd</sup> April, I attended the Central Criminal Court reception, Warwick Square, London EC4M
27. On 23<sup>rd</sup> April, I attended the Mayor of Wandsworth's Ceremony of the Keys Dinner evening, Tower of London
28. On 26<sup>th</sup> April, I was delighted to attend a reception in honour of the new High Commissioner of India, HE Dr Jaimini Bhagwati, The Bhavan Centre, London W14
29. On 27<sup>th</sup> April, I attended with the Lady Mayor of London together with the Cabinet Member for Children's Services, Councillor Helen Binmore, a tour of Ark Conway Primary School, Hemlock Road W12 OQT

30. On 28<sup>th</sup> April, I attended the Mayor of Greenwich Annual Civic Dinner, Officers Mess, Woolwich Barracks SE18
31. On 3<sup>rd</sup> May, I attended the Mayor of The Royal Borough of Kensington and Chelsea Presentation Evening, Kensington Town Hall, W8
32. On 7<sup>th</sup> May, I attended the annual mass church service for Migrants, Westminster Cathedral, SW1
33. On 7<sup>th</sup> May, I attended the Diamond Jubilee Pageant horse show and Dinner reception, Windsor Great Park, Windsor Castle
34. On 12 May, I attended an Open Day event at St Saviour Church, Cobbold Road W12
35. On 12<sup>th</sup> May, I attended the Alzheimers Society Saturday Café tea party, Queen Caroline Street, W6
36. On 12<sup>th</sup> May, I attended a reception held at the BT Tower, WC1 in aid of the Mayor of Camden's chosen charity, Action on Hearing Loss
37. On 13<sup>th</sup> May, I attended the Bahai Community and Performance day, Fulham Palace, SW6
38. On 14<sup>th</sup> May, I attended the CF Appointments Ltd, Annual Lecture, Drapers Hall
39. On 16<sup>th</sup> May, I attended the London City Mission Annual Gathering, Mansion House, EC4
40. On 16<sup>th</sup> May, accompanied by my Mayoress, and both Consorts, I was delighted to host and speak at my Charity Fundraising reception, hosted by Baroness Gardner of Parkes, Cholmondeley Rooms, House of Lords, SW1
41. On 17<sup>th</sup> May, accompanied by the Deputy Mayor, I attended the Diamond Jubilee Pageant meeting, The Old Library, The Guildhall, EC2V
42. On 17<sup>th</sup> May, I attended the Mayor of The Royal Borough of Kensington and Chelsea Diamond Jubilee Celebration of Business reception, Leighton House, W14
43. On 19<sup>th</sup> May, I attended the Mayor of Southwark's Charity Ball and Dinner, The Great Halls, Vinopolis, SE1
44. On 22<sup>nd</sup> May, I attended The Royal Borough of Kensington and Chelsea's 'Cultural Place-making' evening, The Louise T Blouin Foundation, 3 Olaf Street, W11
45. On 23<sup>rd</sup> May, I attended St George PLC 'Ground Breaking' event, Fulham Reach, Distillery Road, W6

46. On 23<sup>rd</sup> May, I attended the Chelsea Flower Show, Royal Hospital Road, SW3
47. On 23<sup>rd</sup> May, I attended the Britain Australia reception, House of Lords, SW1
48. On 24<sup>th</sup> May, I was interviewed for ITV London News, focussing on the restored Edwardian Beach which is the only metropolitan beach in London. This is all part of the restoration and regeneration of Bishops Park, Bishops Park, SW6
49. On 24<sup>th</sup> May, I attended a reception at The Royal College of Surgeons, Lincolns Inn Fields
50. On 25<sup>th</sup> May, accompanied by my Mayoress, I attended the London Oratory School Church Service, Oratory Church, Brompton Road
51. On 25<sup>th</sup> May, I attended the Girl Guides Opening Ceremony, Paddington Recreation Ground, W9
52. On 26<sup>th</sup> May, I officially opened and cut the ribbon at St Michael's Centre Youth Club, Townmead Road, SW6
53. On 27<sup>th</sup> May, accompanied by my Mayoress, I was delighted to speak and open the Walled Garden, Fulham Palace, SW6
54. On 28<sup>th</sup> May I was delighted to speak and take part in the opening of Bishops Park which was attended by The Rt Rev, The Rt Hon Richard Chartres, Bishop of London and Wesley Kerr, Head of the London Heritage Lottery Fund and the outgoing and incoming Leader of the Council.
55. On 29<sup>th</sup> May, I was delighted to present the first winners of my 'Mayor's Unsung Hero and Heroines' Awards to the Virtual School for Looked After Children Team for the group award and to Bridget Steenkamp for the individual award. Bridget is a Community Worker/Normand Park volunteer. The awards were held in the Mayor's Parlour, W6 9JU

**PUBLIC QUESTION TIME**

**LONDON BOROUGH OF HAMMERSMITH & FULHAM**

**COUNCIL MEETING – 4 JULY 2012**

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Question by: Mr Jed Keenan

To:           The Leader

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**QUESTION**

“With regard to the timeframe for responding to enquiries submitted to the Council through normal channels, why are members of the public not provided with a standard of service that is equal to or better than Members of the Council?”

# Agenda Item 6.1

## Monitoring Officer's Report



4 July 2012

**Leader** LOCALISM ACT 2011 – MEMBERS' COMPLAINT PROCEDURES, APPOINTMENT OF INDEPENDENT PERSONS AND CHANGES TO THE CONSTITUTION **WARDS**  
**Councillor** **Nicholas Botterill** **ALL**

### Summary

**Cabinet Member  
for Communications  
+ Chief Whip**

The Localism Act 2011 abolished the existing Standards regime and introduced a new framework for the regulation of Member conduct. This report sets out the relevant provisions of the Act along with notable implications for the Council and proposals for local implementation.

**Councillor** **Mark  
Loveday**

### RECOMMENDATIONS:

1. That the revision to the advice in the Council's 'Guidance for Councillors and Officers dealing with Planning and Licensing' as outlined in the report, be adopted.
2. That the specific responsibility of maintaining high standards of conduct for Members be delegated to the Audit, Pensions and Standards Committee.
3. That the Members' Code of Conduct, attached as appendix 1, be adopted, and that the rules requiring Members to register and disclose pecuniary and non-pecuniary interests be noted.
4. That two Independent Members (names to be tabled) be appointed, in conjunction with the Royal Borough of Kensington and Chelsea, as Independent Persons to consider complaints against Members and to offer their impartial views on each case, including any investigations undertaken.
5. That a flat rate allowance of £500 per annum be paid to the Independent Person appointed by LBHF in 12 monthly instalments on the 15<sup>th</sup> of each month.
6. That the arrangements for dealing with complaints alleging a breach of the Members' Code of Conduct, attached as appendix 2, be approved.
7. That the terms of reference of the Audit, Pensions and Standards Committee and the Audit, Pensions and Standards Sub Committees, as outlined in Appendix 3, be approved.
8. That Standing Order rule 20 be amended as set out in Appendix 4.

### **CONTRIBUTORS**

**Monitoring Officer  
Head of  
Governance and  
Scrutiny**

## 1. BACKGROUND

- 1.1 The Localism Act 2011 abolished the existing Standards regime and introduced a new framework for the regulation of Member conduct. The relevant provisions of the Act are set out below along with notable implications for the Council and proposals for local implementation. The new provisions will come into effect from 1<sup>st</sup> July 2012.

## 2. THE NEW PROVISIONS ON PREDETERMINATION

### **Chapter 6, Section 25 - Prior indications as to view of a matter not to amount to predetermination**

- 2.1 This clarifies how the common law concept of 'predetermination' applies to councillors in England and Wales. Predetermination occurs where someone has a closed mind, with the effect that they are unable to apply their judgment fully and properly to an issue requiring a decision. Decisions made by Councillors later judged to have predetermined views have been quashed.
- 2.2 The Section makes it clear that if a Councillor has given a view on an issue this does not mean that the councillor has a closed mind on that issue. Therefore if a Councillor has campaigned on an issue or made public statements about his/her approach to an item of Council business, he or she will be able to participate in discussion of that issue in the Council and to vote on it if it arises in an item of Council business requiring a decision.
- 2.3 Despite the views of some that the provision is of wider application than the current common law position, the better view is that that it confirms the current position (which was arrived at after some years of uncertainty). The advice in the Council's 'Guidance for Councillors and Officers dealing with Planning and Licensing' will be revised as follows:-

"The courts have accepted that Members may be politically predisposed on matters of policy or on the grant or refusal of planning permission on a particular site. This will only become unlawful predetermination if a Member firmly closes his or her mind to all other arguments and representations.

Section 25 of the Localism Act 2011 has clarified the law in this respect. It provides that a Member should not be taken to have had, or appear to have had a closed mind "just because" he or she had previously done anything that directly or indirectly indicated what view he or she might take in relation to a particular decision.

Members are not inhibited from fulfilling their political, democratic and representative roles but they must also be careful to take decisions properly and to be seen to do so. Members should be cautious about

making statements which may give the impression that he or she has already decided an issue before a decision has been made. At all times Members must go into a decision making meeting with an open mind, prepared to listen to argument and to have careful regard to the advice and material contained in the agenda.”

### **3. THE NEW PROVISIONS ON STANDARDS**

#### **Section 26 - Amendments of existing provisions**

- 3.1 Section 26, and Schedule 4, abolishes the Standards Board regime, which consists of the Standards Board for England, standards committees of local authorities, the jurisdiction of the First-tier Tribunal in relation to local government standards in England, and model codes of conduct for Councillors. None of the functions of the Standards Board for England are preserved.
- 3.2 The power for the Secretary of State to issue a model code of conduct and to specify principles to govern the conduct of Members is removed together with the requirement for relevant authorities to establish standards committees. The First-tier Tribunal loses its jurisdiction over Councillor conduct issues. The Local Government Ombudsman retains jurisdiction on complaints of maladministration arising from Member conduct issues.

#### **Section 27 - Duty to promote and maintain high standards of conduct**

- 3.3 This places a duty on a relevant authority to ensure that its Members and co-opted Members maintain high standards of conduct and requires such authorities to adopt a code of conduct for their Members.
- 3.4 It is recommended that the specific responsibility of maintaining high standards of conduct for Members in LBH&F be delegated to the Audit, Pensions and Standards Committee. The additional burden for the Committee will be very limited. An extra meeting per year would be sufficient to consider issues of training and publicity, receive such reports from the Monitoring Officer as may be desired and to review the code of conduct and constitutional arrangements to ensure that they continue to be fit for purpose.

#### **Section 28 – Codes of Conduct**

- 3.5 This requires the Council as a relevant authority to adopt a code which must be consistent with the seven ‘Nolan’ principles of standards in public life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership), and must set out the rules that the authority wants to put in place with regard to requiring Members to register and disclose pecuniary and non-pecuniary interests.



- 3.6 The Council proposes to adopt the LGA draft model code as outlined in Appendix 1 to this report.
- 3.7 It also requires an authority to put in place arrangements under which it can investigate an allegation of a breach of a code made in writing and, if it is considered that an investigation is warranted, requires the authority to appoint at least one Independent Person whose views must be sought after it has made an investigation and before it takes a decision.

### **Section 28 - Independent Persons**

- 3.8 The legislation requires an authority to appoint at least one Independent Person:-

(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and

(b) whose views may be sought—

(i) by the authority in relation to an allegation in circumstances not within paragraph (a),

(ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and

(iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.

- 3.9 It is recommended that Royal Borough of Kensington and Chelsea and Hammersmith and Fulham Councils each appoint a single Independent Person. They will be appointed separately by each Borough but jointly “form” a pool and either of them could be called upon to act. The pool would ensure that there are sufficient numbers to be consulted by any of the parties involved in the process. An allowance in the region of £500 per annum would be paid to the Independent Person. Council is asked to appoint two Independent Persons (Names to be tabled) in conjunction with the Royal Borough of Kensington and Chelsea.

### ***Complaint Process***

- 3.10 The Council is required to put in place arrangements under which allegations of a failure to comply with the Code are dealt with. The proposed arrangements are at Appendix 2. The criteria, set out in section 4 of the arrangements, are intended to ensure that only serious complaints, or those that affect the proper functioning of the Council or the reputation of the Council as a whole, are investigated. It is proposed that the initial assessment of a complaint will be delegated to the Monitoring Officer who will consult with one of the Independent Persons.

Where they do not consider there to be a breach, the Monitoring Officer will inform the complainant of his/her decision and no further action will be taken. Where they consider that there might be a breach, the complaint will be referred to the Audit, Pensions and Standards Committee for investigation. The Audit, Pensions and Standards Committee will appoint a Sub-Committee to hear the complaint and determine whether or not there has been a breach of the Code. The views of the Independent Person will be sought after the investigation has been carried out and before the Audit, Pensions and Standards Sub-Committee takes a decision on the complaint. Arrangements for dealing with complaints alleging a breach of the Members' Code of Conduct is attached as Appendix 2 to the report. The Audit, Pensions and Standards Committee will review the operation of the Code and the arrangements for dealing with complaints after a year.

- 3.11 The Council is recommended to establish two Sub Committees of the Audit, Pensions and Standards Committee – Audit, Pension and Standards (Complaints) and Audit, Pensions and Standards (Appeals) Sub Committees. The terms of reference of the Audit, Pensions and Standards Committee and the two Sub Committees are attached as Appendix 3.

### **Sanctions**

- 3.12 There are no statutory sanctions for breach of the new Code of Conduct (other than the criminal sanctions for failure to notify a disclosable pecuniary interest) but common law principles suggest that possible sanctions could include:-
- the issue of a formal letter,
  - formal censure through a motion,
  - recommendation to a political group of removal from membership of a Committee (with potential financial consequences arising from the loss of a special responsibility allowance),
  - Publicising the decision that a Member had breached the authority's code of conduct
  - Other options that do not interfere with the fulfilment of the Member's democratic role could also be considered.

### **Appeals Process**

- 3.13 Where a Member is dissatisfied with the decision of the Audit, Pensions and Standards (Complaints) Sub-Committee in respect of a complaint against him/her the Member can appeal to an Audit, Pensions and Standards (Appeals) Sub-Committee (comprising a different membership to the Complaints Sub-Committee). The Appeals Sub-Committee will either uphold the decision or conclude that there is no breach and dismiss the complaint.

### **Section 29 - Register of interests**

- 3.14 This requires the Monitoring Officer of the relevant authority to establish and maintain a register of Members' and co-opted Members' interests, to make the register available for inspection and to publish it on the Council's website. All H&F Members' declarations are already available online. The current arrangements for the declaration of interests will be slightly modified. It was proposed that the Code will require Members to register any disclosable pecuniary interests by 28<sup>th</sup> July 2012.

### **Section 30 - Disclosure of pecuniary interests on taking office**

- 3.15 This requires Members to notify the Monitoring Officer of any disclosable pecuniary interests, held either by them or a spouse, civil partner or a person they live with as a spouse or civil partner, within 28 days of taking up office. There is no duty to keep these up to date and declare new interests arising on the 29<sup>th</sup> day or thereafter until the next election, other than in respect of matters arising at meetings.
- 3.16 The Section allows the Secretary of State to make regulations defining a 'disclosable pecuniary interest', and requires the Monitoring Officer to enter any notified disclosable pecuniary interest in the authority's register, as well as any other interest notified to them, whether or not it is pecuniary.

### **Section 31 - Pecuniary interests in matters considered at meetings or by a single member**

- 3.17 This requires Members to disclose a disclosable pecuniary interest that they are aware of (apart from a sensitive interest) at a meeting or, if acting alone, where any matter to be considered relates to his/her interest. If the interest is not already registered, it requires Members to register it within 28 days. The Monitoring Officer must then enter the interest in the authority's register.
- 3.18 It also prohibits a Member from participating in discussion or voting on any matter relating to his/her interest or, if acting alone, from taking any steps in relation to the matter (subject to any dispensations). In line with good practice, the Code and Council's Standing Orders will require a Member to leave the room when a matter in which he or she has a disclosable pecuniary interest is debated or voted on.
- 3.19 The Act also requires that the Code includes such provisions as the authority considers appropriate in respect of the registration and disclosure of pecuniary interests and interests other than pecuniary interests. Paragraphs 14 and 15 of the Code deals with the declaration of those interests (i.e. those which are not disclosable pecuniary interests) at meetings or when executive decisions are taken. The Code does not require those interests to be registered but, for reasons of transparency and in order to promote and maintain high standards, it is proposed that

the Code should require such interests to be declared at meetings. Such declarations of interests might include, for example, a declaration at a Planning Committee that the applicant for planning permission is a Member's son or daughter. Such an interest is not a "disclosable pecuniary interest" and would not need to be registered but is clearly an interest which should be declared to avoid an allegation of bias or conflict of interest. The Code does not specify or identify all such interests but expects Members to exercise their judgment. If, in future, it is felt to be necessary further guidance will be considered and provided by the Audit, Pensions and Standards Committee.

- 3.20 The receipt of gifts and hospitality are not "disclosable pecuniary interests" and therefore are not required to be registered as such. The proposed Code, at Appendix 1, provides nonetheless that they should be declared and registered if over a certain value. The value proposed is £50 for both gifts and hospitality. It is recommended that Rule 20 "Declaration of Interests" in Standing Orders is amended to reflect the change in the law as set out in appendix 4.

### **Section 32 - Sensitive interests**

- 3.21 This provides for details about a registered interest to be excluded from versions of the register that are available for public inspection or published where a Member and Monitoring Officer agree that the disclosure of these details could lead to harm or intimidation of the Member or his/her family. It provides for Members to disclose only the fact that they have a disclosable pecuniary interest in the matter concerned at meetings or when acting alone.
- 3.22 This broadly replicates our existing practice whereby a Member can exclude his or her home and work details from the published version of the register.

### **Section 33 - Dispensations from section 31(4)**

- 3.23 Section 33 empowers the Council, on receipt of a written request, to grant dispensations for up to four years for a Member to be able to participate in or vote at meetings where they have a disclosable pecuniary interest.
- 3.24 The Council may grant dispensations if they consider that by not granting a dispensation, the business of the authority or committee is likely to be impeded; or that the political balance of the committee or authority is so upset as to alter the outcome of a vote; or that granting the dispensation is in the interests of residents; or that all members of the executive are unable to participate in business to be carried out by the executive; or that they consider it appropriate to grant a dispensation for other reasons.

- 3.25 The arrangements for granting dispensations will fall within the terms of reference of the Audit, Pensions and Standards Committee which could set up a Sub Committee to consider the request.

### **Section 34 - Offences**

- 3.26 Section 34 makes it a criminal offence if a Member or co-opted Member fails, without reasonable excuse, to comply with requirements under section 30 or 31 to register or declare disclosable pecuniary interests (but not other such interests as the Council may include in its Code), or take part in Council business at meetings or when acting alone when prevented from doing so.
- 3.27 It empowers the magistrates` court, upon conviction, to impose a fine of up to level 5 (currently £5,000), and an order disqualifying the person from being a Member of a relevant authority for up to five years. It extends the time for bringing a prosecution for the offence by allowing a prosecution to be brought within 12 months of the prosecuting authorities having the evidence to warrant prosecution, but any prosecution must be brought within 3 years of the commission of the offence and only by or on behalf of the Director of Public Prosecutions.
- 3.28 The Monitoring Officer in consultation with the Independent Persons and the Chairman of the Audit, Pension and Standards Committee will refer alleged offences to the Police for investigation.

### **4. Comments of the Executive Director of Finance and Corporate Governance**

- 4.1 There are no financial implications to this report.

### **5. Comments of the Director (Legal and Democratic Services)**

- 5.1 The comments of the Director are contained within this report.

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

No.	Brief Description of Background Papers	Name/Ext. of holder of file/copy	Department/Location
1.	Localism Act 2011	Kayode Adewumi	Legal, First Floor HTH, Room 133a
	<b>Responsible Officer</b>	<b>Kayode Adewumi 020 8753 2499</b>	

## **London Borough of Hammersmith and Fulham Members' Code of Conduct**

As a Member or co-opted Member of the London Borough of Hammersmith and Fulham I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

As a Member of the London Borough of Hammersmith and Fulham my conduct will in particular address the statutory principles of the Code of Conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents - including those who did not vote for me - and putting their interests first.

- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the London Borough of Hammersmith and Fulham area or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account, but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.
- Complying with the Council's Information Security Policy and not misusing the Council's resources for unacceptable personal use.

The Act further provides for registration and disclosure of interests, and this will be done as follows:

## **Registration and disclosure of interests**

### **Registration of Interests**

1. From 28<sup>th</sup> July 2012, and thereafter within 28 days of your election or co-option, you must notify the Monitoring Officer of any 'disclosable pecuniary interests which you have at that time.
2. Where you are re-elected or re-appointed, notification is only required of any new disclosable pecuniary interests within 28 days of your election or co-option.
3. You must keep your Register of Interests entry up to date by notifying the Monitoring Officer of any changes to your disclosable pecuniary interests within 28 days of the change occurring, or of you becoming aware of the change.
4. A 'disclosable pecuniary interest' is as prescribed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and set out in Appendix A to the Code.
5. A pecuniary interest is a 'disclosable pecuniary interest' in relation to you if it is of a type described above, and either:
  - (a) it is an interest of yourself, or
  - (b) it is an interest of -
    - (i) your spouse or civil partner,
    - (ii) a person with whom you are living as husband and wife, or
    - (iii) a person with whom you are living as if they were civil partners, and you are aware that that other person has the interest.
6. You are also required to notify the Monitoring Officer of any gifts or hospitality with an estimated value of at least £50 which you receive in your role as a Member or co-opted Member of the Council.<sup>1</sup> You must inform the Monitoring Officer of any such gifts or hospitality within 28 days of receiving them so that the details can be entered into the Register of Interests.<sup>2</sup> All disclosable interests will be published on the Council's website.

### **Sensitive interests**

7. If the nature of an interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, the interest must not be included in any published version of the Register of Interests, or be entered into any copy of the Register that is made available for public

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<sup>1</sup> This does not include civic gifts or hospitality received by the Mayor whilst acting in this capacity. Civic gifts are to be recorded in a separate register maintained by the Mayor's office.

<sup>2</sup> These details will be removed from the register two calendar years after they were added by the Monitoring Officer.



inspection. Instead the Register of Interests may state that the Member has an interest, the details of which are withheld under section 32(2) of the Localism Act 2011. If the Member is required to disclose such an interest in a meeting, the Member need not disclose the interest, but merely the fact that the Member has a disclosable pecuniary interest in the matter concerned.

### **Disclosure of disclosable pecuniary interests at meetings**

8. The following provisions apply if you are present at a meeting of the authority the Cabinet or of any committee, sub-committee, joint committee or joint sub-committee of the authority or you are a Cabinet Member exercising an executive function and you are aware that you have a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting or which is the subject of the executive decision.
9. If the interest is not entered in the authority's Register of Interests, you must disclose the interest to the meeting (unless the interest is a sensitive interest).
10. If the interest is not entered in the authority's Register of Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
11. Where the interest does appear in the Register of Interests, you must bring the interest to the attention of the meeting (unless the interest is a sensitive interest).
12. You may not:
  - (a) participate, or participate further, in any discussion of the matter at the meeting or in the case of an executive decision you must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with by someone else)
  - (b) participate in any vote, or further vote, taken on the matter at the meeting (unless you have requested and been granted a relevant dispensation by Audit, Pensions and Standards Committee), or
  - (c) remain in the room during the discussion or vote on the matter.
13. Where you have a disclosable pecuniary interest in a matter to be considered at a meeting, you may attend the meeting but only for the purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. Once you have finished, or the meeting decides you have finished, you must leave the room and may not remain in the room during the discussion or vote on the matter.

### **Disclosure of other interests at meetings**

14. Where you are present at a meeting of the authority, the Cabinet or of any committee, sub-committee, joint committee or joint sub-committee of the authority, or you are a Cabinet Member exercising an executive function, and

identify any other significant interests which you feel should be declared in the public interest, such interests should be declared to the meeting or, in the case of a Cabinet Member exercising an executive function, prior to taking a decision.

15. In such circumstances you must consider whether your continued participation in the matter relating to your interest would be reasonable in the circumstances, particularly if the interest may give rise to a perception of a conflict of interests in the matter under discussion. If so you should comply with the requirements of paragraphs 12 and 13 above.

### **Allegations of a Failure to Comply with Code of Conduct**

All complaints alleging a failure to comply with this Code will be considered in accordance with a procedure agreed by full Council.

## Disclosable Pecuniary Interests

### Definitions

**The relevant person** means **you** or:

- Your spouse or civil partner,
- A person with whom you are living as husband or wife
- A person with whom you are living as if they were your civil partner

**Body in which the relevant person has a beneficial interest** means a firm with which a relevant person is a **partner**, or a body corporate of which the **relevant person** is a **Director**, or in the **securities** of which the **relevant person** has a beneficial interest.

**Director** includes a member of the committee of management of an industrial and provident society

**Securities** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a Building society.

A 'disclosable pecuniary interest' is an interest of the **relevant person** (which you are aware of) within the following descriptions:.

### Employment

Any employment, office, trade, profession or vocation carried on for profit or gain by a relevant person.

### Sponsorship

Any payment or provision of any other financial benefit (other than from LBHF) made or provided within the **relevant period** in respect of any expenses, incurred by you in carrying out your duties as a member or co opted member, or towards your election expenses.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation Act) 1992.

**Relevant period** means the period of 12 months ending with the day on which you notify the Monitoring Officer of the interest.

### Contracts

Any contract which is made between the **relevant person** (or a **body in which the relevant person has a beneficial interest**) and LBHF :

- (a) under which goods or services are to be provided or works are to be executed: and
- (b) which has not been fully discharged.

## Land

Any beneficial interest in **land** which is within the area of LBHF.

**Land** excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the **relevant person** (alone or jointly with another) to occupy the land or to receive income.

## Licences

Any licence (alone or jointly with others) to occupy land in the area of LBHF for a month or longer.

## Corporate Tenancies

Any tenancy where (to your knowledge)

- (a) the landlord is LBHF
- (b) the tenant is a **body in which the relevant person has a beneficial interest**

## Securities

Any beneficial interest in **securities** of a body where

- (a) that body (to your knowledge) has a place or business or land in the area of LBHF; and
- (b) either:
  - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
  - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class

**London Borough of Hammersmith and Fulham  
Arrangements for dealing with complaints alleging a breach of the Members’  
Code of Conduct**

**1. Context**

- 1.1 Under Section 28 of the Localism Act 2011, the Council must have in place “arrangements”, under which allegations that a Member or co-opted Member of the Council, or of a Committee or Committee of the Council, has failed to comply with the Members’ Code of Conduct can be investigated and decisions made on such allegations.
- 1.2 These “arrangements” set out how you may make a complaint that an elected or co-opted Member of the **London Borough of Hammersmith and Fulham** (“the Council”) has failed to comply with the Members’ Code of Conduct (“the Code”) and sets out how the Council will deal with allegations of a failure to comply with the Code.
- 1.3 Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a Member or co-opted Member against whom an allegation has been made.

**2. The Code**

- 2.1 The Code adopted by the Council is on the Council’s website and paper copies can be requested from Governance and Scrutiny Team, Town Hall, King Street, London, W6 9JU.

**3. Making a complaint**

- 3.1 If you wish to make a complaint, please complete a copy of the complaint form, available on the Council’s website or on request from Governance Services, and send or email it to:

The Monitoring Officer  
Legal and Democratic Services  
Town Hall  
King Street  
London W6 9JU

email [Janette.Mullins@lbhf.gov.uk](mailto:Janette.Mullins@lbhf.gov.uk)

- 3.2 The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the Register of Members’ Interests and who is responsible for administering these arrangements.

- 3.3 Please provide all the details requested on the complaint form. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request but in the interests of fairness the presumption is that the Member concerned is entitled to know who has made the complaint. If, in exceptional circumstances, your request is granted we will not disclose your name and address to the Member against whom you make the complaint without your prior consent.
- 3.4 The Council will not investigate anonymous complaints unless the Monitoring Officer considers that there is a strong and clear public interest in doing so.
- 3.5 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.

#### **4. Will your complaint be investigated?**

- 4.1 The Monitoring Officer will consider each complaint received and will decide, on the basis of the information set out in the complaint form or submitted with the complaint, whether it merits formal investigation. Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, investigating a complaint involves spending public money as well as the cost of officer and Member time. The Council, therefore, takes a proportionate approach to the issue of whether or not a complaint merits investigation bearing in mind the sanctions which can be imposed if a Member is found to be in breach of the Code, and the costs to the Council and, therefore, to the public of undertaking an investigation. The performance of Members in terms of how they represent those in their wards is ultimately a matter for the electorate if a Member seeks re-election.
- 4.2 A complaint will only be considered to merit formal investigation if it complies with all the criteria in paragraph 4.3 or one or more of the criteria in paragraph 4.4 below. The Monitoring Officer will consult the Independent Person before coming to a final decision as to whether or not a complaint which meets the relevant criteria should be investigated.
- 4.3 The relevant criteria are:
- a) The complaint raises matters which would be a breach of the Code;
  - b) The complaint is sufficiently serious to warrant investigation;
  - c) The complaint is not “tit-for-tat”;
  - d) The complaint appears not to be politically motivated;
  - e) It is about someone who is still a Member or co-opted Member of the Council;

- f) The complaint has been received within 3 months of the alleged failure to comply with the Code unless there are exceptional circumstances for the delay and the delay does not mean that it would be difficult for a fair investigation to be carried out;
  - g) The same, or similar, complaint has not already been investigated;
  - h) It is not an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code;
  - i) The Member complained about has not already apologised and/or admitted making an error; and
  - j) If the complaint reveals a criminal offence and a complaint has been made to the Police, that the Police investigation and any proceedings have concluded or the Police have confirmed no proceedings will be issued.
- 4.4 a) The complaint reveals a continuing pattern of behaviour that is significantly and unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
- b) The complaint is made by the Chief Executive or the Monitoring Officer
- 4.5 This decision will normally be taken within 28 working days of receipt of your complaint. The Monitoring Officer will inform you of his/her decision and the reasons for that decision.
- 4.6 In appropriate cases, where the Monitoring Officer has decided in accordance with the criteria set out above that a complaint would merit investigation, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was in breach of the Code and offering an apology, or other remedial action such as correcting the Register of Interests. Where the Member makes a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint should be investigated.
- 4.7 In consultation with the Independent Persons and Chairman of the Audit, Pensions and Standards Committee, the Monitoring Officer will refer to the Police for investigation a complaint which falls under Section 34 of the Act which makes it a criminal offence if a Member or co-opted Member fails, without reasonable excuse, to comply with requirements to register or declare disclosable pecuniary interests (but not other such interests as the Council may include in its Code), or takes part in Council business at meetings or when acting alone when prevented from doing so.

## **5 How is the investigation conducted?**

- 5.1 If the Monitoring Officer decides that a complaint merits investigation, he/she may conduct the investigation but will normally appoint an investigating officer, who may be another senior officer of the Council, an officer of another Council or an external investigator (“the Investigating Officer”). The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the detail of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen and who needs to be interviewed.
- 5.2 The Investigating Officer will normally write to the Member against whom you have complained and provide him/her with a copy of your complaint, and ask the Member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview.

In exceptional cases, where the Monitoring Officer has decided to keep your identity confidential your name and address will be deleted from the papers given to the Member.

- 5.3 At the end of his/her investigation, the Investigating Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to correct any factual inaccuracies.
- 5.4 Having received and taken account of any comments which you may make on the draft Investigation Report, the Investigating Officer will send his/her final report to the Monitoring Officer.

## **6 What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

- 6.1 The Monitoring Officer will review the Investigating Officer’s report and, if he/she is satisfied that the Investigating Officer’s report is sufficient, the Monitoring Officer will write to you and to the Member concerned notifying you that he/she is satisfied that no further action is required, and give you both a copy of the final Investigation Report. There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer.

## **7 What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

- 7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer’s report, seek the views of the Independent Person and will then arrange for the Audit, Pensions and Standards (Complaints) Sub Committee to consider the complaint. The Sub Committee will consider the Investigator’s Report, the written opinion of the Independent Person and any written representations from the Member concerned before



deciding whether the Member has failed to comply with the Code and, if so, whether to take any action in respect of the Member.

- 7.3 The meeting will be held in public so you may attend the meeting as can other members of the public. The Committee will usually consider the matters on the papers but, in exceptional cases, the Member may be permitted by the Committee to make representations on his or her own behalf, although he or she will not be entitled to be represented by a solicitor or other legal representative.
- 7.4 The Committee, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code, and dismiss the complaint. If the Committee concludes that the Member did fail to comply with the Code, the Chairman will inform those present at the meeting of this finding and the Committee will then consider what action, if any, the Committee should take as a result of the Member's failure to comply with the Code. In doing this, the Committee may give the Member an opportunity to make representations but will consider any written representations from the Member and take into account the views of the Independent Person, before deciding what action, if any, to take in respect of the matter.

## **8 What action can the Audit, Pensions and Standards Committee take where a Member has failed to comply with the Code of Conduct?**

The Committee may:-

- 8.1.1 Censure the Member;
- 8.1.2 Report its findings to a meeting of the Council for information;
- 8.1.3 Recommend to the Council that the Member be issued with a formal censure;
- 8.1.4 Recommend to the Member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council; or
- 8.1.5 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities.

## **9 What happens at the end of the hearing?**

- 9.1 At the end of the hearing, the Chairman will announce the decision of the Committee as to whether the Member failed to comply with the Code and as to any sanctions imposed.
- 9.2 As soon as reasonably practicable thereafter, the Monitoring Officer will write to you and the Member concerned confirming the decisions taken.

## **10. Appeals**

- 10.1 Where a Member is dissatisfied with the decision of the Audit, Pensions and Standards (Complaints) Sub-Committee in respect of a complaint against him/her, he/she may appeal to an Audit, Pensions and Standards (Appeals) Sub-Committee comprising a different membership to the original Sub-Committee, to reconsider the decision. The Member will be required to set out in detail, within 14 days of the Committee meeting, the grounds upon which an appeal is sought.
- 10.2 Upon receipt of notification of appeal, the Monitoring Officer will consult an Independent Person for his/her views. The Monitoring Officer will forward a report detailing the allegations, views of the Independent Person and the findings of the investigation to the Audit, Pension and Standards (Appeals) Committee who will determine the appeal. The Appeals Sub-Committee can either endorse the previous decision or conclude that there is no breach and dismiss the complaint.

## **11 What are the responsibilities of the Audit, Pensions and Standards Committee?**

- 11.1 The Audit, Pensions and Standards Committee is charged with considering those written complaints that a Member or co-opted Member has failed to comply with the Code referred to it following an investigation of the complaint. The Committee may decide to impose a sanction if it finds that the Member has failed to comply with the Code. The duty to consider complaints has been delegated to its Complaints Sub Committee.

## **12 Who is the Independent Person?**

- 12.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and has been appointed by the Council. There a number of statutory restrictions on who may be appointed. For example, a person cannot be appointed as an independent person if he or she is, or has been within the past 5 years, a Member, co-opted Member or officer of the Council.
- 12.2 The Independent Person may be invited to attend meetings of the Committee and his/her views are sought and taken into consideration before the Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code and as to any action to be taken following a finding of failure to comply with the Code.

## **13 Revision of these arrangements**

- 13.1 The Council may by resolution agree to amend these arrangements.

**AUDIT, PENSIONS AND STANDARDS COMMITTEE**

**TERMS OF REFERENCE**

**1. Membership**

1.1 The Committee will have the following membership:

4 Administration Councillors

2 Opposition Councillors

1.2 The Chairman will be drawn from one of the Administration Councillors; the Vice-Chairman will be an Opposition Councillor.

1.3 The Committee may co-opt non-voting independent members as appropriate.

1.4 The agenda of meetings of the Committee will be divided into separate sections for Audit, Pensions and Standards matters.

1.5 The Pension Fund's external investment managers will be required to attend meetings of the Committee when dealing with Pensions matters and to submit reports and make presentations as required.

1.6 The Trades Unions and representatives from the admitted and scheduled bodies in the Pensions Fund shall be invited to attend and participate in meetings considering Pensions matters, but shall not have a formal vote.

1.7 The Committee may ask the Head of Internal Audit, a representative of External Audit, the Risk Management Consultant, Assistant Director (Business Support) and any other official of the organisation to attend any of its meeting to assist it with its discussions on any particular matter.

**2. Quorum**

2.1 The quorum of the Committee shall be 3 members.

**3. Voting**

3.1 All Councillors on the Committee shall have voting rights. In the event of an equality of votes, the Chairman of the Committee shall have a second casting vote. Where the Chairman is not in attendance, the Vice-Chairman will take the casting vote.

**4. Procedures**

- 4.1 Except as provided herein, Council Procedure Rules (as applicable to all Committees) shall apply in all other respects to the conduct of the Committee.
- 4.2 Meetings of the Committee shall be held in public, subject to the provisions for considering exempt items in accordance with sections 100A-D of the Local Government Act 1972 (as amended).

## 5. **Meetings**

- 5.1 The Audit, Pensions and Standards Committee will meet at least four times a year.
- 5.2 Meetings will generally take place in the spring, summer, autumn, and winter. The Chairman of the Committee may convene additional meetings as necessary.
- 5.3 The Chief Executive may ask the Committee to convene further meetings to discuss particular issues on which the Committee's advice is sought.

## 6. **Reporting**

- 6.1 The Audit, Pensions and Standards Committee will formally report back in writing to the full Council at least annually.

## 7. **Responsibilities**

### **(a) Audit**

- 7.1 The Audit, Pensions and Standards Committee will advise the Executive on:
- the strategic processes for risk, control and governance and the Statement on Internal Control;
  - the accounting policies and the annual accounts of the organisation, including the process for review of the accounts prior to submission for audit, levels of error identified, and management's letter of representation to the external auditors;
  - the planned activity and results of both internal and external audit;
  - the adequacy of management responses to issues identified by audit activity, including the external auditor's annual letter
  - the Chief Internal Auditor's annual assurance report and the annual report of the External Auditors.
  - assurances relating to the corporate governance requirements for the organisation;
  - (where appropriate) proposals for tendering for either Internal or External Audit services or for purchase of non-audit services from contractors who provide audit services.

- 7.2 The Committee's responsibilities in relation to the annual accounts will include:
- to approve the Council's Statement of Accounts, in accordance with the deadlines set out in the Accounts and Audit Regulations 2003;
  - acting as the Approval of Accounts Committee, to be held in June;
  - to consider any report as necessary from the External Auditor under Statement of Auditing Standard 610;
  - to re-approve the Council's Statement of Accounts following any amendments arising from the external audit, in accordance with the deadlines set out in the Accounts & Audit Regulations 2003.

- 7.3 The Committee's responsibilities in relation to risk management will encompass the oversight of all risk analysis and risk assessment, risk response, and risk monitoring. This includes:
- the establishment of risk management across the organisation, including partnerships;
  - awareness of the Council's risk appetite and tolerance;
  - reviewing of the risk portfolio (including IT risks);
  - being appraised of the most significant risks;
  - determining whether management's response to risk and changes in risk are appropriate.

- 7.4 The Council has nominated the Committee to be responsible for the effective scrutiny of the Treasury Management Strategy and policies.

**(b) Pensions - Decision-Making Powers (The following powers are hereby delegated on behalf of the Council)**

- 7.5 To determine the overall investment strategy and strategic asset allocation of the Pension Fund.

- 7.6 To appoint the investment manager(s), custodian, actuary and any independent external advisors felt to be necessary for the good stewardship of the Pension Fund.

- 7.7 To monitor the qualitative performance of the investment managers, custodians, actuary and external advisors to ensure that they remain suitable.

- 7.8 To review on a regular basis the investment managers' performance against established benchmarks, and satisfy themselves as to the managers' expertise and the quality of their internal systems and controls,

- 7.9 To prepare, publish and maintain the Statement of Investment Principles, and monitor compliance with the statement and review its contents,

- 7.10 To prepare, publish and maintain the Funding Strategy Statement, the Governance Compliance Statement, and the Communications Policy and Practice Statement, and to revise the statements to reflect any material changes in policy,

- 7.11 To approve the final accounts and balance sheet of the Pension Fund and

approve the Annual Report.

- 7.12 To receive actuarial valuations of the Pension Fund regarding the level of employers' contributions necessary to balance the Pension Fund.
- 7.13 To oversee and approve any changes to the administrative arrangements and policies and procedures of the Council for the payment of pensions, compensation payments and allowances to beneficiaries.
- 7.14 To consider any proposed legislative changes in respect of the Compensation and Pension Regulations and to respond appropriately.
- 7.15 To approve the arrangements for the provision of AVCs for fund members.
- 7.16 To receive and consider the Audit Commission's report on the governance of the Pension Fund.

**(c) Standards**

- 7.17 To promote and maintain high standards of conduct by the Executive, non-executive Councillors, co-opted Members and church and parent governor representatives;
- 7.18 To assist Councillors, co-opted Members, and church and parent governor representatives to observe the Members' Code of Conduct;
- 7.19 to advise the Council on the adoption or revision of the Members' Code of Conduct;
- 7.20 To monitor the operation of the Members' Code of Conduct;
- 7.21 To advise and recommend training for Councillors, and co-opted Members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- 7.22 To fulfil the requirements under Section 28 of the Localism Act 2011 to put in place "arrangements" under which allegations that a Member or co-opted Member of the Council, or of a Committee or Committee of the Council has failed to comply with Code of Conduct are considered, investigated and determined.

JULY 2012

## **Audit, Pensions and Standards (Complaints) Sub-Committee - Terms of Reference**

### **1. Constitution**

- 1.1 Under Section 28 of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the Council, or of a Committee or Committee of the Council, has failed to comply with Code of Conduct.
- 1.2 The Audit, Pensions and Standards (Complaints) Sub-Committee is established by the Audit, Pensions and Standards Committee to consider, investigate and make decisions on such allegations.

### **2. Membership**

- 2.1 The sub-committee shall comprise 3 members drawn from the membership of the Audit, Pensions and Standards Committee; two Administration Councillors and one Opposition Councillor.
- 2.2 Meetings will be convened at the request of the Monitoring Officer as required during the Municipal Year to enable the Council to discharge its obligations.

### **3. Quorum**

- 3.1 The quorum of the sub-committee shall be 3 members.

### **4. Voting**

- 4.1 All members of the sub-committee have voting rights. In the event of an equality of votes the Chairman shall have the casting vote.

### **5. Chairman**

- 5.1 The Chairman shall be elected by the Members present.

### **6. Procedures**

- 6.1 Council Standing Orders (as applicable to Committees) shall apply at meetings of the sub-committee. In the event of a conflict between these procedures and any guidance or law, then the latter will prevail.

### **7. Terms of Reference**

- 7.1 To discharge all the Council’s functions under Section 28 of the Localism Act 2011 in relation to considering, investigating and making a decision on allegations that a Member or co-opted Member of the Council, or of a Committee or Committee of the Council, has failed to comply with Code of Conduct.

## **Audit, Pension and Standards (Appeals) Sub-Committee - Terms of Reference**

### **1. Constitution**

- 1.1 The Audit, Pensions and Standards (Appeals) Sub-Committee is established by the Audit, Pensions and Standards Committee to consider any appeals by Members against the decision of the Audit, Pensions and Standards (Complaints) Sub-Committee where the Member is dissatisfied with the decision of that Sub-Committee in respect of a complaint against him/her.
- 1.2 Meetings will be convened at the request of the Monitoring Officer as required during the Municipal Year to enable the Council to discharge its obligations.

### **2. Membership**

- 2.1 The sub-committee shall comprise 3 members drawn from the membership of the Audit, Pension and Standards Committee; two Administration Councillors and one Opposition Councillor.
- 2.2 The Sub-Committee will comprise a different membership from the Sub Committee which originally made the decision.

### **3. Deliberations**

- 3.1 The Sub-Committee in considering the appeal will undertake a review of the existing evidence, correspondence and witness statements. It will not recall witnesses nor take additional evidence.
- 3.2 At the end of its deliberations, the sub committee will either endorse the previous decision, or conclude that there is no breach and dismiss the complaint.

### **4. Quorum**

- 4.1 The quorum of the sub-committee shall be 3 members.

### **5. Voting**

- 5.1 All members of the sub-committee have voting rights. In the event of an equality of votes the Chairman shall have the casting vote.

### **6. Chairman**

- 6.1 The Chairman shall be elected by the Members present.

### **7. Procedures**

- 7.1 Council Standing Orders (as applicable to Committees) shall apply at meetings of the sub-committee. In the event of a conflict between these procedures and any guidance or law then the latter will prevail.

### **8. Terms of Reference**

- 8.1 To hear an appeal where a Member is dissatisfied with the decision of the Audit, Pensions and Standards (Complaints) Sub-Committee in respect of a complaint against him/her.



8.2 To endorse the previous decision of the Audit, Pensions and Standards (Complaints) Sub Committee, or to conclude that there is no breach and dismiss the complaint.

20. **DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS**

[Note: This Rule shall apply to all Council, Executive, Regulatory, Overview and Scrutiny Committee or any other Council Committee meetings]

- \***(a)** If a Councillor (or a co-opted member) has a **disclosable pecuniary interest** in any particular agenda item at a meeting, he/she should declare the existence and nature of the interest (unless it is a sensitive interest) at the commencement of the consideration of that item or as soon as it becomes apparent.
  
- \***(b)** Any Councillor with a **disclosable pecuniary interest** may make representations, give evidence or answer questions about the matter, but only at meetings where members of the public are allowed to be in attendance and to speak. The Councillor must then withdraw immediately from the meeting before the matter is discussed and any vote taken, unless a dispensation has been obtained from the Audit, Pensions and Standards Committee.  

At meetings where members of the public are not allowed to be in attendance, then the Councillor with a **disclosable pecuniary interest** must withdraw from the meeting while the matter is under consideration, unless the Audit, Pensions and Standards Committee have granted a dispensation.
  
- \***(c)** Each Councillor (or co-opted member) shall, within **28 days** of his/her election or appointment to office (if that is later) give to the Director (Legal and Democratic Services) or another approved officer a general notice, to be recorded in the Register of Members' Interests open to public inspection, of any **disclosable pecuniary interests**, as defined in the Code of Conduct.
  
- \***(d)** If a Councillor (or co-opted member) has declared **disclosable pecuniary interest** at a meeting which has not been recorded in the Register of Members' Interests he/she shall, within **28 days** of the declaration, give notice of the interest to the Director (Legal and Democratic Services).

\*



# Report to Council

4<sup>th</sup> July 2012

**LEADER**

*Councillor Nicholas Botterill*

**TITLE Revised Statement of Licensing Policy 2012**

**Wards**

**All**

**SUMMARY:**

**CABINET MEMBER FOR RESIDENT SERVICES**

*Cllr Greg Smith*

This report seeks approval for the Council's Revised Statement of Licensing Policy 2012, which has been publicly consulted upon.

In April 2012 a number of amendments were made to the Licensing Act 2003 which made certain areas of the Council's Statement of Licensing Policy factually incorrect.

Following legal advice the Statement of Licensing Policy 2010 has been reviewed and updated to ensure that it is in line with the new legislation and associated guidance.

This report outlines the review and consultation process, issues for consideration and the proposed amendments which were subject to public consultation. .

**CONTRIBUTORS**

Transport & Technical Services Department

Legal and Democratic Services

Finance and Corporate Services

**RECOMMENDATIONS:**

Council is asked to :

Approve the Council's Revised Statement of Licensing Policy 2012 as set out in Appendix 1 of this report.

## **1. BACKGROUND**

- 1.1 The Current Statement of Licensing Policy 2010 at Appendix 2 was adopted by Full Council and was published by the London Borough of Hammersmith and Fulham in January 2011.

This revised Statement of Licensing Policy 2012 is our fourth edition since the introduction of the Licensing Act 2003.

The proposed amendments to the draft revised Statement of Licensing Policy 2012 are detailed in section 2.3 of this report.

## **2. REPORT**

### **2.1 Introduction**

- 2.1.1 The Licensing Act 2003 Act came into force in 2005 and provides a unified system of regulation of the activities of the sale and supply of alcohol, the provision of regulated entertainment, and the provision of late night refreshment.
- 2.1.2 Each licensing authority is required to determine and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the five year period to which the licensing policy applies.
- 2.1.3 The 2003 Act sets out four licensing objectives which the licensing authority has a duty to promote. These are:
- the prevention of crime and disorder,
  - public safety,
  - the prevention of public nuisance, and
  - the protection of children from harm.
- 2.1.4 This Licensing Authority has approximately 925 licensed premises which include the following:-
- Pubs, Bars, Clubs
  - Restaurants
  - Shops (Off Licences)
  - Social Clubs, halls, and Staff restaurants
  - Hotels
  - Cinemas and Theatres
  - Take Aways selling hot food or drink between 11pm and 5am.
- 2.1.5 The licensing authority can only consider matters within the scope of the Licensing Act, and guidance documents, and cannot become involved in the moral issues relating to licensing.
- 2.1.6 The Police Reform and Social Responsibility Act 2011 received Royal Assent. Part 2 of this Act has the effect of amending several sections of the Licensing Act 2003. On 25 April 2012 a number of Commencement Orders were laid in Parliament enabling a number of these amendments to become effective.

2.1.7 The amendments to the Licensing Act 2003 have required the Home Office to revise the Secretary of State's guidance to Licensing Authorities issued under Section 182 of the Licensing Act 2003. In accordance with the Act the Licensing Authority must have regard to the Guidance when carrying out its licensing functions.

## **2.2 Review Process**

2.2.1 Amendments to the Licensing Act 2003 and the Statutory Guidance has necessitated the review of the Hammersmith & Fulham Statement of Licensing Policy. However, this review is purely for technical, legal reasons, and not to consider any change in Council policy.

2.2.2 The Statement of Licensing Policy has been duly revised to reflect changes in legislation and the Guidance, and was reviewed in consultation with the respective responsible authorities as defined by the Licensing Act 2003.

2.2.3 The main amendments to the Licensing Act 2003 and the Secretary of State Guidance are as follows;

- Licensing Authorities and Local Health Bodies become "Responsible Authorities"
- The "vicinity" test for persons/businesses making representations for/against licence applications is abolished.
- In addition to the Police, Environmental Health Officers may now submit objections to a Temporary Event Notice (TEN). Objections from both bodies may now be made in connection with any of the four licensing objections, and not just the "prevention of crime and disorder" objective and existing licence conditions, can be attached to TENs, in some circumstances.
- The limit for the number of days per calendar year an individual premises may hold a TEN is increased from 15 to 21 days.
- The limit that an individual TEN can last is increased from 96 to 168 hours.
- The provision for applicants to submit 'Late TENs'
- A non payment of the annual licensing fee by a premises licence/club premises certificate holder may result in the premises licence being suspended.
- The statutory review period for a Statement of Licensing Policy's has been extended from 3 to 5 years.
- The criteria on which licensing decisions must be made has been changed from being "necessary" to "appropriate".

2.2.4 Further amendments to the Licensing Act 2003 are proposed to take effect in October 2012. The proposed amendments are in relation to a Late Night Levy (LLN) and Early Morning Restriction Orders (EMROs).

## **2.3 Proposed amendments to the draft Revised Statement of Licensing Policy 2012**

2.3.1 In summary the proposed amendments to the Statement of Licensing Policy 2011 are:

- Requirement for Licensing Authorities to review their Statement of Licensing Policy every three years has been deleted and replaced with five years.
- Replacing 'Department of Culture Media & Sport' with the 'Home Office'.
- To update the information in relation to numbers, hours and 'late notices' for Temporary Event Notices (TENs).
- Replacing the term 'Interested party' with 'other persons'.
- Replacing the term 'necessary' with 'appropriate'.

- To update advice regarding non payment of annual licence fees.
- To include additional advice for applicants regarding information to be provided in their operating schedule when submitting an application.
- To include information regarding the Shepherds Bush Cumulative Impact Policy, which was approved by Full Council in 2011.
- Removal of the word 'vicinity' in relation to representations.
- To include the Primary Care Trust and the Licensing Authority as responsible authorities.
- Make minor amendments to some wording of the policy to provide clarity.

## **2.4 Consultation Process**

2.4.1 Due to minor factual alterations to the Policy it was considered that a reduced consultation period of three weeks was appropriate to ensure that the Statement of Licensing Policy remains up to date in order to consider and determine licensing objectives.

2.4.2 Furthermore the consultation period was justified in these circumstances in order that a valid Statement of Licensing Policy can be produced quickly. This is reinforced by paragraph 13.6 of the Secretary of State's Guidance which states that "it is for each licensing authority to determine the extent of the consultation it should undertake".

2.4.3 The Consultation was undertaken between 21<sup>st</sup> May 2012 and the 11<sup>th</sup> June 2012.

2.4.4 Section 5(3) of the Act requires the licensing authority to consult on its statement of licensing policy with the police, the fire authority and such person's representative of:

- Holders of premises licences issued by that authority
- Holders of club premises certificates issued by that authority,
- Holders of personal licences issued by that authority, and
- Businesses and residents in its area.

2.4.5 In addition to the statutory consultees, the following were consulted;

- Responsible Authorities
- Councillors
- 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

## **2.5 Summary of Key Responses**

### **2.5.1 Responses for Residents**

We have received two comments from local residents who stated the following:-

*"I am glad to see the extension of TENs to 21 days, this can be very useful, and the individual TEN to last up to 168 hours"*

*"I would like to object any change for Licences policy"*

#### **Officer Comments**

Due to the amendments to the Licensing Act 2003 the Council has had no option but to change it's licensing policy to ensure that it is factually correct.

### **2.5.2 Responses from Residents Associations**

Two Residents Associations made the following comments :

*"Hammersmith Embankment Residents Association : Do not abolish the vicinity test for persons/businesses making representations for/against a licence. Not only is this undemocratic, it strangles the voice of local people who have to suffer from late night licences and the noise and anti-social behaviour this can bring. It is the only leverage we have as a community to barter with local pubs and clubs to limit their hours and control the doors professionally. The limit increase for TENS is also unwelcome. Temporary events should be infrequent and controlled and 15 days should be ample. Why change it ?"*

*"PRARA - Peterborough Road and Area Residents' Association : We are responding to the written request received by PRARA to contribute to this consultation. We are happy to accept the revised Statement of Licensing Policy 2012"*

#### **Officer Comments**

The Council has had to amend it's licensing policy to reflect the changes to the Licensing Act 2003. The removal of the vicinity test and an increase in the TENs allocation are two of the many changes which are outside of the Council's control. However the removal of the vicinity test would actually be less restrictive and would allow many more residents to make representation to applications.

### **2.5.3 Responses from local businesses**

Five local businesses responded to the consultation, one of these businesses left the following comment :

*"Not happy about this new policy, late payment will suspend the licence"*

#### **Officer Comments**

The potential suspension of a licence for non payment is another one of the changes to the Licensing Act which have had to be reflected in the Council's policy. The policy does make clear that any non payment could (rather than will) result in the suspension of the licence.

## 2.5.4 Response from Responsible Authority

### 2.5.4.1 The Commercial Services team, stated the following:

*“18.8 Applicants for such events must consider “The Event Safety Guide” and other guidance published or recommended by the Health and Safety Executive on all aspects of arranging and staging events safely. <http://www.hse.gov.uk/event-safety/index.htm>*

*Annex 3 Any special effects or mechanical installation shall be planned, commissioned, arranged, subject to inspection and maintenance, operated and stored so as to minimise any risk to the safety of the audience, performers and staff.*

The Licensing team stated the following :

*Section 18.7 of the Policy should be strengthened to give details of the ‘exceptional circumstances’ when the Council will accept late TENs. Without this information the late TENs process could be used to resubmit TENs when the original ten working day deadline has been missed.*

#### **Officer Comments**

Section 18.8 of the policy has now been amended to include the proposed wording as has the first ‘special effects’ condition in the pool of conditions at Annex 3.

The Council’s legal team provided the following comments in relation to an amendment of the late TENs process :

*“The law doesn’t prevent the application of late tens, but they are dealt with differently, and gives the Police and EH an absolute non-appealable right to say no. This seems to be to the main difference in approach and why they are exceptional - essentially - removing a right a fair hearing because of the lateness. If you wish to introduce a policy in this regard, I would advise that we seek counsel’s advice on this matter”.*

In light of the above comments we will reiterate the guidance in relation to exceptional circumstances throughout the policy

### 2.5.4.2 The Trading Standards team, stated the following:

*“15.11 to remove ‘public nuisance and replace with “protecting children from harm”*

#### **Officer Comments**

15.11 has now been amended as follows :

*“The following provides a non-exhaustive list of risks associated with the public nuisance objective that applicants may want to consider when preparing their Operating Schedule:”*

has now been replaced with :

*“The following provides a non-exhaustive list of risks associated with the protection of children objective that applicants may want to consider when preparing their Operating Schedule”*



2.5.4.3 The Metropolitan Police, stated the following:

*"We support the proposed changes to the licensing policy in light of the factual amendments to the Licensing Act 2003. We have no other comments."*

**Officer Comments**

No comments

2.5.5 **Response from the Chairman of the Licensing Committee.**

2.5.5.1 It was requested that the two CCTV conditions currently contained in the pool of conditions are replaced with more substantial conditions and endorsed by the Police:

**Officer Comments**

The following CCTV conditions have replaced the existing two CCTV conditions in the pool of conditions. These conditions have also been endorsed by the Police;

- Appropriate signage will be displayed, in a prominent position, informing customers they are being recorded on CCTV.
- CCTV covering areas inside and outside of the premises should be installed and maintained to police recommendations with properly maintained log arrangements. All images will be stored for a minimum of 31 days.
- A staff member from the premises that is conversant with the operation of the CCTV system will be on the premises at all times that the premises are open to the public. This staff member will be able to show police or authorised local authority officers recent data footage with the minimum of delay when requested. This data or footage reproduction should be almost instantaneous.

2.5.5.2 It was also requested that section 21.3 of the draft revised policy is strengthened to include advice on representations which are made where the author lives a significant distance from the premises. Section 21.3 currently says :

21.3 This Licensing Authority will, however, look at the geographical location of the author of any representation or review application received. Where the author lives or works a significant distance from the premises subject of an application or review, this Authority will examine the content of the representation particularly closely to ensure that it is valid and complies with the requirement of the Licensing Act 2003.

**Officer Comments**

The following amendment has been suggested in light of the comments :

21.3 This Licensing Authority will, however, look at the geographical location of the author of any representation or review application received. Where the author lives or works a significant distance from the premises subject of an application or review, this Authority will examine the content of the representation particularly closely. We would expect the author to explain in detail how, in terms of the licensing objectives, they would be affected by the application. The Licensing Service would consider rejecting any representations which did not include sufficient detail to outline any harm or disturbance which may be caused.

- 2.5.5.3 It was requested that a separate Annex is added to the Policy to include the Shepherd's Bush Cumulative Impact Policy.

#### **Officer Comments**

The Shepherd's Bush Cumulative Impact Policy has now been included as Annex 5 to the policy.

### **3. RISK MANAGEMENT IMPLICATIONS**

- 3.1 The Licensing Authority can only consider matter within the scope of the Licensing Act 2003 and relevant guidance documents and cannot become involved in the moral issues relating to licensing.
- 3.2 Consideration must be given to the four licensing objectives as well as providing the necessary protection to residents, whilst promoting greater choice and flexibility to businesses and their customers.
- 3.3 The review of the Statement of Licensing Policy 2011 will be added to the departmental Risk register to ensure that the risks are managed.

### **4. CONCLUSION**

- 4.1 Careful consideration has been given to the consultation responses and amendments have been made to the revised Statement of Licensing Policy 2012 where it was considered as appropriate.
- 4.2 The Key responses have been summarised in section 2.5 of this report. The Revised Statement of Licensing Policy 2012 at Appendix 1 of this report includes the necessary changes.

### **5. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND GOVERNANCE SERVICES**

- 5.1 There are currently approximately 925 premises issued under Licensing act licences that have to pay an annual charge due on the anniversary of the initial grant of the licence.
- 5.2 The main amendment that will impact financially will be the proposal to introduce more robust procedures to pursue any unpaid licence fees. Premises may have their licences suspended if they do not pay their annual maintenance fees on a timely basis. This amendment will provide for improved debt recovery across licensing activities.

### **6. COMMENTS OF THE DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)**

- 6.1 The council is under a duty to keep its policy under review and in light of the legislative changes, it is considered appropriate to make these revisions now before the next statutory period (January 2016). The changes to the Licensing Act 2003 and the process of making these revisions are set out above. Once these revisions are adopted, the Council must publish the revised policy.

**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.	Licensing Act 2003	Adrian Overton Ext 3081	ENV
2	Guidance Issued under section 182 of the Licensing Act 2003	Adrian Overton Ext 3081	ENV
3	Police Reform & Social Responsibility Act 2011	Adrian Overton Ext 3081	ENV
4	List of Consultees	Adrian Overton Ext 3081	ENV
5	Consultation Letter	Adrian Overton Ext 3081	ENV
6	Consultation Questionnaire	Adrian Overton Ext 3081	ENV
7	Full Consultation Responses	Adrian Overton Ext 3081	ENV
8	Draft Revised Statement of Licensing Policy 2012	Adrian Overton Ext 3081	ENV
Responsible officer: Sanju Manji EXT 3392			

**APPENDICES**

Appendix 1	Draft Revised Statement of Licensing Policy 2012
Appendix 2	Current Statement of Licensing Policy 2011
Appendix 3	Final Draft Statement of Licensing Policy 2012



# **STATEMENT OF LICENSING POLICY**

**January 2011  
(revised July 2012)**

London Borough of Hammersmith &  
Fulham statement of licensing policy  
Issued 7<sup>th</sup> January 2011 – revised July 2012

This policy has been prepared in accordance  
with guidance issued under the latest  
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 Licensing Authority will have regard to this policy when carrying out its functions under the Licensing Act 2003.

1.2 The Licensing Act 2003 requires the Licensing Authority to publish this statement of licensing policy. This policy will be used as a guide in decision making with regard to licensing matters.

1.3 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; and
- The protection of children from harm.

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

1.4 The Licensing Authority 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.

1.5 Our licensing policy is designed to build upon the work presently carried out by the Licensing Authority 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 Licensing Authority has had regard to the local strategies which have been developed for the borough, its residents, businesses, workers and visitors. The Licensing Authority 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.

1.6 The Licensing Authority will seek to implement the policy in a positive and inclusive way for the whole community.

1.7 The council's vision of the improvements it wishes to secure in the local quality of life comes under it's objectives of:

- Putting Residents First
- Delivering value for money
- Cracking down on crime and antisocial behaviour
- A borough of opportunity
- A cleaner greener borough

- 1.8 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 are associated with any crime or disorder, threaten public safety, generate public nuisance or threaten the well being of our children will be targeted for enforcement action.
- 1.9 ~~Residents also have the benefit of the right to challenge a licensing sub-committee decision, by appealing to the Magistrates Court.~~
- 1.10 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.
- 1.11 Through this policy the Licensing Authority 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. 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.
- 1.12 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 Licensing Authority 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 Green spaces have been protected and extended throughout the 1990s to improve the local quality of life. The borough is home to one of Europe's largest shopping centres, Westfield, three major football clubs; Chelsea, Fulham and Queens Park Rangers, national exhibition centres; Olympia and Earls Court 2 and one of London's major live entertainment venues, the HMV Hammersmith Apollo.
- 1.14 The Licensing Act requires the Licensing Authority to review the licensing policy every **five** 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 makes this Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.

2.2 This policy statement has amongst other things, five main purposes, which are:

- **To inform Members** of the Licensing Committee of powers of the Licensing Authority and the boundaries within which to make decisions.
- **To inform licence applicants** of the parameters within which the Licensing Authority will make licensing decisions and how licensed premises are likely to be able to operate within the borough.
- **To inform local residents and businesses** of the considerations which the Licensing Authority will take when making licensing decisions.
- **To inform Responsible Authorities** of their powers under the Licensing Act 2003 to promote the four Licensing Objectives.

2.3 The policy relates to the following activities (known as licensable activities) that are required to be licensed under the act:

- a. 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;
- b. The supply of alcohol to members of club premises;
- c. 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
  - performances of dance
  - the provision of facilities for making music and provision of dance facilities (and anything of a similar description);
- d. The licensing of activities on a temporary basis, TENs (temporary event notices); and
- e. The provision of late night refreshment i.e. supply of hot food or hot drink from premises, anytime between 11pm and 5am.

2.4 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. TENs may be issued for licensable activities involving no more than 499 people & lasting no more than **168 hours (7 days)**. References to licences in this document include certificates, TENs or other permissions under the act.

2.5 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 **and / or Temporary Event Notifications** will be focused on matters that are within the control of individual licensees. Accordingly, conditions will centre on the premises and on the vicinity of those premises. What is in the vicinity will depend on the facts of each individual case. But the Licensing Authority 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.

- 2.6 Every application made to the Licensing Authority 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.
- 2.7 The Licensing Authority 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.homeoffice.gov.uk](http://www.homeoffice.gov.uk)). Where it is necessary to depart from that guidance, the Licensing Authority will give its reasons for doing so.
- 2.8 Additionally in formulating this policy document the Licensing Authority has had regard to the provisions of the European Convention on Human Rights, the Equality Act 2010 and has also taken into account the provisions of the Crime and Disorder Act 1998.
- 2.9 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.
- 2.10 Nothing in this policy will undermine any person from applying for a variety of permissions under the act.
- 2.11 The Policy has been drawn up in consultation with a number of bodies and organisations, including:
- 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 licences 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;
  - London Underground;
  - Neighbouring authorities;
  - British Institute of Inn keeping;
  - Chamber of Commerce;
  - Drug and alcohol action team;
  - Crime and Disorder Reduction Partnership; and
  - Trade unions;
- 2.12 **This revised policy comes into force on the 4<sup>th</sup> July 2012.**

2.13 This policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers.

### 3 Fundamental principles

3.1 In carrying out its licensing functions, the Licensing Authority 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 Licensing Authority will use its full range of powers and engage all relevant responsible authorities including those relating to planning, transport, crime and disorder. Accordingly, the Licensing 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 Licensing Authority 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 The Licensing Act 2003 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 Licensing Authority and the police to work closely to protect residents from disturbance.

3.5 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 Licensing Authority, 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.

3.6 ~~Interested Parties and Responsible Authorities~~ or other persons may view applications for Club Premises Certificates and Premises Licences, and may make representations to the Licensing Authority where they believe the application undermines one or more of the Licensing Objectives. (see Glossary of terms for ~~Interested Party~~ other persons and Responsible Authority definitions)

3.7 All relevant representations will be considered during the decision making process, unless they are considered to be frivolous, vexatious or repetitious. All representations must be made to the Licensing Authority. Only written representations sent by e-mail, post or hand delivered will be accepted, however, where circumstances prevent this, the Licensing Authority shall consider any other forms of representation on a case by case basis.

3.8 If relevant representations are received by the Licensing Authority, the application will be determined by a Licensing Panel consisting of a sub committee of Councillors of the Licensing Committee. Where no relevant representation has been made applications will be granted by licensing officers under delegated powers. In making decisions on licence applications, the Licensing Panel must have regard to the Licensing Act 2003 and relevant Regulations, the Guidance published by the Home Office

under s.182 of the Licensing Act 2003, and this Statement of Licensing Policy.

- 3.9 Applicants should also have regard to these documents when preparing their application
- 3.10 Where relevant representations have been received by the Council, conditions attached to licences , certificates **and / or Temporary Event Notices** will be tailored to the individual style and characteristics of the premises and events concerned, and they will relate to the licensing objectives and be restricted to matters within the control of individual licence holders.
- 3.11 In making decisions on licensing applications and in imposing conditions, the Licensing Authority 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 relating to the four Licensing Objectives.

## 4 Licence Conditions

Schedule 4 of the Policing and Crime Act 2009 amended the Licensing Act 2003 to give the Secretary of State the power to impose new mandatory licensing conditions in relation to the supply of alcohol under licence.

These new mandatory licensing conditions apply to all existing and future premises licences which authorise the supply of alcohol, and these conditions override any conditions already included in a premises licence or club premises certificate, so far as they are identical to the existing conditions or inconsistent with, and more onerous than, the existing conditions. The new conditions will apply to every licence and certificate authorising the sale and supply of alcohol from the point they come into force.

### Mandatory Conditions

- 4.1 The original mandatory conditions are listed at Annex 1.

New mandatory conditions have been introduced for all existing and future Premises Licences and Club Premises Certificates authorising the sale and supply of alcohol, see Annex 2 for details.

The new conditions:

- Ban irresponsible drink promotions;
- Ban the dispensing of alcohol directly into the mouth; and
- Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.
- Require an age verification policy to be in place to prevent underage sales; and
- Ensure that customers have the opportunity to choose small measures of beers, ciders, spirits and wine.

## Local Pool of Conditions

- 4.2 **Necessary Appropriate** and proportionate conditions, which relate to the Licensing Objectives will be drawn in particular circumstances from the National Pool of Conditions, issued by the **Home Office**. Further information regarding these conditions can be found at [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). This does not preclude the Licensing Authority **from** attaching other conditions **for the promotion of the four licensing objectives if deemed appropriate**.

The Licensing Authority has its own local pool of conditions (see Annex 3 for details) that it will apply to premises, as **appropriate necessary**, for the promotion of the licensing objectives. Applicants should consider the National Pool and local pool of conditions and incorporate them into their operating schedules, as they consider **appropriate necessary**, to promote each of the Licensing Objectives.

## Football Conditions

- 4.3 The Licensing Authority acknowledges that it is unique in the fact that it has 3 major football clubs within its boundaries. Given the size of our borough and the raised level of risk of crime and disorder occurring on match days any premises in the vicinity of our football grounds will be expected to robustly deal with this area in their operating schedule.

- 4.4 Where a relevant representation is made in respect of an application made by a licence holder, by the Police or another Responsible Authority the Licensing Authority may apply enhanced “match day” conditions to assure the Licensing Objectives are met. This may include but is not limited to the following conditions:

- Restriction of hours in the run up to and after ‘Kick Off’
- Restriction of sales of alcohol in glass bottles or the use of glass for any drinks on match days
- Conditions for premises to robustly control the spillage of customers onto the highway through overcrowding to prevent their customers from drinking or taking alcohol out onto the street outside the premises on match days
- The ability for the Police or Licensing Authority to require the premises to close on grounds of Public Safety if required
- Having door supervisors on duty
- Having a Designated Premise Supervisor/Personal Licence Holder on the premises
- Using display cabinets with shutters for alcohol

- 4.5 The Licensing Authority acknowledges that off licences can also play a major part in the overall impact on the crime and disorder objective and as such would seek to ensure these conditions are also mirrored as required on off licences identified by the Police and Licensing Authority as having a potential impact. The Police and Licensing Authority are especially keen to control the sale of glass bottles on match days and as such may require that no bottles are sold on match days.

- 4.6 It has also been the experience of the Licensing Authority that at times it may be required to completely close ‘off’ and ‘on’ licensed premises depending on the information received by the Football Intelligence Unit. In order to ensure this can be effectively controlled the Licensing Authority and the Football unit will liaise with premises at the earliest opportunity in order to discuss closure. Informal cooperation will always be preferred however where formal closure under Section 161 is required, this may lead to a review of that premises licence and the potential for additional

conditions to be imposed.

- 4.7 Licence holders will be required to ensure that they and their staff comply at all times with all conditions attached to their licence.

## 5 Licensing hours

5.1 Where there is a relevant representation, the Licensing Authority 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 a negative impact on the Licensing Objectives relating to 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 Licensing Authority will normally require that customers should be allowed a minimum of thirty minutes to consume alcohol. For example where the supply of alcohol on the premise is permitted to 11pm, and the opening hours of the premise are until 12 midnight, the drinking up time would be between 11pm to 12 midnight.

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 Licensing Authority 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 Licensing Authority 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, issues in relation to public nuisance and disorder issues in the vicinity of this type of premises, the Licensing Authority may restrict the hours of sale of alcohol.

## 6. Cumulative Impact

- 6.1 In determining an application, where there has been a relevant representation, the Licensing Authority will, where appropriate, take into account the cumulative (collective) effect of the number, type and density of licensed premises already existing in the area. A saturation of licensed premises can attract customers to an area to such a degree, that it has an adverse impact on the surrounding area beyond the control of individual licence holders.
- 6.2 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 four Licensing Objectives would be refused.
- 6.3 In 2009 the Licensing Authority identified Fulham Broadway as an area where the number, type and density of premises providing licensable activities after 11pm was having a serious negative impact on the local community and local amenities. In order to ensure that residents are protected from the negative impact of late night local licensing activities, the Licensing Authority has adopted a special policy. This policy is set out in Annex 4 and will be applicable to all applications where relevant representations are made in that area, except applications for Personal Licences. The special policy will be reviewed regularly to assess whether it is still needed or should be expanded or amended.
- 6.4 In 2011 the Licensing Authority also identified Shepherd's Bush as an area which was suffering adversely from the concentration of a number of licensed premises in a specified area. After an extensive evidence gathering process a new policy was approved by full council in June 2011. The Policy is set out in Annex 5. This policy is also only applicable where relevant representations are made in the area specified.
- 6.5 The absence of a special policy in other areas does not prevent any Responsible Authority or ~~Interested Party~~ other persons from making representations on the grounds that the premises will give rise to a negative cumulative impact in the area in question, on one or more of the four Licensing Objectives.
- 6.6 Where there is **sufficient evidence** that another particular area has reached a point where existing licensing activity is at such levels that if by granting a licence, it would contribute to the negative impact in the area, the council may adopt a special policy in relation to that area.
- 6.7 If any further special policies were adopted it would not be absolute and each application would still have to be considered on its own merits.

6.8 In coming to any decision regarding cumulative impact the Licensing Authority 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, a local resident, business or Councillor to seek a review of the licence or certificate in question.

## 7 Promotion of other strategies

7.1 The Licensing Authority will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing. Only **necessary appropriate**, 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.

7.2 Arrangements have been made for licensing committees to receive, when appropriate, reports on the needs of the local tourist economy.

7.3 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.

7.4 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.

7.5 The Equalities Act 2010 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 groups. The council has an Equal Opportunities Policy and this revised Statement of Licensing Policy will be monitored for any adverse impact on the promotion of opportunities for all.

7.6 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:

- Public Protection and Safety Division's Enforcement Policy;
- Crime and Disorder Reduction strategy;
- **Licensing strategy**
- **National Alcohol 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 (Note LACORS is now Local Government Regulation – LGR)
- Health Act 2006
- Violent Crime Reduction Act 2006
- Clean Neighbourhoods and Environment Act 2005

## 8 Prevention of crime and disorder

- 8.1 The Licensing Authority will require the applicant to detail in their operating schedule 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. Please refer to Section 15 – Operating Schedule.
- 8.2 The Licensing Authority 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.
- 8.3 The Licensing Authority is aware of the link between the supply of discounted alcohol and incidents of alcohol related disorder as well as the impact that excessive consumption of alcohol or binge drinking can have on public health and will consider whether any measures or restrictions can be placed on alcohol sales to prevent binge drinking and promote ‘sensible drinking’. See Annex 2.
- 8.4 The Licensing Authority will use the powers contained within the Licensing Act to ensure operators’ promotional activities do not undermine the Licensing Objectives. Where alcoholic drinks are heavily or extensively discounted, or there are other forms of promotion such as ‘two for one’ or ‘drink all you can’ offers, this is likely to encourage excessive consumption or binge drinking and result in alcohol fuelled incidents of crime and disorder and implications for public safety, public nuisance and may expose children to risk of harm. See Annex 2.
- 8.5 Any premises found to be participating in heavily discounted and irresponsible alcohol drinks promotions will be considered as high risk premises for multi-agency compliance and enforcement visits. See Annex 2.
- 8.6 The responsible authorities have stated that where evidence shows that a premises’ alcohol drinks promotions are undermining one or more of the Licensing Objectives, then they may instigate a review of the licence.
- 8.7 Off Licences, shops, supermarkets and stores selling alcohol for consumption off the premises potentially have a high risk of crime and disorder as well as being targeted as an easy premises from where to acquire alcohol. Such premises can contribute to anti social behaviour and disorder through the consumption of alcohol on the street and in open spaces by groups of drinkers, through the sale of alcohol to children, and through the sale of alcohol to street drinkers and persons who

are already drunk.

- 8.8 The Licensing Authority expects off licences to show particular diligence in areas where these problems are prevalent, and to strictly monitor the way they sell alcohol where the premises are located close to schools and hostels and similar premises that provide shelter or services to alcohol dependent persons.
- 8.9 It is important that staff working at off licences are suitably trained in the Licensing Act 2003 and can discharge their duties in full compliance with the licence conditions and requirements of the Act. This includes the ability to competently check a customer's age with acceptable forms of identification where necessary. The Licensing Authority will particularly consider the following matters where they are material to the individual application:
- The likelihood of any violence, public order or policing problem if the licence is granted;
  - 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, where and to the extent that these matters are within their control, for example the use of Security Industry Authority registered door supervisors to control customers on the pavement or in a beer garden, as a result of the smoking ban,.
  - Past conduct and prior history of complaints proved against the premises;
  - Whether a dispersal policy has been prepared to minimise the potential for disorder as customers leave the premises; and
  - Any relevant representations.
- 8.10 If there are concerns about illegal drugs, 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 Licensing Authority and the police on the handling of illegal drugs found on their premises.
- 8.11 If there are concerns about weapons, applicants must show that they can comply with the control of weapons on their premises. They should agree a protocol with the Licensing Authority and the police on the handling of weapons found on their premises.
- 8.12 Conditions will, so far as possible, reflect local crime prevention strategies, and the Licensing Authority will also have regard to the views of the local Crime and Disorder Reduction Partnership.
- 8.13 Police powers to deal with any disorder have been strengthened and they have a key role to play in the prevention of crime and disorder on licensed premises.
- 8.14 The Police and the Licensing Authority will need to work closely together in order to ensure that this important objective of the Act is fulfilled by any applicants. As a result the Licensing Authority and the Police will sign up to a Memorandum of Understanding. This document will provide an outline of how the Licensing Authority will liaise, communicate and work to ensure full and proper consultation and effective joint working with this key responsible authority.
- 8.15 It is recommended that applicants discuss the crime prevention procedures in their premises with the Licensing Authority 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.

## 9 Public safety

- 9.1 The Licensing Authority 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. Please refer to Section 15 – Operating Schedule
- 9.2 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 Licensing Authority will not normally include a limit as a licence condition.
- 9.3 The Regulatory Reform (Fire Safety) Order 2005 ('the Fire Safety Order') now means that any conditions imposed by the Licensing Authority that relate to any fire safety requirements or prohibitions that are or could be imposed by the Order automatically cease to have effect.
- 9.4 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.
- 9.5 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 may 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
- 9.6 The Licensing Authority 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;
  - Measures to protect against overcrowding; and
  - Consideration of the needs of disabled people and appropriate provisions.

## 10 The prevention of nuisance

- 10.1 The Licensing Authority 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 Licensing Authority will not permit an extension unless it is satisfied that the Licensing Objectives would be met. Please refer to Section 15 – Operating Schedule
- 10.2 In considering an application, the Licensing Authority will consider the adequacy of proposed measures to remove or effectively manage the potential for nuisance and anti-social behaviour.
- 10.3 The Licensing Authority will particularly consider the following matters where they are material to the individual application:
- One of the most common complaints the Licensing Authority receive is about nuisance caused by customers as they leave licensed premises at night. The Licensing Authority recommends that primarily alcohol led premises such as nightclubs and pubs, located close to any residential premises, implement a dispersal policy at their venue. All relevant staff should be trained on any policy, and all reasonable steps should be taken to ensure it is adhered to. Further guidance on dispersal policies can also be found on the NOCTIS website at [www.noctisuk.org/](http://www.noctisuk.org/)
  - The proximity of residential accommodation;
  - The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity;
  - 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;
  - 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 late at night and/or in the early hours of the morning. However nuisance can arise at any time of the day or night so the Licensing Authority will consider representations from Responsible Authorities and/or Interested Parties relating to potential nuisance from any activity at all times dependant on the merits of the application/steps taken or proposed to prevent nuisance.
  - Limiting the number of people permitted to use a garden/other open-air areas, including those for the use of smoking, at any one time.
  - Restricting the use of a garden/other open-air areas, including those for the use of smoking, after a particular time e.g. 11:00pm (or such earlier time as may be considered appropriate).
  - 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;
  - The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;
  - The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
  - The provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
  - The level of likely disturbance from associated vehicular and pedestrian movement to and from

the premises;

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

## 11 Protection of children from harm

11.1 The Licensing Authority will require operating plans to specify the measures and management controls in place to protect children from harm. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff. Please refer to Section 15 – Operating Schedule

11.2 The legislation recognises the right of licence holders (serving alcohol) to allow accompanied children into their premises at any time. The Licensing Authority 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:

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

11.3 The Licensing Authority will particularly consider if:

- There is entertainment or services of an adult nature commonly provided;
- There have been convictions, Fixed Penalty Notices (FPNs) or cautions for serving alcohol to minors or premises with a reputation for under-age drinking;
- There is a known association with drug taking or dealing;
- There is a significant element of gambling on the premises;
- There is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held);
- 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;
- There have been representations from police, the Local Safeguarding Children Board, Trading Standards or other relevant agency or representative.

- 11.4 The sale of alcohol to a minor is a criminal offence and Trading Standards will conduct appropriate covert test purchasing exercises and will take account of any complaints and intelligence. The Licensing Act 2003 permits the use of children under the age of 18 to undertake test purchases.
- 11.5 Where a sale of alcohol has been made on the same premises, to a minor on two or more different occasions within three months the premises licence could be suspended for a defined period.
- 11.6 Where there are restrictions (whether imposed by statute or by the Licensing Authority) 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. See Annex 2.
- 11.7 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.
- 11.8 The Licensing Authority 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. See Annex 2.
- 11.9 The Licensing Authority 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 Licensing Authority 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.
- ~~11.10 The Licensing Authority 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. See Annex 1.~~
- 11.11 There may be occasions where a display of film is required and needs to be classified by the Licensing Authority or the need for a classification needs to be waived. In this case applicants must apply to the Licensing Authority for this to be carried out.
- ~~11.12 In relation to pubs, restaurants and clubs, the Licensing Authority 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 avoiding locating cigarette machines near exits so that attempted purchases by young people can be challenged.~~
- 11.13 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.
- 11.14 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.

## 12 Premises licences

- 12.1 An application for a premises licence must be made in the prescribed form to this Licensing 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; and
  - ~~Copies of the appropriate certificates.~~
- 12.2 Please note the fee for a premises licence is payable annually on the anniversary of the granting of the application. Non payment of this fee will be treated by the Licensing Authority as a serious matter and ~~every effort will be made to recover the debt. could result in the suspension of the licence.~~
- 12.3 ~~The licensing committee may be interested to know if there has been non payment of the annual maintenance fee and if fees are outstanding this may be highlighted in the case officer's report, at any future application for variation or if a review is brought against a particular premises. The Licensing Authority will advise applicants for new applications where previous fees have not been paid.~~
- 12.4 Officers will determine on a case-by-case basis which **applications premises** require an inspection, and will arrange for such inspection.
- 12.5 ~~Applicants will be informed if the Licensing Authority is not minded to conduct an inspection.~~
- 12.6 The Licensing Authority will proactively monitor licensable activity within the borough and carry out a programme of risk based inspections.

## 13 Variations to existing premise licences

- 13.1 Where a premise licence requires a *material* change to the licence a variation application should be made. This would include an increase in the capacity of the premises, a change in the hours of operation of the premises, a 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 licence. The procedure is similar to the process for a new application, in that it will require a 28 day consultation period and a site notice to be displayed.
- 13.2 The Licensing Act was amended to include the ability of premises licence and certificate holders to apply to vary their existing licence for a *minor* variation.

- 13.3 A minor variation application may not be used to vary the licence to:
- vary substantially the premises
  - vary the Designated Premise Supervisor
  - authorise the sale by retail of alcohol
  - authorise the supply of alcohol at any time between 11 pm and 7 am
  - authorise an increase in the amount of time on any day during which alcohol may be sold by retail
- 13.4 There are 4 main types of variation suitable for the minor variation application:
- Minor changes to the structure or layout of a premises
  - Small adjustments to licensing hours (except for the sale/supply of alcohol)
  - Removal of out of date, irrelevant or unenforceable conditions and volunteered conditions
  - Licensable activities: adding/removing certain licensable activities, including live music
- 13.5 Applications are made to the Licensing Authority on prescribed forms. The application must be advertised on a **white A4 notice** at the premises, and contain basic details such as a brief description of the proposed variation; name of the applicant or club; address of the premises; and date by which any ~~interested party~~ **other persons** may make representations. There is no requirement for the applicant to advertise the application in a local newspaper. Applicants can volunteer conditions as part of the minor variations process, whether from their own risk assessment of the variation, or from informal discussions with the responsible authorities or the Licensing Authority.
- 13.6 There are no hearings under the minor variation process. The application will be determined by licensing officers under the Delegated Authority powers of the Council.
- 13.7 There is no requirement for applicants to notify responsible authorities of their application. Responsible authorities only become involved at the request of the licensing officer. The guidance states that licensing officers “must consult relevant responsible authorities if there is any doubt about the impact of the variation on the Licensing Objectives and they need specialist advice, and take their views into account in reaching a decision.” The guidance also states “in many cases the Licensing Authority may be able to make a decision without consultation”.
- 13.8 ~~Other persons Interested parties~~ **Other persons** may make representations based on the Licensing Objectives. Representations do **not** trigger a hearing under the minor variations process, but the guidance states that licensing authorities must take any representations into account in arriving at a decision.
- 13.9 The timescale set out in the legislation is 15 **working** days. Day one is the first working day after the day the Licensing Authority receives the application. The Licensing Authority must then process the application and determine it within 15 working days.
- 13.10 If the Licensing Authority fails to determine the application within 15 working days, the application is deemed refused, and the fee must be returned to the applicant.
- 13.11 The first 10 working days of the 15 working day period constitute a consultation period in which ~~other persons Interested Parties~~ **other persons** may make representations to the Licensing Authority. During this period officers may consider the application and may consult relevant responsible authorities. A determination of the application cannot be made during the 10 working day period; a decision on the



application must be made during the remaining 5 working days.

**NB: ~~If the application is rejected within the 15 days, the local authority retains the fee in the usual way.~~**

- 13.12 The key test by the Licensing Authority is whether the proposed variation could impact adversely on any of the four Licensing Objectives.” Licensing officers have no power to impose conditions; only conditions volunteered by the applicant can be added to the licence under the minor variations procedure. The determination must be to grant or to refuse an application. There are notice requirements following determined applications.
- 13.13 **Granted applications:** the Licensing Authority must notify the applicant of any variation granted, together with the time that the variation will take effect. This will usually be as stipulated in the application, but if the applicant stipulates a date before the notice of determination is given, the Licensing Authority will specify a later time in the notice.
- 13.14 **Refused applications:** the Licensing Authority must give notice to the applicant that the application has been refused, together with the reasons for the refusal. Applications that have been rejected under the minor variations process can then be the subject of a full variation application or of a revised minor variations application. The minor variations refusal does not affect any subsequent variation application in respect of the same premises. Licences and summaries will be re-issued on the grant of a minor variation to reflect the changes made.

## 14 Planning Permission

- 14.1 The local planning authority exercises its powers to control opening times of all new establishments seeking planning permission, where harm would otherwise arise.
- 14.2 Applications for premises licenses should normally relate to premises with an existing lawful use for the activities proposed.
- 14.3 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.
- 14.4 The council's Planning Policies are currently set out in its Unitary Development Plan (UDP) 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 the Planning Division on 020 8753 1084.
- 14.5 The strength of these policies is that there is an obligation both on the council, as the 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.
- 14.6 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.

- 14.7 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 the revised planning permission or a variation or removal of the relevant planning condition.
- 14.8 In general, the planning position should be resolved before a licence application is made. The Licensing Authority may refuse to grant a licence if the:
- Activity to be authorised would amount to an unlawful use of the premises;
  - Hours being sought exceed those authorised by any planning permission.
- 14.9 The Licensing Authority may nonetheless determine a licence application without evidence of a lawful planning use where the applicant satisfactorily demonstrates special reason justifying such an approach.
- 14.10 The Licensing Act states that any authorisation for the supply of alcohol in relation to a petrol station will have no effect if the premise is used primarily as a garage. It is for the Licensing Authority to decide in the light of the facts whether or not any premises is used primarily as a garage. The Licensing Authority will establish primary use based on an examination of the intensity of use by customers of the premises and not based on an examination of gross or net turnover.
- 14.11 All applicants are encouraged to obtain the correct planning permission. Further information and advice can be obtained from the Planning Portal at <http://www.planningportal.gov.uk/>, where applicants can also download an application form. In order for applications to be carefully considered it is useful to include a description of the current use of the premises and whether there will be a change of use. E.g. It is currently being used as a take-away and will be changing to a restaurant. Please note that operating a licence without the relevant planning permission could be a breach of planning control and could leave licence holders vulnerable to enforcement action.

## 15 Operating schedules

- 15.1 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.~~ The measures proposed in the operating schedule will normally be converted into conditions to be attached to the premises licence and should therefore fulfil the following criteria :
- Be precise and enforceable
  - Be unambiguous
  - Not duplicate other statutory provisions
  - Be clear in what they intend to achieve, and
  - Be appropriate, proportionate and justifiable

- 15.2 Prospective holders of new premises licences, and those seeking variations to existing premises licences are advised to consult with the Licensing Authority and the various responsible authorities at the earliest possible stage in order to reduce the risk of any dispute arising.
- 15.3 The Licensing Authority will seek to impose ~~the minimum~~ conditions **appropriate necessary** to promote the Licensing Objectives. For those premises, which present the lowest risk to public safety and the other Licensing Objectives, the Licensing Authority will adopt a light touch approach to regulation.
- 15.4 Operators of licensed premises will have to comply with planning, environmental health, trading standards, fire safety, licensing and building control legislation when opening or adapting licensed premises. The Licensing Authority 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.
- 15.5 During the course of its inspections, the Licensing Authority may refer matters to any other agency where there appears to be a contravention of the legislation enforced by that agency.
- 15.6 The Licensing Authority considers that it would be beneficial if operating schedules include all the following:

#### **GENERAL**

- 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);
- **A description of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to area where children may congregate;**
- **Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.**
- 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 appropriate, details of the accessibility of the premises for disabled people. The Licensing Authority 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;

## LICENSABLE ACTIVITIES

### 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; except in some Community Premises (see **Designated Premises Supervisors in Community Premises at section 19**)
- whether the alcohol will be supplied for consumption on or off the premises or both;
- details of what seating arrangements will be provided and where;
- When completing operating schedules and in their management of premises, applicants should consider guidance documents on the responsible promotion of alcohol and on binge drinking, such as the British Beer and Pub Association's document – Point of Sales Promotion Standards for the Management of Responsible Drinks Promotions including happy hours, which is also available via the [www.beerandpub.com](http://www.beerandpub.com) website. Refer to Annex 2.

For sales of alcohol for consumption off the premises – applicants in respect of off licences and other premises selling alcohol for consumption off the premises may need to consider whether:

- there are shutters to prevent alcohol from being selected in non-licensed periods.
- there are appropriate numbers of staff on duty to deal with possible 'intimidation' to sell alcohol.
- there are restrictions required on the sale of low price, high strength alcohol and drink promotions.
- an incident log book is available to record incidents.
- there are measures necessary to prevent underage sales. (See Annex 2)
- there are measures necessary to prevent alcohol from being sold outside permitted hours where the operating hours of the premises exceed those for the sale of alcohol.
- there are procedures in place to prevent sales of alcohol to intoxicated persons (with particular attention to street drinkers) or individuals leaving premises in the vicinity such as a late night bar; where there is evidence to suggest this is a problem the Licensing Authority may require a temporary cessation of alcohol sales during high risk times.

### Where the licensable activities include dance:

- a description of the type of dancing in broad terms, such as if dancing will be done by professionals or if it will be for members of the public, where it will take place on the premises, if the dancing involves striptease or lap dancing;

## LICENSING OBJECTIVES

- 15.7 The Licensing Authority will robustly examine any application and its operating schedule to ensure premises do not impact negatively in the community measuring against the four Licensing Objectives. The Licensing Authority will consider the steps which the applicant proposes to take to promote the Objectives. The Licensing Authority will use further conditions where they are not satisfied an operating schedule is sufficient to control these potential issues. The following provides a non-exhaustive list of measures/issues that the Licensing Authority considers may be relevant to licence applications:

## The prevention of crime and disorder

15.8 The following provides a non-exhaustive list of risks associated with the crime and disorder objective that applicants may want to consider when preparing their Operating Schedule:

- **Crime and disorder in the vicinity of the premises** : this may include the crime and disorder risks arising from persons queuing to enter the premises; persons exiting the premises and customers smoking eating or drinking in outdoor areas and on the highway outside the premises. This can also include crime arising from pickpockets and bag snatchers, particularly in open spaces or crowded areas where alcohol is being consumed.
- **alternative to glass bottles and glasses** - restricting the use of glass bottles and beer glasses to customers in preference for containers made from polycarbonate materials.
- **CCTV** - using CCTV inside and/or outside the premises together with appropriate procedures and having staff properly trained to use CCTV equipment.
- **dispersal procedures** - establishing appropriate dispersal procedures to minimise the potential for crime and disorder when customers are leaving the premises
- **dealing with and reporting crime and disorder** - training for staff and door security aimed at reducing crime and disorder in the premises and its vicinity and dealing with and reporting incidents if they occur.
- **door staff** - considering whether the premises employs a sufficient number of SIA registered door staff, whether Door Premises Supervisors check the legitimacy of the badges and whether SIA staff display their badges prominently. (Note: All door supervisors must be Security Industry Authority (SIA) registered). See Annex 1.
- **drugs and weapons** - ensuring compliance with relevant guidance regarding illegal drugs and weapons. Attention should be paid to search procedures, procedures for the safe storage and surrender of seized drugs and weapons and drug awareness issues, designing out the ability to take drugs in the premises, etc.
- **excessive drinking** - training for staff to recognise when customers are becoming drunk and adopting appropriate 'cut off' procedures for drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.
- **local schemes** – joining and attending local Pubwatch meetings and participating in the Behave or Be Banned Scheme (BOBB) and/or signing up and using the Council's Safety Net Radio scheme.
- **prevention of theft** - using bag hooks and signage to warn customers of pickpockets and bag snatchers.
- **Event type** - in some cases the type of regulated entertainment proposed could attract elements which increase the possibility of violence and/or disorder occurring in, or in the vicinity of, the premises. For example, some externally promoted live music events carry an increased risk of violent crime and disorder. It may be appropriate to carry out a risk assessment of the activities proposed and, in some cases, to provide such risk assessment to the Events Team at Fulham Police and or the Clubs and Vice Unit of the Metropolitan Police before the event is agreed.

## Public safety

15.9 The following provides a non-exhaustive list of risks associated with the public safety objective that applicants may want to consider when preparing their Operating Schedule:

- **special effects** - 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.
- **incident and occurrence book** – keeping an incident book on the premises so staff can record any instances of crime, disorder, refused sales, ejections and intimidating behaviour.
- **risks associated with special promotions/events** – ensuring compliance with guidance from the Metropolitan Police relating to specific event risk assessments for externally promoted live music events well in advance of the event. Risk assessment forms can be obtained from the Metropolitan Police Licensing Officer.
- **getting home safely** - providing information to customers and staff (including contact telephone numbers) regarding safer options available for travelling home late at night - including night buses, licensed taxis and private hire (mini-cabs).
- **overcrowding** - developing policies and procedures regarding capacity to prevent overcrowding and patrons possibly becoming aggressive.
- **premises environment** - applicants should consider the physical environment of the premises and have regard to issues that could increase the likelihood of patrons becoming agitated or aggressive. This may include procedures regarding door supervision, identification and management of drunken customers and issues of overcrowding and capacity, which may result in patrons becoming aggressive or rowdy.

## The prevention of public nuisance

15.10 The following provides a non-exhaustive list of risks associated with the public nuisance objective that applicants may want to consider when preparing their Operating Schedule:

- **Deliveries/collections** – noise from deliveries to and/or collections (e.g. refuse) from the premises are another common source of complaint. Consider therefore the times of such deliveries/collections and make sure you specify to any contractors that deliveries/collections should not be made at anti-social times. As a guide, the Environmental Protection Team recommend that deliveries/collections should only be done between the hours of 8:00am and 8:00pm, depending on the proximity of residential and/or other noise-sensitive properties.
- **Drink promotions** – adopting policies to discourage excessive drinking such as happy hours, buy one get one free, etc. See Annex 2.
- **Late night refreshment** - applicants in respect of late night takeaways should demonstrate that they have assessed the risk of persons congregating in large numbers in the vicinity of their

premises. Where appropriate, applicants should demonstrate suitable measures to address this problem.

- **Light pollution** – this is an increasingly common source of complaint, particularly from illuminated signs and external security lighting. Where provided, illuminated signs should not cause glare to neighbouring properties, ideally being turned off at night, and external lighting should be angled and/or diffused to also prevent nuisance.
- **Noise and/or vibration breakout from the provision of regulated entertainment, particularly from (but not limited to) live music** – consider what type of entertainment is to be provided, in what room/area of the premises and the suitability of the construction of this room/area to contain sound. Windows are a particular weak-point for noise break-out so consider providing regulated entertainment in a room without windows or with as few windows as possible, particularly windows that face towards nearby residential properties.
- **Odour** – odour from cooking is a common source of complaint, particularly from restaurants and fast-food takeaways. The Councils Environmental Protection Team may therefore require evidence that the kitchen ventilation and/or extract systems are regularly maintained and serviced to ensure that it is operating efficiently and with minimal nuisance to neighbours arising from odour and also noise. This includes the siting of BBQs.
- **Queue management** - establishing appropriate procedures to avoid the need for customers to queue before entering the premises or, where queuing cannot be avoided, to manage queues so as to minimise the potential for crime and disorder or public nuisance by customers who are queuing.
- **Ventilation** – where regulated entertainment is to be provided there may be a requirement to keep doors and/or windows closed during its provision to limit noise breakout, consider therefore the provision of air conditioning for the comfort of your customers if doors and windows have to be closed during the summer. However, also note air conditioning can be the source of noise complaints in itself, so careful consideration also needs to be given to the siting of this equipment.
- **Waste** – consider how and where waste will be stored/disposed of at the end of trading hours, particularly if trading until late at night. This is important because the disposal of glass and/or cans to outside bin areas can be very noisy and give rise to complaints, so it may be necessary to store such items and other non-degradable refuse inside the premises until the next trading day.

Commercial waste can also be taken directly to one of the council's approved waste transfer sites. Alternatively there are several licensed waste carriers operating within the Borough, which are listed on the council website.

If you do not have a commercial waste agreement the Council offers a flexible service that allows businesses to increase and decrease their collection service every three months, and the contract can be revised by calling the trade waste team on 020 8753 3021 or alternatively email them on [tradewasteemails@lbhf.gov.uk](mailto:tradewasteemails@lbhf.gov.uk).

## The protection of children from harm

15.11 The following provides a non-exhaustive list of risks associated with the public nuisance objective that applicants may want to consider when preparing their Operating Schedule:

- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks. See Annex 2. The Council will expect premises only to accept current passports, driving licences or documents bearing the national PASS logo, such as Citizencard. The Proof of Age Standards Scheme (PASS) is the UK's national guarantee scheme for proof-of-age cards as endorsed by the Home Office. More information can be found on <http://www.brc.org.uk/pass/default.asp>
- Where an application has not indicated any adult entertainment a voluntary condition that no nudity or adult entertainment will take place at the premises.

## 16 Consultation

16.1 The applicant will be expected to advertise the application in accordance with the Regulations made under the Licensing Act 2003.

16.2 The Licensing Authority will carry out a consultation process in accordance with the regulations made under the Licensing Act 2003. In exceptional circumstances the Licensing Authority may consider it appropriate to carry out a more extensive form of public consultation. The Licensing Authority will publicise details of applications received.

16.3 In order to give residents a fair chance to learn about new applications we have set up an email alert system on the Council website. This will enable residents and **other persons interested parties** to make representations to the Licensing Authority if they wish to do so.

## 17 Applications for Personal Licences

17.1 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.

17.2 The Licensing Authority requires that any photographs submitted to it must be clearly endorsed on the reverse side with the persons name, date of birth and contact number in order to ensure these are correctly processed.

17.3 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 Licensing



Authority before making an application.

- 17.4 A personal licence is valid for 10 years. A designated premises supervisor must hold a personal licence.

## 18 Temporary Event Notices (TENs) and Other Events

- 18.1 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 168 hours) do not need a licence providing that a minimum of 10 working days notice is given to the police and the Licensing Authority. **The annual allowance covered by a Temporary Event Notice in relation to a single premises is 21 days. The Police and the Council's Environmental Protection team are the only ones that can object to Temporary Event Notices if the event is likely to undermine the licensing objectives. ~~crime prevention objective.~~**

- 18.2 Section 193 of the Act defines "working day" as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales. "Ten working days" notice means ten working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given.

- 18.3 ~~Where police representation is received by serving a counter notice the Licensing Authority will hold a hearing to decide the application.~~ Where Police or Environmental Protection submit an objection to the notice the licensing authority will hold a hearing to consider the objection.

**Licensing authorities will be given discretion to apply existing licence conditions to a Temporary Event Notice if there are objections from the police or the Council's Environmental Protection team.**

- 18.4 The Licensing Authority will consider whether the limitations set down by the act in terms of numbers and duration of events and capacities are being observed.

- 18.5 It is recommended in general that the Licensing Authority and police be given at least 28 calendar days notice of any event, to allow them to help organisers plan their events safely.

- 18.6 Organisers of temporary events are strongly advised to contact the Licensing Authority, the Environmental Protection Team 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.

- 18.7 **The Licensing Act 2003 allows event organisers to submit up to 10 "late notices" per year if they hold a personal licence and 2 "late notices" if they do not hold a personal licence. These "late notices" can be submitted to the Licensing Authority, Police and Environmental Protection between 5 and 9 days before the event. However, the Secretary of State's Guidance states that "They should not be used save in exceptional circumstances". It should be noted that if either the Police or the Council's Environmental Protection Team submits an objection to a late notice the Council will issue a counter notice prohibiting licensable activities for the duration of the TEN.**

### Large Outdoor Events

- 18.7 Public safety and the prevention of public nuisance at large outdoor events is of paramount importance to the Licensing Authority. Applications for large events that are normally temporary in

nature, may not be suitable for licensing under the TENs process. Events will be licensed under a time limited Premises Licence lasting for the duration of the event. Applicants are encouraged to make applications for a new Premise Licence and should therefore ensure that they apply in good time.

- 18.8 Applicants for such events must consider “The Event Safety Guide” published by the Health and Safety Executive on all aspects of arranging and staging events.
- 18.9 Applications for large temporary events may be scrutinised by a Safety Advisory Group (SAG) as well as the licensing committee. The SAG will consist of officers from Responsible Authorities such as the Police, Environmental Protection, Commercial Services Team, Fire Authority, and may include officers from other relevant departments and agencies such as the London Ambulance Service, Transport for London (TfL) and Highways.
- 18.10 The Safety Advisory Group allows officers to question applicants about the operation of their event to ensure it will be a “safe” event, and will minimise disruption to traffic management and nuisance.
- 18.11 The SAG will not determine licence applications. It may recommend conditions. The Licensing Authority will expect applicants and organisers of large temporary events to produce a satisfactory Event Management Plan for their event and to comply with any recommendations made by the group.
- 18.12 The Licensing Authority recommends that for significant events and the use of promoters 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.
- 18.13 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.
- 18.14 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.
- 18.15 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 [fhevents@met.police.uk](mailto:fhevents@met.police.uk) and [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk)

## **GENERAL**

- 18.16 Generally, applicants are advised to offer only the following conditions in their Operating Schedule.
- The Licensee shall comply with the Event Management Plan submitted to and approved by the Licensing Authority.

- The Event shall be run in accordance with the site plan submitted to, and approved by, the Licensing Authority. No changes shall be made to the site plan without the prior consent of the Licensing Authority.

- 18.17 This approach allows the event organiser flexibility to make changes to the layout of the event or to specific activities without the need to make a fresh application for a Premises Licence or an application to vary the Premises Licence already granted. Without this approach, any changes made could be unauthorised and possibly result in enforcement action.
- 18.18 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.
- 18.19 The Council is fully committed to a safe and successful Olympic and Paralympic games in London in 2012. The Council recognises that the resources of the police and emergency services will be planned out and prioritised for the security of major events before, during and after the games from 1<sup>st</sup> May 2012 until 31<sup>st</sup> October 2012. Due consideration will be given by the Council to representations from the Police in relation to licence applications for activities during the games time on the grounds of public safety and security when police and other emergency services resources are insufficient to deal with the risks presented. Where, as a result of representations from a responsible authority, it is identified that a licence or proposed event presents a risk and that the licensing objectives will be compromised, it is likely that such applications will not be granted.
- 18.20 Anyone planning an event of this nature is strongly recommended to enter into discussion with the Police and Licensing Authority as early as possible to ensure the event can be properly planned. Failure to liaise with the Licensing Authority may see the committee refusing a licence for the event on grounds of Public Safety.

## **19 Designated Premises Supervisors (DPS) in community premises**

- 19.1 Community premises can have a licence to supply alcohol without the requirement to have a Designated Premises Supervisor (DPS).
- 19.2 Such an application can only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises. The following condition will be attached to the premise licence: "Every supply of alcohol under the premises licence must be made or authorised by the management committee."
- 19.3 Church halls, chapel halls, parish halls, community halls, village halls are examples of community premises. Where it is not clear whether premises are community premises, the matter will be approached on a case-by-case basis, with the main consideration being how the premises are predominantly used. If they are:
- genuinely made available for community benefit most of the time;
  - accessible by a broad range of people and sectors of the local community;

- providing facilities to benefit the community as a whole;
- they are likely to be considered to be community premises.

19.4 If it is authorised for the sale of alcohol, the management committee of the premises can apply to remove the DPS requirement. This removes the mandatory conditions in relation to a DPS and the personal licence holder(s). See Annex 1.

19.5 The application form requires the applicants to provide the names of the management committee's key officers to the Licensing Authority. The Licensing Authority must be satisfied that arrangements for the management of the premises by the committee or board are sufficient to ensure the adequate supervision of the supply of alcohol on the premises.

19.6 Existing premises licence holders must pay a fee and the application will take 28 days to process.

19.7 In exceptional circumstances, the police can object to the request on grounds of crime and disorder. The Licensing Authority must then hold a hearing to reach a decision on whether to grant the application.

## **20 Enforcement Policy**

20.1 The Licensing Authority operates a proactive inspection regime that is based on risk. These inspections are linked to the Enforcement Policy, which targets premises failing to support the Licensing Objectives. Relevant action will be taken after each visit in accordance with this policy.

20.2 Premises that produce disorder, threaten public safety, generate public nuisance or threaten the well being of our children will be targeted for enforcement action.

20.3 The Licensing Authority has a long-established Enforcement Policy, based around the principles of consistency, transparency and proportionality it also takes into account the Attorney General's Guidelines to Crown Prosecutors for bringing prosecutions.

20.4 The Licensing Authority will take necessary enforcement action in accordance with our Enforcement Policy.

20.5 The Licensing Authority will use a range of sanctions such as letters of warning, simple cautions, Fixed Penalty Notices (FPNs), closure notices and legal proceedings.

20.6 The Licensing Authority will seek to work with the police and other responsible authorities in enforcing licensing legislation and will strive to have a joint enforcement protocol with all the relevant agencies.

20.7 Enforcement will be focussed on premises or persons found to be failing to promote the four Licensing Objectives.

# 21 Dealing with Complaints, Representations and Reviews

21.1 The Act describes two “groups” that may make representations to applications and may apply for an existing premises licence or club premises certificate to be reviewed by the Licensing Authority. These groups are Responsible Authorities and “Other Persons”.

21.2 “Other Persons” means any individual, body or business who is affected by the operation of a licensed premises regardless of their geographical location. Although they may be in any geographical position, any representation they make must be relevant to one or more of the licensing objectives, and must not be considered to be frivolous or vexatious. Additionally, any application to review a premises licence must not be repetitious.

21.3 This Licensing Authority will, however, look at the geographical location of the author of any representation or review application received. Where the author lives or works a significant distance from the premises subject of an application or review, this Authority will examine the content of the representation particularly closely to ensure that it is valid and complies with the requirement of the Licensing Act 2003.

~~Where a representation is made to the Licensing Authority by an interested party, the Licensing Authority will consider whether it is valid. In determining whether a representation is valid the Licensing Authority will first consider if the complaint made is irrelevant, vexatious, frivolous or repetitious.~~

21.2 Interested Parties include:

- ~~• A resident living in the vicinity~~
- ~~• A body representing people who live in that vicinity~~
- ~~• A person involved in a business in that vicinity~~
- ~~• A body representing people who have businesses in that vicinity~~
- ~~• A Councillor.~~

~~21.3 The definition of “interested parties” has been expanded to include all Councillors of local authorities. This means that councillors of this Council can now make representations or seek a review in their own right.~~

~~21.4 Councillors are not required to live in the vicinity or in the same ward as the licensed premises they are making a representation about, and are not required to have been requested to act by any other person or body.~~

21.5 The Licensing Authority may initially arrange a mediation meeting to address concerns where “Other Persons” have made:

- Valid representations about licensed premises; or
- A valid application for a licence to be reviewed ~~then the Licensing Authority may initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern.~~

~~21.6 This process will not override the right of any other persons interested party to ask the Licensing Authority to consider their valid representations, or for any licence holder to decline to participate in a mediation meeting.~~

21.7 At any stage, following the grant of a premises licence, a responsible authority, such as the police or the fire authority, or other persons ~~or an interested party, such as a resident living in the vicinity of the premises~~, may ask for a licence to be reviewed because of a matter arising at the premises in connection with any of the four Licensing Objectives.

21.8 A licence will be reviewed where it is alleged that the Licensing Objectives are not being promoted and there is evidence to show this. The Licensing Authority 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 drugs money;
- 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.

21.9 At a review hearing the committee can make the following decisions:

- 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.

21.10 ~~Other persons interested parties~~ aggrieved by decisions of the Licensing Authority are entitled to appeal to the magistrates court.

21.11 In order to give residents a fair chance to learn about new applications we have set up an email alert system on the Council website. This will enable residents and ~~other persons interested parties~~ to make representations to the Licensing Authority if they wish to do so. Please note that representations cannot be made anonymously.

~~21.12 It is important to note that officers in the Licensing Team cannot request a review of a licence, as they form part of the Licensing Authority. They can only take enforcement action for a breach of a~~

~~licensing condition or other licensing infringement.~~

- 21.13 Where the Licensing Authority considers that action under its statutory powers is necessary it may seek to issue a warning letter, a simple caution or prosecute for the offence.
- 21.14 Complaints about breaches of conditions e.g. trading after hours stated on their licence should be brought to the attention of the Licensing Team on 020 8753 1081 or by email at [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk). They can also provide a copy of the licence with the full licence conditions.
- 21.15 Complaints about other issues e.g. noise nuisance, underage sales should be brought to the attention of the relevant responsible authority. See section 2 – Consideration of Our Residents.

## 22 CONSIDERATION OF OUR RESIDENTS

- 22.1 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.
- 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.
- 22.2 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, to the extent that these matters are within their control.
- 22.3 Population densities in our borough are high, with many residential premises located above or in close proximity to licensed premises. This means that the public nuisance and crime and disorder objective will be of paramount concern when evaluating Operating Schedules. Committees will place high regard on the control measures in place by the applicant in order to ensure our residents are protected from the potential detrimental effects of any licences premises.
- 22.4 Residents are advised to contact the Environment Protection Team's out of hours service at the time that any noise nuisance is occurring. Any review of a licence would need to be evidence based and as such is best supported by evidence from responsible authorities such as the Police or Environmental Protection to be successful. For this reason it is vital to call our 'out of hours' team on 020 8748 8588 at the time nuisance is occurring.
- 22.5 If residents are experiencing ongoing problems with particular licensed premises, please refer to Section 21 – Dealing with Complaints, Representations and Reviews.

## 23 Licensing Committee

- 23.1 The Licensing Committee will consist of up to fifteen councillors that may sit annually to discuss policy, review delegated decisions and administrative matters. The Licensing Authority will **review determine** this Statement of Licensing Policy at least every **five** years. Any changes to the policy will include full consultation of all interested parties.

- 23.2 A sub-committee of three councillors will determine applications where representations have been received from ~~other persons interested parties~~ and responsible authorities.
- 23.3 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, sex establishments, gambling, etc.
- 23.4 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.
- 23.5 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 Licensing Authority.
- 23.6 The Licensing Authority'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.
- 23.7 The Licensing Authority's authorised 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.



# Annex 1 – Original Licensing Conditions

## (1) Supply of alcohol:

No supply of alcohol may be made under the premises licence –

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

## (2) Exhibition of Films

Admission of children must be restricted in accordance with any recommendation made by the film classification body specified in the licence

Or

where the licensing authority has notified the holder of the licence that it considers a classification or an alternative classification is necessary then

Admission of children must be restricted in accordance with any recommendation made by that licensing authority

In this section-

"children" means persons aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

## (3) Door Supervisors

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority.

## Annex 2 – New Mandatory Licensing Conditions

1. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
  - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:
    - (i) the outcome of a race, competition or other event or process, or
    - (ii) the likelihood of anything occurring or not occurring;
  - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
4. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.  
(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
5. The responsible person shall ensure that:
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and
  - (b) customers are made aware of the availability of these measures.

# Annex 3 – Local Pool of Licence Conditions

## Local Pool of Licence Conditions

The following licensing conditions can be applied to different types of premises (A – F below). They can be used as a guide for applicants, residents, Councillors, agencies and responsible authorities such as the Police when making, commenting on or considering applications. This list is not exhaustive and should be used as a guide to help promote the four licensing objectives, in its application, to the following types of premises:

**A: Restaurants**

**B: Late night refreshment Venues**

**C: Public houses and bars:**

**D: Nightclubs**

**E: Off Licences**

**F: Theatres, Cinemas, Qualifying Clubs, Hotels and Community Premises**

Conditions should only be added where considered **necessary appropriate** and proportionate to the promotion of the licensing objectives.

Exit routes and evacuation procedures	Application
Means of escape shall be maintained unobstructed, immediately available and clearly identifiable.	Public Safety A, B, C, D, E, F
Exit doors shall be checked before opening each day to ensure they function satisfactorily.	Public Safety A, B, C, D, E, F
Notices shall be prominently displayed at each exit from the premises asking patrons to be considerate to neighbours when leaving.	Public Safety A, B, C, D, E, F
Customers shall not be permitted to sit or stand in gangways or aisles or in any position that will impede means of escape from the premises.	Public Safety A, B, C, D, F
An evacuation policy shall be in place that is to the satisfaction of the Fire Authority, Licensing Authority and Police. All staff members shall be trained in the evacuation policy. Written records of staff training shall be kept and produced to Police and authorised Council officers on request.	Public Safety A, B, C, D, E, F
Emergency/fire drills and tests will be conducted monthly. Records of these tests shall be made available upon request.	Public Safety A, B, C, D, E, F
Use of beer gardens/external areas	
The use of the garden/external area shall cease after <i>(insert time)</i> hours on <i>(insert days of the week)</i> .	Nuisance A, C, D, F
Alcohol shall not be sold to customers to drink on the pavement outside the premises unless a Tables and Chairs Licence is in force.	Nuisance A, B, C, D
A maximum of <i>(insert number)</i> customers will be allowed in outdoor areas of the	Nuisance

premises. These customers shall not be such as number as to cause obstruction of the public highway.	A, B, C, D
Where a Tables and Chairs licence is in effect, only seated customers shall be permitted to drink in the area covered by the Tables and Chairs licence.	Nuisance A, B, C, D
Where customers are permitted to drink alcohol outside the premises, ( <i>insert number</i> ) of registered door supervisors will be used to monitor and manage those customers from ( <i>insert times</i> ).	Nuisance A, C, D
A physical barrier, such as a rope, will be used to mark the boundary of the area outside the premises where customers are allowed.	Nuisance A, C, D
The garden of the premises shall be closed to customers at ( <i>insert time</i> ).	Nuisance A, C, D
The tables and chairs outside the premises shall be brought inside at ( <i>insert time</i> ).	Nuisance A, B, C, D
No more than ( <i>insert number</i> ) of patrons shall be permitted to drink or smoke outside the premises at any one time.	Nuisance A, B, C, D
Customers shall not be permitted to take drinks outside with them and prominent signage shall be provided to this effect.	Nuisance A, B, C, D
Staff shall regularly supervise the pavement area outside the premises to ensure customers are not blocking pavements or causing nuisance to neighbouring premises.	Nuisance A, B, C, D
Customers shall not be permitted to take glass bottles or glasses outside the premises.	Nuisance A, B, C, D, F
Persons wishing to leave the premises to smoke shall not be permitted to take drinks outside with them.	Nuisance A, B, C, D, F
External lighting for the premises shall be turned off after the premises are closed to the public.	Nuisance A, B, C, D, E, F
Where customers are permitted to smoke immediately outside the premises, smoking bins/ashtrays/receptacles should be provided.	Nuisance A, B, C, D, F
<b>Door supervisors and door entry policies</b>	
A minimum of ( <i>insert number</i> ) door supervisors shall be on duty on the premises during the hours of ( <i>insert times</i> ) on ( <i>insert days of week</i> ).	Crime/disorder C, D, F
A minimum of ( <i>insert number</i> ) of door supervisors shall be provided on ( <i>insert days of week</i> ) to patrol external areas of the premises between the hours of ( <i>insert times</i> ).	Crime/disorder C, D, F
Policy and procedures for door staff will be put into place around dispersal techniques for customers and procedures for dealing with incidents that occur in	Crime/disorder C, D, F

the vicinity of the premises.	
The premises shall operate a dispersal policy and all staff shall be trained in its implementation.	Crime/disorder C, D, F
Random searches shall be undertaken of customers entering the premises between the hours of <i>(insert times)</i> and prominent signage provided to this effect.	Crime/disorder C, D, F
At least one female door supervisor shall be provided where door supervisors are used to search female customers.	Crime/disorder C, D, F
Customers shall be supervised when leaving the premises and shall be asked to leave quietly.	Nuisance C, D, F
There shall be no admittance or re-admittance to the premises after <i>(insert time)</i> .	Nuisance C, D
A minimum of <i>(insert number)</i> door supervisors shall be on duty on the premises from <i>(insert time)</i> until all customers have left the premises and its vicinity.	Nuisance C, D, F
Door supervisors shall be provided with radios to enable them to contact each other and the duty manager at the premises.	Crime/disorder C, D, F
<b>Capacity</b>	
A maximum of <i>(insert number)</i> customers shall be permitted on the premises at any one time.	Public Safety A, B, C, D, F
“Clickers” or other devices shall be used by door staff to monitor the number of persons present on the premises at any one time.	Public Safety C, D, F
<b>CCTV</b>	
CCTV shall operate at all times while the premises remains open to the public and all images captured will be recorded and stored on site for a minimum period of 31 days.	Crime/disorder A, B, C, D, E, F
Copies of CCTV recordings will be made available to the Police and/or the Licensing Authority on request within 48 hours of the request being made together with facilities for viewing where requested. If the CCTV equipment is inoperative, or is otherwise not installed and working to the satisfaction of the Police and Licensing Authority, then within 48 hours the Police and Licensing Authority shall be notified and an estimate given of the repair timescale. The premises will comply with all reasonable requests from the Police, which may include the suspension of licensable activities if necessary.	Crime/disorder A, B, C, D, E, F
<b>Training</b>	
At least one member of staff on duty whilst this licence is being used shall be trained in the requirements of the Licensing Act 2003 in terms of the licensing	ALL A, C, D, E, F

objectives, offences committed under the Act and conditions of the Premises Licence. Such person(s) shall be competent to ensure offences are not committed and that the premises shall be run in accordance with the licence.	
All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003. Written records of this training shall be retained and made available to Police and Council officers on request.	ALL A, C, D, E, F
All staff shall be trained in how to identify drunk or drug impaired customers. This training shall be repeated at least biannually and written records of the training kept and made available to Police and authorised Council officers on request.	ALL A, C, D, E, F
<b>Weapons</b>	
A metal detection device shall be randomly used by door supervisors to search patrons for weapons.	Crime/disorder C, D, F
A search arch shall be used at the entrance to the premises to detect customers who may be carrying weapons.	Crime/disorder C, D, F
Any drugs or weapons confiscated from customers shall be stored in a locked and secure container and the Police shall be notified as soon as reasonably practicable.	Crime/disorder C, D, F
<b>Responsible management</b>	
The licence holder shall actively participate in any local Pubwatch or similar scheme.	Crime/disorder A, B, C, D, E
The premises shall be a member of any local radio scheme that allows them to be in contact with other venues in the local area.	Crime/disorder B, C, D, E, F
An incident log book will be maintained by the premises that details incidents of note that occur in the premises. This shall include refused sales, disorder, and ejections as a minimum. The log book shall be kept on the premises and be available for inspection at all times the premises is open, and management shall regularly check the book to ensure all staff are using it.	Crime/disorder A, B, C, D, E, F
<b>Protecting children, proof of age schemes</b>	
A Proof of Age scheme shall operate at the premises and all staff shall be trained in its implementation. Only photographic ID such as a British driving licence, a current passport or a PASS ID card shall be treated as acceptable forms of identification.	Children A, C, D, E, F
All staff shall be trained in the Proof of Age policy and how to identify acceptable means of identification.	Children A, C, D, E, F
Posters shall be displayed in prominent positions around the till advising customers of the Proof of Age policy in force at the premises.	Children A, C, D, E, F

A refusals book shall be kept at the premises to record details of all refusals to sell alcohol. This book shall contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. The book shall be made available to Police and authorised Council officers on request.	Children A, C, D, E, F
The Designated Premises Supervisor shall regularly check the refusals book to ensure it is being consistently used by all staff.	Children A, C, D, E, F
<b>Noise issues</b>	
A sound limiting device shall be installed, set and sealed at a level approved by the Council.	Nuisance C, D, F
Only the Premises Licence Holder and the Designated Premises Supervisor shall have access to the sound limiting device.	Nuisance C, D, F
The sound limiting device shall be used whenever relevant regulated entertainment is taking place.	Nuisance C, D, F
A cut-out device shall be connected to the exit doors and will be operational at all times the licence is in use.	Nuisance C, D, F
When the premises doors are open the levels of music shall cut out completely or fall to ambient levels that are not intrusive to local residents.	Nuisance C, D, F
No sound emanating from regulated entertainment shall be audible a metre from the façade of the nearest noise sensitive premises between 2300 and 0700 hours.	Nuisance A, C, D, F
All external doors and windows to the premises shall be kept closed during the provision of regulated entertainment, save during access and egress.	Nuisance A, C, D, F
The licence holder or duty manager shall make regular patrols at no less than hourly intervals around the perimeter of the premises when regulated entertainment is taking place. Noise levels shall be adjusted to ensure local residents are not disturbed by excessive noise break out.	Nuisance A, C, D, F
<b>Litter</b>	
Patrols of the area outside the premises shall be undertaken every ( <i>insert time period</i> ) during the use of the licence and any litter accumulations cleared.	Nuisance A, B, C, D, F
Where customers are permitted to drink alcohol outside the premises, regular litter and glass collections shall be carried out in all areas where customers are congregating.	Nuisance A, C, D, F
Litter bins should be provided in the area immediately outside the Premises	Nuisance A, B, E, F

Cigarette litter bins should be provided in the area immediately outside the Premises	Nuisance A, B, C, D, E, F
<b>Proprietary clubs</b>	
Admission to the licensed premises shall be restricted to Members of the Club and their bona fide guests.	ALL F
No person shall be admitted to the premises without an interval of at least 48 hours between application for membership and admission.	ALL F
Only one guest per member shall be permitted.	ALL F
No more than three guests per member shall be admitted to the club, and details of all guests shall be recorded on site and to be made available to Police immediately upon request on any given night that they visit the premises.	ALL F
The maximum number of guests in attendance on any given night is not to exceed 25% of the total number of persons at the premises.	ALL F
Members and guests shall be required to "sign in" when entering the premises.	ALL F
Any book used for the signing in of members and guests shall be kept on the premises at all times and made available on request to Police and authorised Council officers.	ALL F
<b>Selling alcohol</b>	
Strong beer and cider above 5.5% ABV will not be sold.	Nuisance E
No single cans or bottles of beer or cider will be sold.	Nuisance E
A minimum of two members of staff shall be present at all times whilst the premises remain open for the sale of alcohol.	Nuisance E
At least one person holding a Personal Licence shall be on duty at the premises when alcohol is being sold.	Nuisance E
All alcohol kept in the public part of the premises shall be kept in display units. All display units for alcohol will have lockable shutters Shutters shall be closed and locked at the end of the permitted hours for the sale of alcohol, and shall not be unlocked again whilst the premises is open until the start of the permitted hours on the following day.	Nuisance E
All alcohol shall be stored and displayed behind the service counter and not in aisles or other areas accessible to the public.	Nuisance E
All alcoholic drinks shall be clearly labelled or marked with the name of the premises.	Nuisance E
Any alcohol sold for consumption off the premises shall be sold in a sealed container.	Nuisance C, D, E, F



Alcoholic and soft drinks shall be served in polycarbonate containers.	Crime/disorder C, D, F
Alcoholic drinks sold in cans or bottles should be marked with a unique identifier, that identifies the premises from which the alcohol was originally sold	Nuisance B, E
<b>Drug use</b>	
The premises shall operate a zero tolerance policy to drug use and posters shall be prominently displayed to this effect.	Crime/disorder C, D, F
All staff shall be trained in the implementation of the venue's drugs policy.	Crime/disorder C, D, F
Toilet cisterns shall be provided with sloping lids or similar to discourage drug use.	Crime/disorder C, D, F
Any drugs confiscated from customers shall be stored in a locked and secure container and the Police shall be notified as soon as reasonably practicable.	Crime/disorder C, D, F
<b>Theft and security</b>	
Bag clips shall be made available on all tables.	Crime/disorder A, B, C, D, F
A cloakroom or similar facility shall be available for customers to leave their belongings.	Crime/disorder C, D, F
Notices shall be displayed throughout the premises to advise customers of the potential for thefts.	Crime/disorder A, B, C, D, F
The premises shall participate in any local radio scheme in operation that enables them to be in contact with other local radio scheme users.	C, D, F
<b>Hotels</b>	
Alcohol may be sold at any time to hotel guests for consumption on the premises.	Nuisance F
Alcohol shall only be sold to non hotel residents from the hours of <i>(insert times)</i> on <i>(insert days of the week)</i> and during the following times to persons attending bona fide private functions at the hotel <i>(insert days and times)</i> .	Nuisance F
<b>Premises providing Nudity, Striptease and other Adult Entertainment</b>	
No person under the age of eighteen shall be admitted to the premises or be permitted to remain on the premises when adult entertainment is taking place.	Children A, C, D, F
Prominent notices shall be displayed at each entrance to the premises when adult entertainment is taking place stating that there shall be no admission to the premises for persons aged under 18.	Children A, C, D, F
The premises shall be arranged so adult entertainment is not visible from the street.	Children A, C, D, F

There shall be no external advertisement at the premises for adult entertainment.	Children A, C, D, F
There shall be no leafleting or touting of the adult entertainment at the licensed premises.	Children A, C, D, F
Nudity shall only be permitted by performers and not by customers.	Children A, C, D, F
A minimum of one metre distance shall be maintained between dancers and customers during adult entertainment.	Children A, C, D, F
A written Code of Conduct for staff participating in the provision of striptease or nudity shall be in place, and shall be kept on the premises for inspection by Police or authorised Council officers at all times the premises are open to the public. Management shall ensure all staff are aware of the Code of Conduct and shall take all reasonable steps to ensure it is adhered to.	Children A, C, D, F
<b>Hiring or letting of rooms or premises</b>	
Where rooms at the premises are let to individuals or groups for private hire, a hire agreement shall be in place that includes an outline of the conditions on the Premises Licence ( <i>or Club Premises Certificate</i> ) and clearly states the responsibilities of the hirer in respect of upholding such conditions.	ALL A, C, D, F
Where the premises are let to individuals or groups for private hire, a named person shall be responsible for ensuring that conditions of the Premises Licence ( <i>or Club Premises Certificate</i> ) are adhered to. This person shall provide their details to the licence holder ( <i>or Secretary of the Club</i> ) in writing in advance of the event and their details shall be retained for a period of at least thirty one days after the date of the event.	ALL A, C, D, F
<b>Special effects</b>	
Any special effects or mechanical installation shall be arranged and stored so as to minimise any risk to the safety of the audience, performers and staff. Special effects include: <ul style="list-style-type: none"> <li>• Dry ice machines and cryogenic fog</li> <li>• Smoke machines and fog generators</li> <li>• Pyrotechnics, including fireworks</li> <li>• Real flame</li> <li>• Firearms</li> <li>• Motor vehicles</li> <li>• Strobe lighting</li> <li>• Lasers</li> </ul> • Explosives and highly flammable substances.	Public Safety A, C, D, F
The Licence Holder shall not permit the use of special effects, except with the prior consent of the Licensing Authority, which may be subject to additional conditions if necessary to promote the public safety objective.	Public Safety A, C, D, F
<b>Promotions or events</b>	
The licensee shall undertake a risk assessment of any promotion or event using the Metropolitan Police Promotion/Event Risk Assessment (Form 696) or an	Public Safety A, C, D, F

equivalent and provide a copy to the Police and the Licensing Authority not less than 14 days before the event is due to take place. Following submission of the risk assessment, all directions of the Police shall be complied with, including cancellation of an event if necessary.	
Where an 'event' has taken place, the licensee shall complete a Metropolitan Police After Promotion/Event Debrief Risk Assessment (Form 696A) and submit this to the Metropolitan Police and the Licensing Authority, within three days of the conclusion of the event.	Public Safety A, C, D, F
The licensee shall take all reasonable steps to ensure that there is no unauthorised advertising of events to be held at the premises.	Public Safety A, C, D, F
<b>Miscellaneous conditions</b>	
Furniture at the premises for customer use shall be fixed in position so space cannot be made to allow the provision of dancing or other entertainment.	Nuisance A, C, F
The premises will be adequately ventilated in all areas to which the staff and public have access.	Public Safety A, B, C, D, F

**In the future other conditions may be added which will be made available on the Councils website.**

## Annex 4— Special licensing policy for Fulham Area

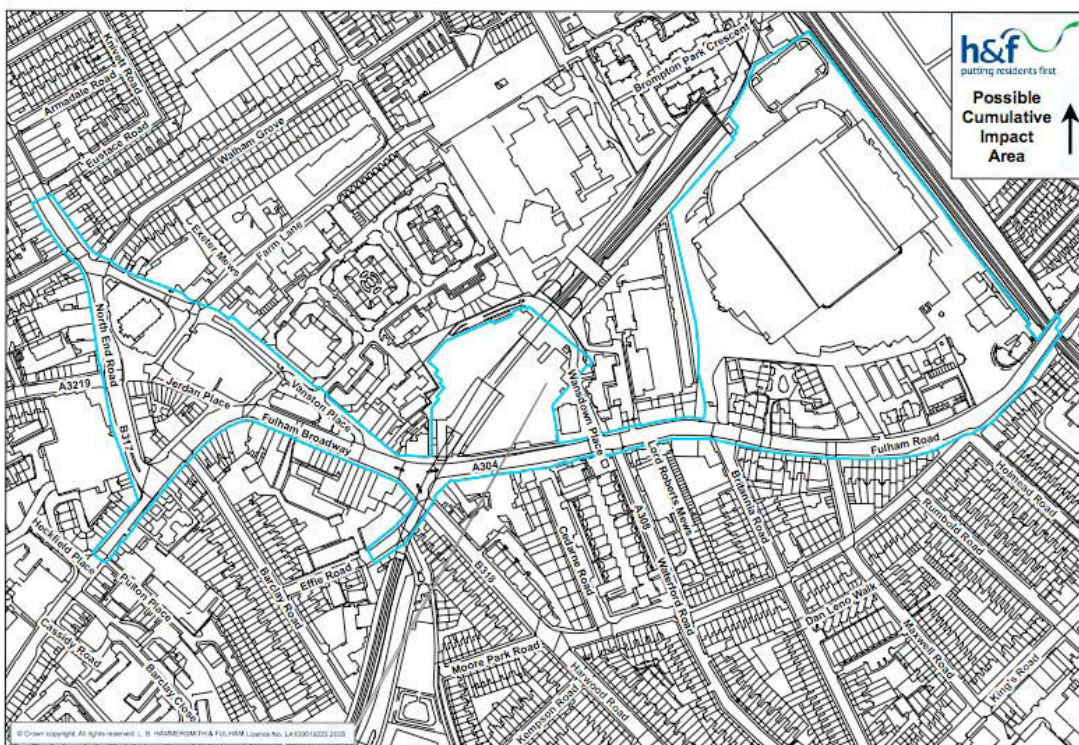
1 The Council has decided to introduce a special policy relating to cumulative impact as provided by the Secretary of State in the Guidance issued under section 182 of the Licensing Act 2003 (paragraphs 13.24 to 13.39) and the Council's own Statement of Licensing policy dated November 2007 at paragraph 4.3 to the Fulham Town Centre Area (being the shaded area and all premises which have a principal form of access onto the shaded area as shown on the plan.

2 "Cumulative impact" means the potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area.

3 The Fulham Town Centre Area has been identified as being adversely affected in terms of the Licensing Objectives because of the cumulative impact of the concentration of drink led premises. There is evidence that the cumulative impact includes serious problems of crime, disorder and public nuisance. Having regard to the evidence, the Licensing Authority has been satisfied that it is appropriate and necessary to include an approach to cumulative impact. The evidence for this special policy may be viewed on request at the Council Offices.

4 Applications for new premises licences, club premises certificates or any variations within the Fulham Town Centre Area that are likely to add to the existing cumulative impact will normally be refused where a relevant representation has been made, unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the Licensing Objectives. Accordingly, the presumption of refusal in this policy is not absolute and the circumstances of each application will be considered where a relevant representation has been made.

5 The presumption of refusal does not relieve responsible authorities or **other persons interested parties** of the need to make a relevant representation. Applicants will need to address the special policy issues in their operating schedules. If there are no representations the Licensing Authority must grant the application in terms consistent with the operating schedule submitted.



6. The cumulative impact policy will be kept under review by the Licensing Authority.

7. The geographical boundary of the proposed area

**Figure 1. Proposed Cumulative Impact Area (CIP).**

# 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 Licensing Authority'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 (DPS)

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

~~Section 13 of the Licensing Act 2003 defines 'interested party' and 'responsible authority'. Interested parties are defined as:~~

- ~~• a person living in the vicinity of the premises~~
- ~~• a body representing persons who live in that vicinity~~
- ~~• a person involved in a business in that vicinity~~
- ~~• a body representing persons involved in such businesses~~
- ~~• Elected Members of the Licensing Authority (local Councillors)~~

## 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 Licensing Authority 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.

## Other Persons

Other Persons means any individual, body or business who is affected by the operation of a licensed premises regardless of their geographical location.

## 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 (objection) by an **other persons interested parties** 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 four Licensing Objectives.

## Responsible authorities

These include:

- **Licensing Authority**
- Chief Officer of Police;
- The Fire Authority;
- The enforcing authority for health and safety at work;
- **The Primary Care Trust**
- 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 Licensing Authority 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 details

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 Authority

Public Protection and Safety Division

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)





# **STATEMENT OF LICENSING POLICY**

**January 2011**

London Borough of Hammersmith &  
Fulham statement of licensing policy  
Issued 7<sup>th</sup> January 2011

This policy has been prepared in accordance  
with guidance issued under the latest  
Section 182 of the Licensing Act 2003.

**If you would like more information,  
please contact us:**

**London Borough of Hammersmith & Fulham  
Licensing Authority**  
Public Protection and Safety Division  
Town Hall Extension  
King Street  
Hammersmith  
London  
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# 1 Foreword

- 1.1 The Licensing Authority will have regard to this policy when carrying out its functions under the Licensing Act 2003.
- 1.2 The Licensing Act 2003 requires the Licensing Authority to publish this statement of licensing policy. This policy will be used as a guide in decision making with regard to licensing matters.
- 1.3 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; and
  - The protection of children from harm.

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

- 1.4 The Licensing Authority 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.
- 1.5 Our licensing policy is designed to build upon the work presently carried out by the Licensing Authority 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 Licensing Authority has had regard to the local strategies which have been developed for the borough, its residents, businesses, workers and visitors. The Licensing Authority 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.
- 1.6 The Licensing Authority will seek to implement the policy in a positive and inclusive way for the whole community.
- 1.7 The council's vision of the improvements it wishes to secure in the local quality of life comes under it's objectives of:
- Putting Residents First
  - Delivering value for money
  - Cracking down on crime and antisocial behaviour
  - A borough of opportunity
  - A cleaner greener borough

- 1.8 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 are associated with any crime or disorder, threaten public safety, generate public nuisance or threaten the well being of our children will be targeted for enforcement action.
- 1.9 Residents also have the benefit of the right to challenge a licensing sub-committee decision, by appealing to the Magistrates Court.
- 1.10 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.
- 1.11 Through this policy the Licensing Authority 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. 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.
- 1.12 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 Licensing Authority 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 Green spaces have been protected and extended throughout the 1990s to improve the local quality of life. The borough is home to one of Europe's largest shopping centres, Westfield, three major football clubs; Chelsea, Fulham and Queens Park Rangers, national exhibition centres; Olympia and Earls Court 2 and one of London's major live entertainment venues, the HMV Hammersmith Apollo.
- 1.14 The Licensing Act requires the Licensing Authority 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 makes this Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.

2.2 This policy statement has amongst other things, five main purposes, which are:

- **To inform Members** of the Licensing Committee of powers of the Licensing Authority and the boundaries within which to make decisions.
- **To inform licence applicants** of the parameters within which the Licensing Authority will make licensing decisions and how licensed premises are likely to be able to operate within the borough.
- **To inform local residents and businesses** of the considerations which the Licensing Authority will take when making licensing decisions.
- **To inform Responsible Authorities** of their powers under the Licensing Act 2003 to promote the four Licensing Objectives.

2.3 The policy relates to the following activities (known as licensable activities) that are required to be licensed under the act:

- a. 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;
- b. The supply of alcohol to members of club premises;
- c. 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
  - performances of dance
  - the provision of facilities for making music and provision of dance facilities (and anything of a similar description);
- d. The licensing of activities on a temporary basis, TENs (temporary event notices); and
- e. The provision of late night refreshment i.e. supply of hot food or hot drink from premises, anytime between 11pm and 5am.

2.4 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. TENs may be issued for licensable activities involving no more than 499 people & lasting no more than 96 hours (4 days). References to licences in this document include certificates, TENs or other permissions under the act.

2.5 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 on the vicinity of those premises. What is in the vicinity will depend on the facts of each individual case. But the Licensing Authority 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.

- 2.6 Every application made to the Licensing Authority 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.
- 2.7 The Licensing Authority 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 Licensing Authority will give its reasons for doing so.
- 2.8 Additionally in formulating this policy document the Licensing Authority has had regard to the provisions of the European Convention on Human Rights, the Equality Act 2010 and has taken into account the provisions of the Crime and Disorder Act 1998.
- 2.9 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.
- 2.10 Nothing in this policy will undermine any person from applying for a variety of permissions under the act.
- 2.11 The Policy has been drawn up in consultation with a number of bodies and organisations, including:
  - 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 licences 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;
  - London Underground;
  - Neighbouring authorities;
  - British Institute of Inn keeping;
  - Chamber of Commerce;
  - Drug and alcohol action team;
  - Crime and Disorder Reduction Partnership; and
  - Trade unions;
- 2.12 This policy comes into force on 31<sup>st</sup> January 2011.
- 2.13 This policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers.

### 3 Fundamental principles

- 3.1 In carrying out its licensing functions, the Licensing Authority 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 Licensing Authority will use its full range of powers and engage all relevant responsible authorities including those relating to planning, transport, crime and disorder. Accordingly, the Licensing 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 Licensing Authority 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 The Licensing Act 2003 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 Licensing Authority and the police to work closely to protect residents from disturbance.
- 3.5 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 Licensing Authority, 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.
- 3.6 Interested Parties and Responsible Authorities may view applications for Club Premises Certificates and Premises Licences, and may make representations to the Licensing Authority where they believe the application undermines one or more of the Licensing Objectives. (see Glossary of terms for Interested Party and Responsible Authority definitions)
- 3.7 All relevant representations will be considered during the decision making process, unless they are considered to be frivolous, vexatious or repetitious. All representations must be made to the Licensing Authority. Only written representations sent by e-mail, post or hand delivered will be accepted, however, where circumstances prevent this, the Licensing Authority shall consider any other forms of representation on a case by case basis.
- 3.8 If relevant representations are received by the Licensing Authority, the application will be determined by a Licensing Panel consisting of a sub committee of Councillors of the Licensing Committee. Where no relevant representation has been made applications will be granted by licensing officers under delegated powers. In making decisions on licence applications, the Licensing Panel must have regard to the Licensing Act 2003 and relevant Regulations, the Guidance published by the Department of Culture, Media and Sport (DCMS) under s.182 of the Licensing Act 2003, and this Statement of Licensing Policy.



- 3.9 Applicants should also have regard to these documents when preparing their application
- 3.10 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 they will relate to the licensing objectives and be restricted to matters within the control of individual licence holders.
- 3.11 In making decisions on licensing applications and in imposing conditions, the Licensing Authority 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 relating to the four Licensing Objectives.

## 4 Licence Conditions

Schedule 4 of the Policing and Crime Act 2009 amended the Licensing Act 2003 to give the Secretary of State the power to impose new mandatory licensing conditions in relation to the supply of alcohol under licence.

These new mandatory licensing conditions apply to all existing and future premises licences which authorise the supply of alcohol, and these conditions override any conditions already included in a premises licence or club premises certificate, so far as they are identical to the existing conditions or inconsistent with, and more onerous than, the existing conditions. The new conditions will apply to every licence and certificate authorising the sale and supply of alcohol from the point they come into force.

### Mandatory Conditions

- 4.1 The original mandatory conditions are listed at Annex 1.

New mandatory conditions have been introduced for all existing and future Premises Licences and Club Premises Certificates authorising the sale and supply of alcohol, see Annex 2 for details.

The new conditions:

- Ban irresponsible drink promotions;
- Ban the dispensing of alcohol directly into the mouth; and
- Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.
- Require an age verification policy to be in place to prevent underage sales; and
- Ensure that customers have the opportunity to choose small measures of beers, ciders, spirits and wine.

## Local Pool of Conditions

- 4.2 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 (DCMS). Further information regarding these conditions can be found at [www.dcms.gov.uk](http://www.dcms.gov.uk). This does not preclude the Licensing Authority attaching other conditions if deemed appropriate.

The Licensing Authority has its own local pool of conditions (see Annex 3 for details) that it will apply to premises, as necessary, for the promotion of the licensing objectives. Applicants should consider the National Pool and local pool of conditions and incorporate them into their operating schedules, as they consider necessary, to promote each of the Licensing Objectives.

## Football Conditions

- 4.3 The Licensing Authority acknowledges that it is unique in the fact that it has 3 major football clubs within its boundaries. Given the size of our borough and the raised level of risk of crime and disorder occurring on match days any premises in the vicinity of our football grounds will be expected to robustly deal with this area in their operating schedule.

- 4.4 Where a relevant representation is made in respect of an application made by a licence holder, by the Police or another Responsible Authority the Licensing Authority may apply enhanced “match day” conditions to assure the Licensing Objectives are met. This may include but is not limited to the following conditions:

- Restriction of hours in the run up to and after ‘Kick Off’
- Restriction of sales of alcohol in glass bottles or the use of glass for any drinks on match days
- Conditions for premises to robustly control the spillage of customers onto the highway through overcrowding to prevent their customers from drinking or taking alcohol out onto the street outside the premises on match days
- The ability for the Police or Licensing Authority to require the premises to close on grounds of Public Safety if required
- Having door supervisors on duty
- Having a Designated Premise Supervisor/Personal Licence Holder on the premises
- Using display cabinets with shutters for alcohol

- 4.5 The Licensing Authority acknowledges that off licences can also play a major part in the overall impact on the crime and disorder objective and as such would seek to ensure these conditions are also mirrored as required on off licences identified by the Police and Licensing Authority as having a potential impact. The Police and Licensing Authority are especially keen to control the sale of glass bottles on match days and as such may require that no bottles are sold on match days.

- 4.6 It has also been the experience of the Licensing Authority that at times it may be required to completely close ‘off’ and ‘on’ licensed premises depending on the information received by the Football Intelligence Unit. In order to ensure this can be effectively controlled the Licensing Authority and the Football unit will liaise with premises at the earliest opportunity in order to discuss closure. Informal cooperation will always be preferred however where formal closure under Section 161 is required, this may lead to a review of that premises licence and the potential for additional conditions to be imposed.

4.7 Licence holders will be required to ensure that they and their staff comply at all times with all conditions attached to their licence.

## 5 Licensing hours

5.1 Where there is a relevant representation, the Licensing Authority 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 a negative impact on the Licensing Objectives relating to 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 Licensing Authority will normally require that customers should be allowed a minimum of thirty minutes to consume alcohol. For example where the supply of alcohol on the premise is permitted to 11pm, and the opening hours of the premise are until 12 midnight, the drinking up time would be between 11pm to 12 midnight.

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 Licensing Authority 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 Licensing Authority 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, issues in relation to public nuisance and disorder issues in the vicinity of this type of premises, the Licensing Authority may restrict the hours of sale of alcohol.

## 6. Cumulative Impact

6.1 In determining an application, where there has been a relevant representation, the Licensing Authority will, where appropriate, take into account the cumulative (collective) effect of the number, type and density of licensed premises already existing in the area. A saturation of licensed premises can attract customers to an area to such a degree, that it has an adverse impact on the surrounding area beyond the control of individual licence holders.

6.2 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 four Licensing Objectives would be refused.

6.3 In 2009 the Licensing Authority identified Fulham Broadway as an area where the number, type and density of premises providing licensable activities after 11pm was having a serious negative impact on the local community and local amenities. In order to ensure that residents are protected from the negative impact of late night local licensing activities, the Licensing Authority has adopted a special policy. This policy is set out in Annex 4 and will be applicable to all applications where relevant representations are made in that area, except applications for Personal Licences. The special policy will be reviewed regularly to assess whether it is still needed or should be expanded or amended.

6.4 The absence of a special policy in other areas does not prevent any Responsible Authority or Interested Party from making representations on the grounds that the premises will give rise to a negative cumulative impact in the area in question, on one or more of the four Licensing Objectives.

6.5 Where there is sufficient evidence that another particular area has reached a point where existing licensing activity is at such levels that if by granting a licence, it would contribute to the negative impact in the area, the council may adopt a special policy in relation to that area.

6.6 If any further special policies were adopted it would not be absolute and each application would still have to be considered on its own merits.

6.7 In coming to any decision regarding cumulative impact the Licensing Authority 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, a local resident, business or Councillor to seek a review of the licence or certificate in question.

## 7 Promotion of other strategies

- 7.1 The Licensing Authority 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.
- 7.2 Arrangements have been made for licensing committees to receive, when appropriate, reports on the needs of the local tourist economy.
- 7.3 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.
- 7.4 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.
- 7.5 The Equalities Act 2010 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 groups. The council has an Equal Opportunities Policy and this revised Statement of Licensing Policy will be monitored for any adverse impact on the promotion of opportunities for all.
- 7.6 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:
- Public Protection and Safety Division's 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 (Note LACORS is now Local Government Regulation – LGR)
  - Health Act 2006
  - Violent Crime Reduction Act 2006
  - Clean Neighbourhoods and Environment Act 2005

## 8 Prevention of crime and disorder

- 8.1 The Licensing Authority will require the applicant to detail in their operating schedule 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. Please refer to Section 15 – Operating Schedule.
- 8.2 The Licensing Authority 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.
- 8.3 The Licensing Authority is aware of the link between the supply of discounted alcohol and incidents of alcohol related disorder as well as the impact that excessive consumption of alcohol or binge drinking can have on public health and will consider whether any measures or restrictions can be placed on alcohol sales to prevent binge drinking and promote 'sensible drinking'. See Annex 2.
- 8.4 The Licensing Authority will use the powers contained within the Licensing Act to ensure operators' promotional activities do not undermine the Licensing Objectives. Where alcoholic drinks are heavily or extensively discounted, or there are other forms of promotion such as 'two for one' or 'drink all you can' offers, this is likely to encourage excessive consumption or binge drinking and result in alcohol fuelled incidents of crime and disorder and implications for public safety, public nuisance and may expose children to risk of harm. See Annex 2.
- 8.5 Any premises found to be participating in heavily discounted and irresponsible alcohol drinks promotions will be considered as high risk premises for multi-agency compliance and enforcement visits. See Annex 2.
- 8.6 The responsible authorities have stated that where evidence shows that a premises' alcohol drinks promotions are undermining one or more of the Licensing Objectives, then they may instigate a review of the licence.
- 8.7 Off Licences, shops, supermarkets and stores selling alcohol for consumption off the premises potentially have a high risk of crime and disorder as well as being targeted as an easy premises from where to acquire alcohol. Such premises can contribute to anti social behaviour and disorder through the consumption of alcohol on the street and in open spaces by groups of drinkers, through the sale of alcohol to children, and through the sale of alcohol to street drinkers and persons who are already drunk.
- 8.8 The Licensing Authority expects off licences to show particular diligence in areas where these problems are prevalent, and to strictly monitor the way they sell alcohol where the premises are located close to schools and hostels and similar premises that provide shelter or services to alcohol dependent persons.
- 8.9 It is important that staff working at off licences are suitably trained in the Licensing Act 2003 and can discharge their duties in full compliance with the licence conditions and requirements of the Act. This includes the ability to competently check a customer's age with acceptable forms of identification where necessary. The Licensing Authority will particularly consider the following matters where they are material to the individual application:

- The likelihood of any violence, public order or policing problem if the licence is granted;
- 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, where and to the extent that these matters are within their control, for example the use of Security Industry Authority registered door supervisors to control customers on the pavement or in a beer garden, as a result of the smoking ban,.
- Past conduct and prior history of complaints proved against the premises;
- Whether a dispersal policy has been prepared to minimise the potential for disorder as customers leave the premises; and
- Any relevant representations.

8.10 If there are concerns about illegal drugs, 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 Licensing Authority and the police on the handling of illegal drugs found on their premises.

8.11 If there are concerns about weapons, applicants must show that they can comply with the control of weapons on their premises. They should agree a protocol with the Licensing Authority and the police on the handling of weapons found on their premises.

8.12 Conditions will, so far as possible, reflect local crime prevention strategies, and the Licensing Authority will also have regard to the views of the local Crime and Disorder Reduction Partnership.

8.13 Police powers to deal with any disorder have been strengthened and they have a key role to play in the prevention of crime and disorder on licensed premises.

8.14 The Police and the Licensing Authority will need to work closely together in order to ensure that this important objective of the Act is fulfilled by any applicants. As a result the Licensing Authority and the Police will sign up to a Memorandum of Understanding. This document will provide an outline of how the Licensing Authority will liaise, communicate and work to ensure full and proper consultation and effective joint working with this key responsible authority.

8.15 It is recommended that applicants discuss the crime prevention procedures in their premises with the Licensing Authority 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.

## **9 Public safety**

9.1 The Licensing Authority 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. Please refer to Section 15 – Operating Schedule

9.2 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 Licensing Authority will not normally include a limit as a licence condition.

- 9.3 The Regulatory Reform (Fire Safety) Order 2005 ('the Fire Safety Order') now means that any conditions imposed by the Licensing Authority that relate to any fire safety requirements or prohibitions that are or could be imposed by the Order automatically cease to have effect.
- 9.4 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.
- 9.5 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 may 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
- 9.6 The Licensing Authority 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;
  - Measures to protect against overcrowding; and
  - Consideration of the needs of disabled people and appropriate provisions.

## 10 The prevention of nuisance

- 10.1 The Licensing Authority 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 Licensing Authority will not permit an extension unless it is satisfied that the Licensing Objectives would be met. Please refer to Section 15 – Operating Schedule



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

10.3 The Licensing Authority will particularly consider the following matters where they are material to the individual application:

- One of the most common complaints the Licensing Authority receive is about nuisance caused by customers as they leave licensed premises at night. The Licensing Authority recommends that primarily alcohol led premises such as nightclubs and pubs, located close to any residential premises, implement a dispersal policy at their venue. All relevant staff should be trained on any policy, and all reasonable steps should be taken to ensure it is adhered to. Further guidance on dispersal policies can also be found on the NOCTIS website at [www.noctisuk.org/](http://www.noctisuk.org/)
- The proximity of residential accommodation;
- The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity;
- 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;
- 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 late at night and/or in the early hours of the morning. However nuisance can arise at any time of the day or night so the Licensing Authority will consider representations from Responsible Authorities and/or Interested Parties relating to potential nuisance from any activity at all times dependant on the merits of the application/steps taken or proposed to prevent nuisance.
- Limiting the number of people permitted to use a garden/other open-air areas, including those for the use of smoking, at any one time.
- Restricting the use of a garden/other open-air areas, including those for the use of smoking, after a particular time e.g. 11:00pm (or such earlier time as may be considered appropriate).
- 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;
- The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;
- The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
- The provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- The level of likely disturbance from associated vehicular and pedestrian movement to and from the premises;
- The delivery and collection areas and delivery/collection times;
- The siting of external lighting, including security lighting that is installed inappropriately;
- The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees;
- The history of the applicant in controlling anti-social behaviour and preventing nuisance;
- The generation of odour, e.g. from the preparation of food;

- Any other relevant activity likely to give rise to nuisance;
- Any representations made by the Police, or other relevant agency or representative;
- Whether a dispersal policy has been prepared to minimise the potential for disturbance as customers leave the premises.

## 11 Protection of children from harm

- 11.1 The Licensing Authority will require operating plans to specify the measures and management controls in place to protect children from harm. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff. Please refer to Section 15 – Operating Schedule
- 11.2 The legislation recognises the right of licence holders (serving alcohol) to allow accompanied children into their premises at any time. The Licensing Authority 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:
- At certain times of the day;
  - When certain licensable activities are taking place;
  - Under certain ages, e.g. 16 or 18;
  - Unless accompanied by an adult.
- 11.3 The Licensing Authority will particularly consider if:
- There is entertainment or services of an adult nature commonly provided;
  - There have been convictions, Fixed Penalty Notices (FPNs) or cautions for serving alcohol to minors or premises with a reputation for under-age drinking;
  - There is a known association with drug taking or dealing;
  - There is a significant element of gambling on the premises;
  - There is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held);
  - 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;
  - There have been representations from police, the Local Safeguarding Children Board, Trading Standards or other relevant agency or representative.
- 11.4 The sale of alcohol to a minor is a criminal offence and Trading Standards will conduct appropriate covert test purchasing exercises and will take account of any complaints and intelligence. The Licensing Act 2003 permits the use of children under the age of 18 to undertake test purchases.
- 11.5 Where a sale of alcohol has been made on the same premises, to a minor on two or more different occasions within three months the premises licence could be suspended for a defined period.

- 11.6 Where there are restrictions (whether imposed by statute or by the Licensing Authority) 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. See Annex 2.
- 11.7 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.
- 11.8 The Licensing Authority 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. See Annex 2.
- 11.9 The Licensing Authority 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 Licensing Authority 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.
- 11.10 The Licensing Authority 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. See Annex 1.
- 11.11 There may be occasions where a display of film is required and needs to be classified by the Licensing Authority or the need for a classification needs to be waived. In this case applicants must apply to the Licensing Authority for this to be carried out.
- 11.12 In relation to pubs, restaurants and clubs, the Licensing Authority 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 avoiding locating cigarette machines near exits so that attempted purchases by young people can be challenged.
- 11.13 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.
- 11.14 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.

## 12 Premises licences

- 12.1 An application for a premises licence must be made in the prescribed form to this Licensing 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; and
  - Copies of the appropriate certificates.
- 12.2 Please note the fee for a premises licence is payable annually on the anniversary of the granting of the application. Non payment of this fee will be treated by the Licensing Authority as a serious matter and every effort will be made to recover the debt.
- 12.3 The licensing committee may be interested to know if there has been non payment of the annual maintenance fee and if fees are outstanding this may be highlighted in the case officer's report, at any future application for variation or if a review is brought against a particular premises. The Licensing Authority will advise applicants for new applications where previous fees have not been paid.
- 12.4 Officers will determine on a case-by-case basis which applications require an inspection, and will arrange for such inspection.
- 12.5 Applicants will be informed if the Licensing Authority is not minded to conduct an inspection.
- 12.6 The Licensing Authority will proactively monitor licensable activity within the borough and carry out a programme of risk based inspections.

## 13 Variations to existing premise licences

- 13.1 Where a premise licence requires a *material* change to the licence a variation application should be made. This would include an increase in the capacity of the premises, a change in the hours of operation of the premises, a 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 licence. The procedure is similar to the process for a new application, in that it will require a 28 day consultation period and a site notice to be displayed.
- 13.2 The Licensing Act was amended to include the ability of premises licence and certificate holders to apply to vary their existing licence for a *minor* variation.

- 13.3 A minor variation application may not be used to vary the licence to:
- vary substantially the premises
  - vary the Designated Premise Supervisor
  - authorise the sale by retail of alcohol
  - authorise the supply of alcohol at any time between 11 pm and 7 am
  - authorise an increase in the amount of time on any day during which alcohol may be sold by retail
- 13.4 There are 4 main types of variation suitable for the minor variation application:
- Minor changes to the structure or layout of a premises
  - Small adjustments to licensing hours (except for the sale/supply of alcohol)
  - Removal of out of date, irrelevant or unenforceable conditions and volunteered conditions
  - Licensable activities: adding/removing certain licensable activities, including live music
- 13.5 Applications are made to the Licensing Authority on prescribed forms. The application must be advertised on a **white A4 notice** at the premises, and contain basic details such as a brief description of the proposed variation; name of the applicant or club; address of the premises; and date by which any interested party may make representations. There is no requirement for the applicant to advertise the application in a local newspaper. Applicants can volunteer conditions as part of the minor variations process, whether from their own risk assessment of the variation, or from informal discussions with the responsible authorities or the Licensing Authority.
- 13.6 There are no hearings under the minor variation process. The application will be determined by licensing officers under the Delegated Authority powers of the Council.
- 13.7 There is no requirement for applicants to notify responsible authorities of their application. Responsible authorities only become involved at the request of the licensing officer. The guidance states that licensing officers “must consult relevant responsible authorities if there is any doubt about the impact of the variation on the Licensing Objectives and they need specialist advice, and take their views into account in reaching a decision.” The guidance also states “in many cases the Licensing Authority may be able to make a decision without consultation”.
- 13.8 Interested parties may make representations based on the Licensing Objectives. Representations do **not** trigger a hearing under the minor variations process, but the guidance states that licensing authorities must take any representations into account in arriving at a decision.
- 13.9 The timescale set out in the legislation is 15 **working** days. Day one is the first working day after the day the Licensing Authority receives the application. The Licensing Authority must then process the application and determine it within 15 working days.
- 13.10 If the Licensing Authority fails to determine the application within 15 working days, the application is deemed refused, and the fee must be returned to the applicant.
- 13.11 The first 10 working days of the 15 working day period constitute a consultation period in which Interested Parties may make representations to the Licensing Authority. During this period officers may consider the application and may consult relevant responsible authorities. A determination of the application cannot be made during the 10 working day period; a decision on the application must be made during the remaining 5 working days.

**NB: If the application is rejected within the 15 days, the local authority retains the fee in the usual way.**

- 13.12 The key test by the Licensing Authority is whether the proposed variation could impact adversely on any of the four Licensing Objectives.” Licensing officers have no power to impose conditions; only conditions volunteered by the applicant can be added to the licence under the minor variations procedure. The determination must be to grant or to refuse an application. There are notice requirements following determined applications.
- 13.13 **Granted applications:** the Licensing Authority must notify the applicant of any variation granted, together with the time that the variation will take effect. This will usually be as stipulated in the application, but if the applicant stipulates a date before the notice of determination is given, the Licensing Authority will specify a later time in the notice.
- 13.14 **Refused applications:** the Licensing Authority must give notice to the applicant that the application has been refused, together with the reasons for the refusal. Applications that have been rejected under the minor variations process can then be the subject of a full variation application or of a revised minor variations application. The minor variations refusal does not affect any subsequent variation application in respect of the same premises. Licences and summaries will be re-issued on the grant of a minor variation to reflect the changes made.

## 14 Planning Permission

- 14.1 The local planning authority exercises its powers to control opening times of all new establishments seeking planning permission, where harm would otherwise arise.
- 14.2 Applications for premises licenses should normally relate to premises with an existing lawful use for the activities proposed.
- 14.3 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.
- 14.4 The council's Planning Policies are currently set out in its Unitary Development Plan (UDP) 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 the Planning Division on 020 8753 1084.
- 14.5 The strength of these policies is that there is an obligation both on the council, as the 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.
- 14.6 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.

- 14.7 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 the revised planning permission or a variation or removal of the relevant planning condition.
- 14.8 In general, the planning position should be resolved before a licence application is made. The Licensing Authority may refuse to grant a licence if the:
- Activity to be authorised would amount to an unlawful use of the premises;
  - Hours being sought exceed those authorised by any planning permission.
- 14.9 The Licensing Authority may nonetheless determine a licence application without evidence of a lawful planning use where the applicant satisfactorily demonstrates special reason justifying such an approach.
- 14.10 The Licensing Act states that any authorisation for the supply of alcohol in relation to a petrol station will have no effect if the premise is used primarily as a garage. It is for the Licensing Authority to decide in the light of the facts whether or not any premises is used primarily as a garage. The Licensing Authority will establish primary use based on an examination of the intensity of use by customers of the premises and not based on an examination of gross or net turnover.
- 14.11 All applicants are encouraged to obtain the correct planning permission. Further information and advice can be obtained from the Planning Portal at <http://www.planningportal.gov.uk/>, where applicants can also download an application form. In order for applications to be carefully considered it is useful to include a description of the current use of the premises and whether there will be a change of use. E.g. It is currently being used as a take-away and will be changing to a restaurant. Please note that operating a licence without the relevant planning permission could be a breach of planning control and could leave licence holders vulnerable to enforcement action.

## 15 Operating schedules

- 15.1 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.
- 15.2 Prospective holders of new premises licences, and those seeking variations to existing premises licences are advised to consult with the Licensing Authority and the various responsible authorities at the earliest possible stage in order to reduce the risk of any dispute arising.
- 15.3 The Licensing Authority 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 Licensing Authority will adopt a light touch approach to regulation.

- 15.4 Operators of licensed premises will have to comply with planning, environmental health, trading standards, fire safety, licensing and building control legislation when opening or adapting licensed premises. The Licensing Authority 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.
- 15.5 During the course of its inspections, the Licensing Authority may refer matters to any other agency where there appears to be a contravention of the legislation enforced by that agency.
- 15.6 The Licensing Authority considers that it would be beneficial if operating schedules include all the following:

### **GENERAL**

- 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 appropriate, details of the accessibility of the premises for disabled people. The Licensing Authority 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;

### **LICENSABLE ACTIVITIES**

#### **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; except in some Community Premises (**see Designated Premises Supervisors in Community Premises at section 19**)
- whether the alcohol will be supplied for consumption on or off the premises or both;
- details of what seating arrangements will be provided and where;
- When completing operating schedules and in their management of premises, applicants should consider guidance documents on the responsible promotion of alcohol and on binge drinking, such as the British Beer and Pub Association’s document – Point of Sales Promotion Standards for the Management of Responsible Drinks Promotions including happy hours, which is also available via the [www.beerandpub.com](http://www.beerandpub.com) website. Refer to Annex 2.



For sales of alcohol for consumption off the premises – applicants in respect of off licences and other premises selling alcohol for consumption off the premises may need to consider whether:

- there are shutters to prevent alcohol from being selected in non-licensed periods.
- there are appropriate numbers of staff on duty to deal with possible 'intimidation' to sell alcohol.
- there are restrictions required on the sale of low price, high strength alcohol and drink promotions.
- an incident log book is available to record incidents.
- there are measures necessary to prevent underage sales. (See Annex 2)
- there are measures necessary to prevent alcohol from being sold outside permitted hours where the operating hours of the premises exceed those for the sale of alcohol.
- there are procedures in place to prevent sales of alcohol to intoxicated persons (with particular attention to street drinkers) or individuals leaving premises in the vicinity such as a late night bar; where there is evidence to suggest this is a problem the Licensing Authority may require a temporary cessation of alcohol sales during high risk times.

**Where the licensable activities include dance:**

- a description of the type of dancing in broad terms, such as if dancing will be done by professionals or if it will be for members of the public, where it will take place on the premises, if the dancing involves striptease or lap dancing;

**LICENSING OBJECTIVES**

15.7 The Licensing Authority will robustly examine any application and its operating schedule to ensure premises do not impact negatively in the community measuring against the four Licensing Objectives. The Licensing Authority will consider the steps which the applicant proposes to take to promote the Objectives. The Licensing Authority will use further conditions where they are not satisfied an operating schedule is sufficient to control these potential issues. The following provides a non-exhaustive list of measures/issues that the Licensing Authority considers may be relevant to licence applications:

**The prevention of crime and disorder**

15.8 The following provides a non-exhaustive list of risks associated with the crime and disorder objective that applicants may want to consider when preparing their Operating Schedule:

- **Crime and disorder in the vicinity of the premises** : this may include the crime and disorder risks arising from persons queuing to enter the premises; persons exiting the premises and customers smoking eating or drinking in outdoor areas and on the highway outside the premises. This can also include crime arising from pickpockets and bag snatchers, particularly in open spaces or crowded areas where alcohol is being consumed.
- **alternative to glass bottles and glasses** - restricting the use of glass bottles and beer glasses to customers in preference for containers made from polycarbonate materials.
- **CCTV** - using CCTV inside and/or outside the premises together with appropriate procedures and having staff properly trained to use CCTV equipment.
- **dispersal procedures** - establishing appropriate dispersal procedures to minimise the potential for crime and disorder when customers are leaving the premises

- **dealing with and reporting crime and disorder** - training for staff and door security aimed at reducing crime and disorder in the premises and its vicinity and dealing with and reporting incidents if they occur.
- **door staff** - considering whether the premises employs a sufficient number of SIA registered door staff, whether Door Premises Supervisors check the legitimacy of the badges and whether SIA staff display their badges prominently. (Note: All door supervisors must be Security Industry Authority (SIA) registered). See Annex 1.
- **drugs and weapons** - ensuring compliance with relevant guidance regarding illegal drugs and weapons. Attention should be paid to search procedures, procedures for the safe storage and surrender of seized drugs and weapons and drug awareness issues, designing out the ability to take drugs in the premises, etc.
- **excessive drinking** - training for staff to recognise when customers are becoming drunk and adopting appropriate 'cut off' procedures for drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.
- **local schemes** – joining and attending local Pubwatch meetings and participating in the Behave or Be Banned Scheme (BOBB) and/or signing up and using the Council's Safety Net Radio scheme.
- **prevention of theft** - using bag hooks and signage to warn customers of pickpockets and bag snatchers.
- **Event type** - in some cases the type of regulated entertainment proposed could attract elements which increase the possibility of violence and/or disorder occurring in, or in the vicinity of, the premises. For example, some externally promoted live music events carry an increased risk of violent crime and disorder. It may be appropriate to carry out a risk assessment of the activities proposed and, in some cases, to provide such risk assessment to the Events Team at Fulham Police and or the Clubs and Vice Unit of the Metropolitan Police before the event is agreed.

### Public safety

15.9 The following provides a non-exhaustive list of risks associated with the public safety objective that applicants may want to consider when preparing their Operating Schedule:

- **special effects** - 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.
- **incident and occurrence book** – keeping an incident book on the premises so staff can record any instances of crime, disorder, refused sales, ejections and intimidating behaviour.
- **risks associated with special promotions/events** – ensuring compliance with guidance from the Metropolitan Police relating to specific event risk assessments for externally promoted live music events well in advance of the event. Risk assessment forms can be obtained from the Metropolitan Police Licensing Officer.

- **getting home safely** - providing information to customers and staff (including contact telephone numbers) regarding safer options available for travelling home late at night - including night buses, licensed taxis and private hire (mini-cabs).
- **overcrowding** - developing policies and procedures regarding capacity to prevent overcrowding and patrons possibly becoming aggressive.
- **premises environment** - applicants should consider the physical environment of the premises and have regard to issues that could increase the likelihood of patrons becoming agitated or aggressive. This may include procedures regarding door supervision, identification and management of drunken customers and issues of overcrowding and capacity, which may result in patrons becoming aggressive or rowdy.

### The prevention of public nuisance

15.10 The following provides a non-exhaustive list of risks associated with the public nuisance objective that applicants may want to consider when preparing their Operating Schedule:

- **Deliveries/collections** – noise from deliveries to and/or collections (e.g. refuse) from the premises are another common source of complaint. Consider therefore the times of such deliveries/collections and make sure you specify to any contractors that deliveries/collections should not be made at anti-social times. As a guide, the Environmental Protection Team recommend that deliveries/collections should only be done between the hours of 8:00am and 8:00pm, depending on the proximity of residential and/or other noise-sensitive properties.
- **Drink promotions** – adopting policies to discourage excessive drinking such as happy hours, buy one get one free, etc. See Annex 2.
- **Late night refreshment** - applicants in respect of late night takeaways should demonstrate that they have assessed the risk of persons congregating in large numbers in the vicinity of their premises. Where appropriate, applicants should demonstrate suitable measures to address this problem.
- **Light pollution** – this is an increasingly common source of complaint, particularly from illuminated signs and external security lighting. Where provided, illuminated signs should not cause glare to neighbouring properties, ideally being turned off at night, and external lighting should be angled and/or diffused to also prevent nuisance.
- **Noise and/or vibration breakout from the provision of regulated entertainment, particularly from (but not limited to) live music** – consider what type of entertainment is to be provided, in what room/area of the premises and the suitability of the construction of this room/area to contain sound. Windows are a particular weak-point for noise break-out so consider providing regulated entertainment in a room without windows or with as few windows as possible, particularly windows that face towards nearby residential properties.

- **Odour** – odour from cooking is a common source of complaint, particularly from restaurants and fast-food takeaways. The Council's Environmental Protection Team may therefore require evidence that the kitchen ventilation and/or extract systems are regularly maintained and serviced to ensure that it is operating efficiently and with minimal nuisance to neighbours arising from odour and also noise. This includes the siting of BBQs.
- **Queue management** - establishing appropriate procedures to avoid the need for customers to queue before entering the premises or, where queuing cannot be avoided, to manage queues so as to minimise the potential for crime and disorder or public nuisance by customers who are queuing.
- **Ventilation** – where regulated entertainment is to be provided there may be a requirement to keep doors and/or windows closed during its provision to limit noise breakout, consider therefore the provision of air conditioning for the comfort of your customers if doors and windows have to be closed during the summer. However, also note air conditioning can be the source of noise complaints in itself, so careful consideration also needs to be given to the siting of this equipment.
- **Waste** – consider how and where waste will be stored/disposed of at the end of trading hours, particularly if trading until late at night. This is important because the disposal of glass and/or cans to outside bin areas can be very noisy and give rise to complaints, so it may be necessary to store such items and other non-degradable refuse inside the premises until the next trading day.

Commercial waste can also be taken directly to one of the council's approved waste transfer sites. Alternatively there are several licensed waste carriers operating within the Borough, which are listed on the council website.

If you do not have a commercial waste agreement the Council offers a flexible service that allows businesses to increase and decrease their collection service every three months, and the contract can be revised by calling the trade waste team on 020 8753 3021 or alternatively email them on [tradewasteemails@lbhf.gov.uk](mailto:tradewasteemails@lbhf.gov.uk).

## The protection of children from harm

15.11 The following provides a non-exhaustive list of risks associated with the public nuisance objective that applicants may want to consider when preparing their Operating Schedule:

- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks. See Annex 2. The Council will expect premises only to accept current passports, driving licences or documents bearing the national PASS logo, such as Citizencard. The Proof of Age Standards Scheme (PASS) is the UK's national guarantee scheme for proof-of-age cards as endorsed by the Home Office. More information can be found on <http://www.brc.org.uk/pass/default.asp>
- Where an application has not indicated any adult entertainment a voluntary condition that no nudity or adult entertainment will take place at the premises.

## 16 Consultation

- 16.1 The applicant will be expected to advertise the application in accordance with the Regulations made under the Licensing Act 2003.
- 16.2 The Licensing Authority will carry out a consultation process in accordance with the regulations made under the Licensing Act 2003. In exceptional circumstances the Licensing Authority may consider it appropriate to carry out a more extensive form of public consultation. The Licensing Authority will publicise details of applications received.
- 16.3 In order to give residents a fair chance to learn about new applications we have set up an email alert system on the Council website. This will enable residents and other interested parties to make representations to the Licensing Authority if they wish to do so.

## 17 Applications for Personal Licences

- 17.1 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.
- 17.2 The Licensing Authority requires that any photographs submitted to it must be clearly endorsed on the reverse side with the persons name, date of birth and contact number in order to ensure these are correctly processed.
- 17.3 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 Licensing Authority before making an application.
- 17.4 A personal licence is valid for 10 years. A designated premises supervisor must hold a personal licence.

## 18 Temporary Event Notices (TENs) and Other Events

- 18.1 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 Licensing Authority. 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.
- 18.2 Section 193 of the Act defines “working day” as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales. “Ten working days” notice means ten working days exclusive of the day

on which the event is to start, and exclusive of the day on which the notice is given.

- 18.3 Where police representation is received by serving a counter notice the Licensing Authority will hold a hearing to decide the application.
- 18.4 The Licensing Authority will consider whether the limitations set down by the act in terms of numbers and duration of events and capacities are being observed.
- 18.5 It is recommended in general that the Licensing Authority and police be given at least 28 calendar days notice of any event, to allow them to help organisers plan their events safely.
- 18.6 Organisers of temporary events are strongly advised to contact the Licensing Authority, the Environmental Protection Team 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.

### **Large Outdoor Events**

- 18.7 Public safety and the prevention of public nuisance at large outdoor events is of paramount importance to the Licensing Authority. Applications for large events that are normally temporary in nature, may not be suitable for licensing under the TENs process. Events will be licensed under a time limited Premises Licence lasting for the duration of the event. Applicants are encouraged to make applications for a new Premise Licence and should therefore ensure that they apply in good time.
- 18.8 Applicants for such events must consider “The Event Safety Guide” published by the Health and Safety Executive on all aspects of arranging and staging events.
- 18.9 Applications for large temporary events may be scrutinised by a Safety Advisory Group (SAG) as well as the licensing committee. The SAG will consist of officers from Responsible Authorities such as the Police, Environmental Protection, Commercial Services Team, Fire Authority, and may include officers from other relevant departments and agencies such as the London Ambulance Service, Transport for London (TfL) and Highways.
- 18.10 The Safety Advisory Group allows officers to question applicants about the operation of their event to ensure it will be a “safe” event, and will minimise disruption to traffic management and nuisance.
- 18.11 The SAG will not determine licence applications. It may recommend conditions. The Licensing Authority will expect applicants and organisers of large temporary events to produce a satisfactory Event Management Plan for their event and to comply with any recommendations made by the group.
- 18.12 The Licensing Authority recommends that for significant events and the use of promoters 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.
- 18.13 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.
- 18.14 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.

- 18.15 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 [fhevents@met.police.uk](mailto:fhevents@met.police.uk) and [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk)

## GENERAL

- 18.16 Generally, applicants are advised to offer only the following conditions in their Operating Schedule.
- The Licensee shall comply with the Event Management Plan submitted to and approved by the Licensing Authority.
  - The Event shall be run in accordance with the site plan submitted to, and approved by, the Licensing Authority. No changes shall be made to the site plan without the prior consent of the Licensing Authority.
- 18.17 This approach allows the event organiser flexibility to make changes to the layout of the event or to specific activities without the need to make a fresh application for a Premises Licence or an application to vary the Premises Licence already granted. Without this approach, any changes made could be unauthorised and possibly result in enforcement action.
- 18.18 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.
- 18.19 The Council is fully committed to a safe and successful Olympic and Paralympic games in London in 2012. The Council recognises that the resources of the police and emergency services will be planned out and prioritised for the security of major events before, during and after the games from 1<sup>st</sup> May 2012 until 31<sup>st</sup> October 2012. Due consideration will be given by the Council to representations from the Police in relation to licence applications for activities during the games time on the grounds of public safety and security when police and other emergency services resources are insufficient to deal with the risks presented. Where, as a result of representations from a responsible authority, it is identified that a licence or proposed event presents a risk and that the licensing objectives will be compromised, it is likely that such applications will not be granted.
- 18.20 Anyone planning an event of this nature is strongly recommended to enter into discussion with the Police and Licensing Authority as early as possible to ensure the event can be properly planned. Failure to liaise with the Licensing Authority may see the committee refusing a licence for the event on grounds of Public Safety.

## **19 Designated Premises Supervisors (DPS) in community premises**

- 19.1 Community premises can have a licence to supply alcohol without the requirement to have a Designated Premises Supervisor (DPS).
- 19.2 Such an application can only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises. The following condition will be attached to the premise licence: "Every supply of alcohol under the premises licence must be made or authorised by the management committee."
- 19.3 Church halls, chapel halls, parish halls, community halls, village halls are examples of community premises. Where it is not clear whether premises are community premises, the matter will be approached on a case-by-case basis, with the main consideration being how the premises are predominantly used. If they are:
- genuinely made available for community benefit most of the time;
  - accessible by a broad range of people and sectors of the local community;
  - providing facilities to benefit the community as a whole;
  - they are likely to be considered to be community premises.
- 19.4 If it is authorised for the sale of alcohol, the management committee of the premises can apply to remove the DPS requirement. This removes the mandatory conditions in relation to a DPS and the personal licence holder(s). See Annex 1.
- 19.5 The application form requires the applicants to provide the names of the management committee's key officers to the Licensing Authority. The Licensing Authority must be satisfied that arrangements for the management of the premises by the committee or board are sufficient to ensure the adequate supervision of the supply of alcohol on the premises.
- 19.6 Existing premises licence holders must pay a fee and the application will take 28 days to process.
- 19.7 In exceptional circumstances, the police can object to the request on grounds of crime and disorder. The Licensing Authority must then hold a hearing to reach a decision on whether to grant the application.

## **20 Enforcement Policy**

- 20.1 The Licensing Authority operates a proactive inspection regime that is based on risk. These inspections are linked to the Enforcement Policy, which targets premises failing to support the Licensing Objectives. Relevant action will be taken after each visit in accordance with this policy.
- 20.2 Premises that produce disorder, threaten public safety, generate public nuisance or threaten the well being of our children will be targeted for enforcement action.



- 20.3 The Licensing Authority has a long-established Enforcement Policy, based around the principles of consistency, transparency and proportionality it also takes into account the Attorney General's Guidelines to Crown Prosecutors for bringing prosecutions.
- 20.4 The Licensing Authority will take necessary enforcement action in accordance with our Enforcement Policy.
- 20.5 The Licensing Authority will use a range of sanctions such as letters of warning, simple cautions, Fixed Penalty Notices (FPNs) and legal proceedings.
- 20.6 The Licensing Authority will seek to work with the police and other responsible authorities in enforcing licensing legislation and will strive to have a joint enforcement protocol with all the relevant agencies.
- 20.7 Enforcement will be focussed on premises or persons found to be failing to promote the four Licensing Objectives.

## **21 Dealing with Complaints, Representations and Reviews**

- 21.1 Where a representation is made to the Licensing Authority by an interested party, the Licensing Authority will consider whether it is valid. In determining whether a representation is valid the Licensing Authority will first consider if the complaint made is irrelevant, vexatious, frivolous or repetitious.
- 21.2 Interested Parties include:
- A resident living in the vicinity
  - A body representing people who live in that vicinity
  - A person involved in a business in that vicinity
  - A body representing people who have businesses in that vicinity
  - A Councillor.
- 21.3 The definition of "interested parties" has been expanded to include all Councillors of local authorities. This means that councillors of this Council can now make representations or seek a review in their own right.
- 21.4 Councillors are not required to live in the vicinity or in the same ward as the licensed premises they are making a representation about, and are not required to have been requested to act by any other person or body.
- 21.5 Where an interested party has made:
- Valid representations about licensed premises; or
  - A valid application for a licence to be reviewed then the Licensing Authority may initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern.

- 21.6 This process will not override the right of any interested party to ask the Licensing Authority to consider their valid representations, or for any licence holder to decline to participate in a mediation meeting.
- 21.7 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 for a licence to be reviewed because of a matter arising at the premises in connection with any of the four Licensing Objectives.
- 21.8 A licence will be reviewed where it is alleged that the Licensing Objectives are not being promoted and there is evidence to show this. The Licensing Authority 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 drugs money;
  - 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.
- 21.9 At a review hearing the committee can make the following decisions:
- 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.
- 21.10 Interested parties aggrieved by decisions of the Licensing Authority are entitled to appeal to the magistrates court.
- 21.11 In order to give residents a fair chance to learn about new applications we have set up an email alert system on the Council website. This will enable residents and other interested parties to make representations to the Licensing Authority if they wish to do so. Please note that representations cannot be made anonymously.

- 21.12 It is important to note that officers in the Licensing Team cannot request a review of a licence, as they form part of the Licensing Authority. They can only take enforcement action for a breach of a licensing condition or other licensing infringement.
- 21.13 Where the Licensing Authority considers that action under its statutory powers is necessary it may seek to issue a warning letter, a simple caution or prosecute for the offence.
- 21.14 Complaints about breaches of conditions e.g. trading after hours stated on their licence should be brought to the attention of the Licensing Team on 020 8753 1081 or by email at [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk). They can also provide a copy of the licence with the full licence conditions.
- 21.15 Complaints about other issues e.g. noise nuisance, underage sales should be brought to the attention of the relevant responsible authority. See section 2 – Consideration of Our Residents.

## 22 CONSIDERATION OF OUR RESIDENTS

- 22.1 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.  
  
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.
- 22.2 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, to the extent that these matters are within their control.
- 22.3 Population densities in our borough are high, with many residential premises located above or in close proximity to licensed premises. This means that the public nuisance and crime and disorder objective will be of paramount concern when evaluating Operating Schedules. Committees will place high regard on the control measures in place by the applicant in order to ensure our residents are protected from the potential detrimental effects of any licences premises.
- 22.4 Residents are advised to contact the Environment Protection Team’s out of hours service at the time that any noise nuisance is occurring. Any review of a licence would need to be evidence based and as such is best supported by evidence from responsible authorities such as the Police or Environmental Protection to be successful. For this reason it is vital to call our 'out of hours' team on 020 8748 8588 at the time nuisance is occurring.
- 22.5 If residents are experiencing ongoing problems with particular licensed premises, please refer to Section 21 – Dealing with Complaints, Representations and Reviews.

## 23 Licensing Committee

- 23.1 The Licensing Committee will consist of up to fifteen councillors that may sit annually to discuss policy, review delegated decisions and administrative matters. The Licensing Authority will review this Statement of Licensing Policy at least every three years. Any changes to the policy will include full consultation of all interested parties.
- 23.2 A sub-committee of three councillors will determine applications where representations have been received from interested parties and responsible authorities.
- 23.3 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, sex establishments, gambling, etc.
- 23.4 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.
- 23.5 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 Licensing Authority.
- 23.6 The Licensing Authority'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.
- 23.7 The Licensing Authority's authorised 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.

# Annex 1 – Original Licensing Conditions

## (1) Supply of alcohol:

No supply of alcohol may be made under the premises licence –

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

## (2) Exhibition of Films

Admission of children must be restricted in accordance with any recommendation made by the film classification body specified in the licence

Or

where the licensing authority has notified the holder of the licence that it considers a classification or an alternative classification is necessary then

Admission of children must be restricted in accordance with any recommendation made by that licensing authority

In this section-

"children" means persons aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

## (3) Door Supervisors

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority.

## Annex 2 – New Mandatory Licensing Conditions

1. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
  - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:
    - (i) the outcome of a race, competition or other event or process, or
    - (ii) the likelihood of anything occurring or not occurring;
  - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
4. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.  
(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
5. The responsible person shall ensure that:
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and
  - (b) customers are made aware of the availability of these measures.

# Annex 3 – Local Pool of Licence Conditions

## Local Pool of Licence Conditions

The following licensing conditions can be applied to different types of premises (A – F below). They can be used as a guide for applicants, residents, Councillors, agencies and responsible authorities such as the Police when making, commenting on or considering applications. This list is not exhaustive and should be used as a guide to help promote the four licensing objectives, in its application, to the following types of premises:

**A: Restaurants**

**B: Late night refreshment Venues**

**C: Public houses and bars:**

**D: Nightclubs**

**E: Off Licences**

**F: Theatres, Cinemas, Qualifying Clubs, Hotels and Community Premises**

Conditions should only be added where considered necessary and proportionate to the promotion of the licensing objectives.

Exit routes and evacuation procedures	Application
Means of escape shall be maintained unobstructed, immediately available and clearly identifiable.	Public Safety A, B, C, D, E, F
Exit doors shall be checked before opening each day to ensure they function satisfactorily.	Public Safety A, B, C, D, E, F
Notices shall be prominently displayed at each exit from the premises asking patrons to be considerate to neighbours when leaving.	Public Safety A, B, C, D, E, F
Customers shall not be permitted to sit or stand in gangways or aisles or in any position that will impede means of escape from the premises.	Public Safety A, B, C, D, F
An evacuation policy shall be in place that is to the satisfaction of the Fire Authority, Licensing Authority and Police. All staff members shall be trained in the evacuation policy. Written records of staff training shall be kept and produced to Police and authorised Council officers on request.	Public Safety A, B, C, D, E, F
Emergency/fire drills and tests will be conducted monthly. Records of these tests shall be made available upon request.	Public Safety A, B, C, D, E, F
Use of beer gardens/external areas	
The use of the garden/external area shall cease after <i>(insert time)</i> hours on <i>(insert days of the week)</i> .	Nuisance A, C, D, F
Alcohol shall not be sold to customers to drink on the pavement outside the premises unless a Tables and Chairs Licence is in force.	Nuisance A, B, C, D
A maximum of <i>(insert number)</i> customers will be allowed in outdoor areas of the	Nuisance

premises. These customers shall not be such as number as to cause obstruction of the public highway.	A, B, C, D
Where a Tables and Chairs licence is in effect, only seated customers shall be permitted to drink in the area covered by the Tables and Chairs licence.	Nuisance A, B, C, D
Where customers are permitted to drink alcohol outside the premises, ( <i>insert number</i> ) of registered door supervisors will be used to monitor and manage those customers from ( <i>insert times</i> ).	Nuisance A, C, D
A physical barrier, such as a rope, will be used to mark the boundary of the area outside the premises where customers are allowed.	Nuisance A, C, D
The garden of the premises shall be closed to customers at ( <i>insert time</i> ).	Nuisance A, C, D
The tables and chairs outside the premises shall be brought inside at ( <i>insert time</i> ).	Nuisance A, B, C, D
No more than ( <i>insert number</i> ) of patrons shall be permitted to drink or smoke outside the premises at any one time.	Nuisance A, B, C, D
Customers shall not be permitted to take drinks outside with them and prominent signage shall be provided to this effect.	Nuisance A, B, C, D
Staff shall regularly supervise the pavement area outside the premises to ensure customers are not blocking pavements or causing nuisance to neighbouring premises.	Nuisance A, B, C, D
Customers shall not be permitted to take glass bottles or glasses outside the premises.	Nuisance A, B, C, D, F
Persons wishing to leave the premises to smoke shall not be permitted to take drinks outside with them.	Nuisance A, B, C, D, F
External lighting for the premises shall be turned off after the premises are closed to the public.	Nuisance A, B, C, D, E, F
Where customers are permitted to smoke immediately outside the premises, smoking bins/ashtrays/receptacles should be provided.	Nuisance A, B, C, D, F
<b>Door supervisors and door entry policies</b>	
A minimum of ( <i>insert number</i> ) door supervisors shall be on duty on the premises during the hours of ( <i>insert times</i> ) on ( <i>insert days of week</i> ).	Crime/disorder C, D, F
A minimum of ( <i>insert number</i> ) of door supervisors shall be provided on ( <i>insert days of week</i> ) to patrol external areas of the premises between the hours of ( <i>insert times</i> ).	Crime/disorder C, D, F
Policy and procedures for door staff will be put into place around dispersal techniques for customers and procedures for dealing with incidents that occur in	Crime/disorder C, D, F



the vicinity of the premises.	
The premises shall operate a dispersal policy and all staff shall be trained in its implementation.	Crime/disorder C, D, F
Random searches shall be undertaken of customers entering the premises between the hours of <i>(insert times)</i> and prominent signage provided to this effect.	Crime/disorder C, D, F
At least one female door supervisor shall be provided where door supervisors are used to search female customers.	Crime/disorder C, D, F
Customers shall be supervised when leaving the premises and shall be asked to leave quietly.	Nuisance C, D, F
There shall be no admittance or re-admittance to the premises after <i>(insert time)</i> .	Nuisance C, D
A minimum of <i>(insert number)</i> door supervisors shall be on duty on the premises from <i>(insert time)</i> until all customers have left the premises and its vicinity.	Nuisance C, D, F
Door supervisors shall be provided with radios to enable them to contact each other and the duty manager at the premises.	Crime/disorder C, D, F
<b>Capacity</b>	
A maximum of <i>(insert number)</i> customers shall be permitted on the premises at any one time.	Public Safety A, B, C, D, F
“Clickers” or other devices shall be used by door staff to monitor the number of persons present on the premises at any one time.	Public Safety C, D, F
<b>CCTV</b>	
CCTV shall operate at all times while the premises remains open to the public and all images captured will be recorded and stored on site for a minimum period of 31 days.	Crime/disorder A, B, C, D, E, F
Copies of CCTV recordings will be made available to the Police and/or the Licensing Authority on request within 48 hours of the request being made together with facilities for viewing where requested. If the CCTV equipment is inoperative, or is otherwise not installed and working to the satisfaction of the Police and Licensing Authority, then within 48 hours the Police and Licensing Authority shall be notified and an estimate given of the repair timescale. The premises will comply with all reasonable requests from the Police, which may include the suspension of licensable activities if necessary.	Crime/disorder A, B, C, D, E, F
<b>Training</b>	
At least one member of staff on duty whilst this licence is being used shall be trained in the requirements of the Licensing Act 2003 in terms of the licensing	ALL A, C, D, E, F

objectives, offences committed under the Act and conditions of the Premises Licence. Such person(s) shall be competent to ensure offences are not committed and that the premises shall be run in accordance with the licence.	
All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003. Written records of this training shall be retained and made available to Police and Council officers on request.	ALL A, C, D, E, F
All staff shall be trained in how to identify drunk or drug impaired customers. This training shall be repeated at least biannually and written records of the training kept and made available to Police and authorised Council officers on request.	ALL A, C, D, E, F
<b>Weapons</b>	
A metal detection device shall be randomly used by door supervisors to search patrons for weapons.	Crime/disorder C, D, F
A search arch shall be used at the entrance to the premises to detect customers who may be carrying weapons.	Crime/disorder C, D, F
Any drugs or weapons confiscated from customers shall be stored in a locked and secure container and the Police shall be notified as soon as reasonably practicable.	Crime/disorder C, D, F
<b>Responsible management</b>	
The licence holder shall actively participate in any local Pubwatch or similar scheme.	Crime/disorder A, B, C, D, E
The premises shall be a member of any local radio scheme that allows them to be in contact with other venues in the local area.	Crime/disorder B, C, D, E, F
An incident log book will be maintained by the premises that details incidents of note that occur in the premises. This shall include refused sales, disorder, and ejections as a minimum. The log book shall be kept on the premises and be available for inspection at all times the premises is open, and management shall regularly check the book to ensure all staff are using it.	Crime/disorder A, B, C, D, E, F
<b>Protecting children, proof of age schemes</b>	
A Proof of Age scheme shall operate at the premises and all staff shall be trained in its implementation. Only photographic ID such as a British driving licence, a current passport or a PASS ID card shall be treated as acceptable forms of identification.	Children A, C, D, E, F
All staff shall be trained in the Proof of Age policy and how to identify acceptable means of identification.	Children A, C, D, E, F
Posters shall be displayed in prominent positions around the till advising customers of the Proof of Age policy in force at the premises.	Children A, C, D, E, F

A refusals book shall be kept at the premises to record details of all refusals to sell alcohol. This book shall contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. The book shall be made available to Police and authorised Council officers on request.	Children A, C, D, E, F
The Designated Premises Supervisor shall regularly check the refusals book to ensure it is being consistently used by all staff.	Children A, C, D, E, F
<b>Noise issues</b>	
A sound limiting device shall be installed, set and sealed at a level approved by the Council.	Nuisance C, D, F
Only the Premises Licence Holder and the Designated Premises Supervisor shall have access to the sound limiting device.	Nuisance C, D, F
The sound limiting device shall be used whenever relevant regulated entertainment is taking place.	Nuisance C, D, F
A cut-out device shall be connected to the exit doors and will be operational at all times the licence is in use.	Nuisance C, D, F
When the premises doors are open the levels of music shall cut out completely or fall to ambient levels that are not intrusive to local residents.	Nuisance C, D, F
No sound emanating from regulated entertainment shall be audible a metre from the façade of the nearest noise sensitive premises between 2300 and 0700 hours.	Nuisance A, C, D, F
All external doors and windows to the premises shall be kept closed during the provision of regulated entertainment, save during access and egress.	Nuisance A, C, D, F
The licence holder or duty manager shall make regular patrols at no less than hourly intervals around the perimeter of the premises when regulated entertainment is taking place. Noise levels shall be adjusted to ensure local residents are not disturbed by excessive noise break out.	Nuisance A, C, D, F
<b>Litter</b>	
Patrols of the area outside the premises shall be undertaken every ( <i>insert time period</i> ) during the use of the licence and any litter accumulations cleared.	Nuisance A, B, C, D, F
Where customers are permitted to drink alcohol outside the premises, regular litter and glass collections shall be carried out in all areas where customers are congregating.	Nuisance A, C, D, F
Litter bins should be provided in the area immediately outside the Premises	Nuisance A, B, E, F

Cigarette litter bins should be provided in the area immediately outside the Premises	Nuisance A, B, C, D, E, F
<b>Proprietary clubs</b>	
Admission to the licensed premises shall be restricted to Members of the Club and their bona fide guests.	ALL F
No person shall be admitted to the premises without an interval of at least 48 hours between application for membership and admission.	ALL F
Only one guest per member shall be permitted.	ALL F
No more than three guests per member shall be admitted to the club, and details of all guests shall be recorded on site and to be made available to Police immediately upon request on any given night that they visit the premises.	ALL F
The maximum number of guests in attendance on any given night is not to exceed 25% of the total number of persons at the premises.	ALL F
Members and guests shall be required to "sign in" when entering the premises.	ALL F
Any book used for the signing in of members and guests shall be kept on the premises at all times and made available on request to Police and authorised Council officers.	ALL F
<b>Selling alcohol</b>	
Strong beer and cider above 5.5% ABV will not be sold.	Nuisance E
No single cans or bottles of beer or cider will be sold.	Nuisance E
A minimum of two members of staff shall be present at all times whilst the premises remain open for the sale of alcohol.	Nuisance E
At least one person holding a Personal Licence shall be on duty at the premises when alcohol is being sold.	Nuisance E
All alcohol kept in the public part of the premises shall be kept in display units. All display units for alcohol will have lockable shutters Shutters shall be closed and locked at the end of the permitted hours for the sale of alcohol, and shall not be unlocked again whilst the premises is open until the start of the permitted hours on the following day.	Nuisance E
All alcohol shall be stored and displayed behind the service counter and not in aisles or other areas accessible to the public.	Nuisance E
All alcoholic drinks shall be clearly labelled or marked with the name of the premises.	Nuisance E
Any alcohol sold for consumption off the premises shall be sold in a sealed container.	Nuisance C, D, E, F

Alcoholic and soft drinks shall be served in polycarbonate containers.	Crime/disorder C, D, F
Alcoholic drinks sold in cans or bottles should be marked with a unique identifier, that identifies the premises from which the alcohol was originally sold	Nuisance B, E
<b>Drug use</b>	
The premises shall operate a zero tolerance policy to drug use and posters shall be prominently displayed to this effect.	Crime/disorder C, D, F
All staff shall be trained in the implementation of the venue's drugs policy.	Crime/disorder C, D, F
Toilet cisterns shall be provided with sloping lids or similar to discourage drug use.	Crime/disorder C, D, F
Any drugs confiscated from customers shall be stored in a locked and secure container and the Police shall be notified as soon as reasonably practicable.	Crime/disorder C, D, F
<b>Theft and security</b>	
Bag clips shall be made available on all tables.	Crime/disorder A, B, C, D, F
A cloakroom or similar facility shall be available for customers to leave their belongings.	Crime/disorder C, D, F
Notices shall be displayed throughout the premises to advise customers of the potential for thefts.	Crime/disorder A, B, C, D, F
The premises shall participate in any local radio scheme in operation that enables them to be in contact with other local radio scheme users.	C, D, F
<b>Hotels</b>	
Alcohol may be sold at any time to hotel guests for consumption on the premises.	Nuisance F
Alcohol shall only be sold to non hotel residents from the hours of <i>(insert times)</i> on <i>(insert days of the week)</i> and during the following times to persons attending bona fide private functions at the hotel <i>(insert days and times)</i> .	Nuisance F
<b>Premises providing Nudity, Striptease and other Adult Entertainment</b>	
No person under the age of eighteen shall be admitted to the premises or be permitted to remain on the premises when adult entertainment is taking place.	Children A, C, D, F
Prominent notices shall be displayed at each entrance to the premises when adult entertainment is taking place stating that there shall be no admission to the premises for persons aged under 18.	Children A, C, D, F
The premises shall be arranged so adult entertainment is not visible from the street.	Children A, C, D, F

There shall be no external advertisement at the premises for adult entertainment.	Children A, C, D, F
There shall be no leafleting or touting of the adult entertainment at the licensed premises.	Children A, C, D, F
Nudity shall only be permitted by performers and not by customers.	Children A, C, D, F
A minimum of one metre distance shall be maintained between dancers and customers during adult entertainment.	Children A, C, D, F
A written Code of Conduct for staff participating in the provision of striptease or nudity shall be in place, and shall be kept on the premises for inspection by Police or authorised Council officers at all times the premises are open to the public. Management shall ensure all staff are aware of the Code of Conduct and shall take all reasonable steps to ensure it is adhered to.	Children A, C, D, F
<b>Hiring or letting of rooms or premises</b>	
Where rooms at the premises are let to individuals or groups for private hire, a hire agreement shall be in place that includes an outline of the conditions on the Premises Licence ( <i>or Club Premises Certificate</i> ) and clearly states the responsibilities of the hirer in respect of upholding such conditions.	ALL A, C, D, F
Where the premises are let to individuals or groups for private hire, a named person shall be responsible for ensuring that conditions of the Premises Licence ( <i>or Club Premises Certificate</i> ) are adhered to. This person shall provide their details to the licence holder ( <i>or Secretary of the Club</i> ) in writing in advance of the event and their details shall be retained for a period of at least thirty one days after the date of the event.	ALL A, C, D, F
<b>Special effects</b>	
Any special effects or mechanical installation shall be arranged and stored so as to minimise any risk to the safety of the audience, performers and staff. Special effects include: <ul style="list-style-type: none"> <li>• Dry ice machines and cryogenic fog</li> <li>• Smoke machines and fog generators</li> <li>• Pyrotechnics, including fireworks</li> <li>• Real flame</li> <li>• Firearms</li> <li>• Motor vehicles</li> <li>• Strobe lighting</li> <li>• Lasers</li> </ul> • Explosives and highly flammable substances.	Public Safety A, C, D, F
The Licence Holder shall not permit the use of special effects, except with the prior consent of the Licensing Authority, which may be subject to additional conditions if necessary to promote the public safety objective.	Public Safety A, C, D, F
<b>Promotions or events</b>	
The licensee shall undertake a risk assessment of any promotion or event using the Metropolitan Police Promotion/Event Risk Assessment (Form 696) or an	Public Safety A, C, D, F

equivalent and provide a copy to the Police and the Licensing Authority not less than 14 days before the event is due to take place. Following submission of the risk assessment, all directions of the Police shall be complied with, including cancellation of an event if necessary.	
Where an 'event' has taken place, the licensee shall complete a Metropolitan Police After Promotion/Event Debrief Risk Assessment (Form 696A) and submit this to the Metropolitan Police and the Licensing Authority, within three days of the conclusion of the event.	Public Safety A, C, D, F
The licensee shall take all reasonable steps to ensure that there is no unauthorised advertising of events to be held at the premises.	Public Safety A, C, D, F
<b>Miscellaneous conditions</b>	
Furniture at the premises for customer use shall be fixed in position so space cannot be made to allow the provision of dancing or other entertainment.	Nuisance A, C, F
The premises will be adequately ventilated in all areas to which the staff and public have access.	Public Safety A, B, C, D, F

**In the future other conditions may be added which will be made available on the Councils website.**

## Annex 4— Special licensing policy for Fulham Area

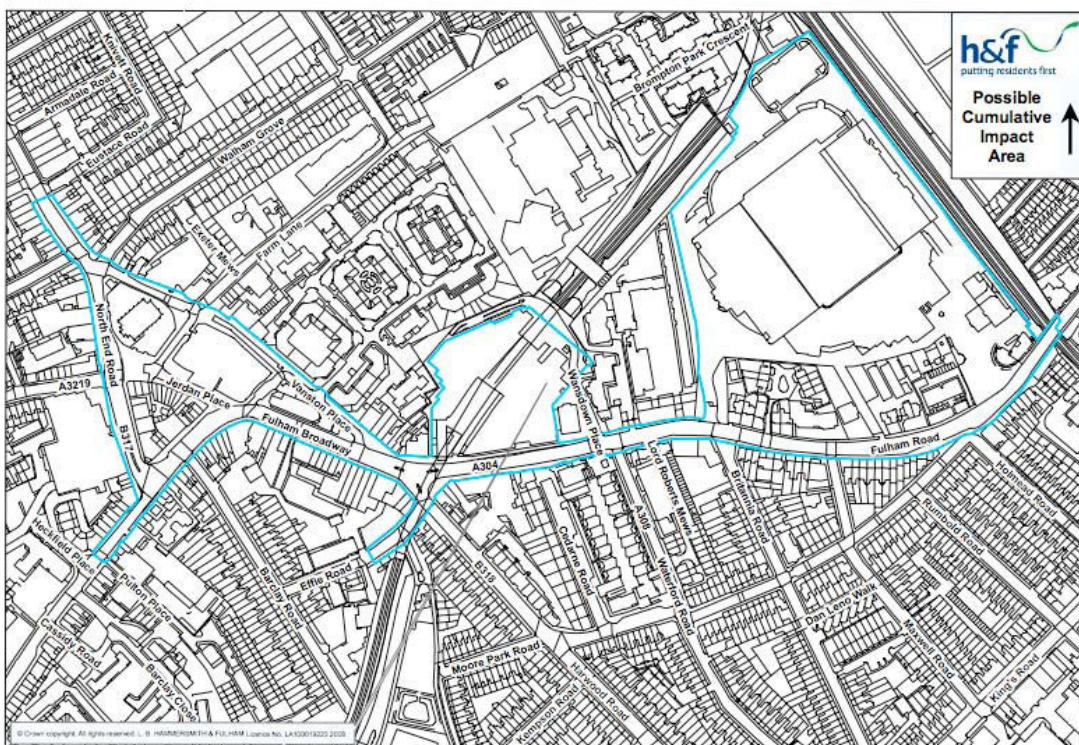
1 The Council has decided to introduce a special policy relating to cumulative impact as provided by the Secretary of State in the Guidance issued under section 182 of the Licensing Act 2003 (paragraphs 13.24 to 13.39) and the Council's own Statement of Licensing policy dated November 2007 at paragraph 4.3 to the Fulham Town Centre Area (being the shaded area and all premises which have a principal form of access onto the shaded area as shown on the plan.

2 "Cumulative impact" means the potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area.

3 The Fulham Town Centre Area has been identified as being adversely affected in terms of the Licensing Objectives because of the cumulative impact of the concentration of drink led premises. There is evidence that the cumulative impact includes serious problems of crime, disorder and public nuisance. Having regard to the evidence, the Licensing Authority has been satisfied that it is appropriate and necessary to include an approach to cumulative impact. The evidence for this special policy may be viewed on request at the Council Offices.

4 Applications for new premises licences, club premises certificates or any variations within the Fulham Town Centre Area that are likely to add to the existing cumulative impact will normally be refused where a relevant representation has been made, unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the Licensing Objectives. Accordingly, the presumption of refusal in this policy is not absolute and the circumstances of each application will be considered where a relevant representation has been made.

5 The presumption of refusal does not relieve responsible authorities or interested parties of the need to make a relevant representation. Applicants will need to address the special policy issues in their operating schedules. If there are no representations the Licensing Authority must grant the application in terms consistent with the operating schedule submitted.



6. The cumulative impact policy will be kept under review by the Licensing Authority.

7. The geographical boundary of the proposed area

**Figure 1. Proposed Cumulative Impact Area (CIP).**



# 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 Licensing Authority'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 (DPS)

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

Section 13 of the Licensing Act 2003 defines 'interested party' and 'responsible authority'. Interested parties are defined as:

- a person living in the vicinity of the premises
- a body representing persons who live in that vicinity
- a person involved in a business in that vicinity
- a body representing persons involved in such businesses
- Elected Members of the Licensing Authority (local Councillors)

## 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 Licensing Authority 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 (objection) 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 four 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 Licensing Authority 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 details

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 Authority

Public Protection and Safety Division

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)



# **STATEMENT OF LICENSING POLICY**

**January 2011  
(revised July 2012)**

London Borough of Hammersmith &  
Fulham statement of licensing policy  
Issued 7<sup>th</sup> January 2011 – revised July 2012

This policy has been prepared in accordance  
with guidance issued under the latest  
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 Licensing Authority will have regard to this policy when carrying out its functions under the Licensing Act 2003.

1.2 The Licensing Act 2003 requires the Licensing Authority to publish this statement of licensing policy. This policy will be used as a guide in decision making with regard to licensing matters.

1.3 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; and
- The protection of children from harm.

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

1.4 The Licensing Authority 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.

1.5 Our licensing policy is designed to build upon the work presently carried out by the Licensing Authority 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 Licensing Authority has had regard to the local strategies which have been developed for the borough, its residents, businesses, workers and visitors. The Licensing Authority 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.

1.6 The Licensing Authority will seek to implement the policy in a positive and inclusive way for the whole community.

1.7 The council's vision of the improvements it wishes to secure in the local quality of life comes under it's objectives of:

- Putting Residents First
- Delivering value for money
- Cracking down on crime and antisocial behaviour
- A borough of opportunity
- A cleaner greener borough



- 1.8 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 are associated with any crime or disorder, threaten public safety, generate public nuisance or threaten the well being of our children will be targeted for enforcement action.
- 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 Through this policy the Licensing Authority 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. 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 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 Licensing Authority 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.
- 1.12 Green spaces have been protected and extended throughout the 1990s to improve the local quality of life. The borough is home to one of Europe's largest shopping centres, Westfield, three major football clubs; Chelsea, Fulham and Queens Park Rangers, national exhibition centres; Olympia and Earls Court 2 and one of London's major live entertainment venues, the HMV Hammersmith Apollo.
- 1.13 The Licensing Act requires the Licensing Authority to review the licensing policy every **five** 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 makes this Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.
- 2.2 This policy statement has amongst other things, five main purposes, which are:
- **To inform Members** of the Licensing Committee of powers of the Licensing Authority and the boundaries within which to make decisions.
  - **To inform licence applicants** of the parameters within which the Licensing Authority will make licensing decisions and how licensed premises are likely to be able to operate within the borough.

- **To inform local residents and businesses** of the considerations which the Licensing Authority will take when making licensing decisions.
- **To inform Responsible Authorities** of their powers under the Licensing Act 2003 to promote the four Licensing Objectives.

2.3 The policy relates to the following activities (known as licensable activities) that are required to be licensed under the act:

- a. 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;
- b. The supply of alcohol to members of club premises;
- c. 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
  - performances of dance
  - the provision of facilities for making music and provision of dance facilities (and anything of a similar description);
- d. The licensing of activities on a temporary basis, TENs (temporary event notices); and
- e. The provision of late night refreshment i.e. supply of hot food or hot drink from premises, anytime between 11pm and 5am.

2.4 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. TENs may be issued for licensable activities involving no more than 499 people & lasting no more than 168 hours (7 days). References to licences in this document include certificates, TENs or other permissions under the act.

2.5 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 and / or Temporary Event Notifications will be focused on matters that are within the control of individual licensees.

Accordingly, conditions will centre on the premises and on the vicinity of those premises. What is in the vicinity will depend on the facts of each individual case. But the Licensing Authority 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.

2.6 Every application made to the Licensing Authority 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.

2.7 The Licensing Authority 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.homeoffice.gov.uk](http://www.homeoffice.gov.uk)). Where it is necessary to depart from that guidance, the Licensing Authority will give its reasons for doing so.

- 2.8 Additionally in formulating this policy document the Licensing Authority has had regard to the provisions of the European Convention on Human Rights, the Equality Act 2010 and has also taken into account the provisions of the Crime and Disorder Act 1998.
- 2.9 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.
- 2.10 Nothing in this policy will undermine any person from applying for a variety of permissions under the act.
- 2.11 The Policy has been drawn up in consultation with a number of bodies and organisations, including:
- 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 licences 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;
  - London Underground;
  - Neighbouring authorities;
  - British Institute of Inn keeping;
  - Chamber of Commerce;
  - Drug and alcohol action team;
  - Crime and Disorder Reduction Partnership; and
  - Trade unions;
- 2.12 This revised policy comes into force on the 4<sup>th</sup> July 2012.
- 2.13 This policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers.

### **3 Fundamental principles**

- 3.1 In carrying out its licensing functions, the Licensing Authority 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 Licensing Authority will use its full range of powers and engage all relevant responsible authorities including those relating to planning, transport, crime and disorder. Accordingly, the Licensing 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 Licensing Authority 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 The Licensing Act 2003 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 Licensing Authority and the police to work closely to protect residents from disturbance.
- 3.5 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 Licensing Authority, 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.
- 3.6 Responsible Authorities or other persons may view applications for Club Premises Certificates and Premises Licences, and may make representations to the Licensing Authority where they believe the application undermines one or more of the Licensing Objectives. (see Glossary of terms for other persons and Responsible Authority definitions)
- 3.7 All relevant representations will be considered during the decision making process, unless they are considered to be frivolous, vexatious or repetitious. All representations must be made to the Licensing Authority. Only written representations sent by e-mail, post or hand delivered will be accepted, however, where circumstances prevent this, the Licensing Authority shall consider any other forms of representation on a case by case basis.
- 3.8 If relevant representations are received by the Licensing Authority, the application will be determined by a Licensing Panel consisting of a sub committee of Councillors of the Licensing Committee. Where no relevant representation has been made applications will be granted by licensing officers under delegated powers. In making decisions on licence applications, the Licensing Panel must have regard to the Licensing Act 2003 and relevant Regulations, the Guidance published by the Home Office under s.182 of the Licensing Act 2003, and this Statement of Licensing Policy.
- 3.9 Applicants should also have regard to these documents when preparing their application
- 3.10 Where relevant representations have been received by the Council, conditions attached to licences , certificates and / or Temporary Event Notices will be tailored to the individual style and characteristics of the premises and events concerned, and they will relate to the licensing objectives and be restricted to matters within the control of individual licence holders.
- 3.11 In making decisions on licensing applications and in imposing conditions, the Licensing Authority 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 relating to the four Licensing Objectives.

## 4 Licence Conditions

Schedule 4 of the Policing and Crime Act 2009 amended the Licensing Act 2003 to give the Secretary of State the power to impose new mandatory licensing conditions in relation to the supply of alcohol under licence.

These new mandatory licensing conditions apply to all existing and future premises licences which authorise the supply of alcohol, and these conditions override any conditions already included in a premises licence or club premises certificate, so far as they are identical to the existing conditions or inconsistent with, and more onerous than, the existing conditions. The new conditions will apply to every licence and certificate authorising the sale and supply of alcohol from the point they come into force.

### Mandatory Conditions

4.1 The original mandatory conditions are listed at Annex 1.

New mandatory conditions have been introduced for all existing and future Premises Licences and Club Premises Certificates authorising the sale and supply of alcohol, see Annex 2 for details.

The new conditions:

- Ban irresponsible drink promotions;
- Ban the dispensing of alcohol directly into the mouth; and
- Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.
- Require an age verification policy to be in place to prevent underage sales; and
- Ensure that customers have the opportunity to choose small measures of beers, ciders, spirits and wine.

### Local Pool of Conditions

4.2 Appropriate and proportionate conditions, which relate to the Licensing Objectives will be drawn in particular circumstances from the National Pool of Conditions, issued by the Home Office. Further information regarding these conditions can be found at [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). This does not preclude the Licensing Authority from attaching other conditions for the promotion of the four licensing objectives.

The Licensing Authority has its own local pool of conditions (see Annex 3 for details) that it will apply to premises, as appropriate, for the promotion of the licensing objectives. Applicants should consider the National Pool and local pool of conditions and incorporate them into their operating schedules, as they consider appropriate, to promote each of the Licensing Objectives.

### Football Conditions

4.3 The Licensing Authority acknowledges that it is unique in the fact that it has 3 major football clubs within its boundaries. Given the size of our borough and the raised level of risk of crime and disorder occurring on match days any premises in the vicinity of our football grounds will be expected to robustly deal with this area in their operating schedule.

4.4 Where a relevant representation is made in respect of an application made by a licence holder, by the Police or another Responsible Authority the Licensing Authority may apply enhanced “match day” conditions to assure the Licensing Objectives are met. This may include but is not limited to the following conditions:

- Restriction of hours in the run up to and after ‘Kick Off’
- Restriction of sales of alcohol in glass bottles or the use of glass for any drinks on match days
- Conditions for premises to robustly control the spillage of customers onto the highway through overcrowding to prevent their customers from drinking or taking alcohol out onto the street outside the premises on match days
- The ability for the Police or Licensing Authority to require the premises to close on grounds of Public Safety if required
- Having door supervisors on duty
- Having a Designated Premise Supervisor/Personal Licence Holder on the premises
- Using display cabinets with shutters for alcohol

4.5 The Licensing Authority acknowledges that off licences can also play a major part in the overall impact on the crime and disorder objective and as such would seek to ensure these conditions are also mirrored as required on off licences identified by the Police and Licensing Authority as having a potential impact. The Police and Licensing Authority are especially keen to control the sale of glass bottles on match days and as such may require that no bottles are sold on match days.

4.6 It has also been the experience of the Licensing Authority that at times it may be required to completely close ‘off’ and ‘on’ licensed premises depending on the information received by the Football Intelligence Unit. In order to ensure this can be effectively controlled the Licensing Authority and the Football unit will liaise with premises at the earliest opportunity in order to discuss closure. Informal cooperation will always be preferred however where formal closure under Section 161 is required, this may lead to a review of that premises licence and the potential for additional conditions to be imposed.

4.7 Licence holders will be required to ensure that they and their staff comply at all times with all conditions attached to their licence.

## 5 Licensing hours

5.1 Where there is a relevant representation, the Licensing Authority 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 a negative impact on the Licensing Objectives relating to 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 Licensing Authority will normally require that customers should be allowed a minimum of thirty minutes to consume alcohol. For example where the supply of alcohol on the premise is permitted to 11pm, and the opening hours of the premise are until 12 midnight, the drinking up time would be between 11pm to 12 midnight.

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 Licensing Authority 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 Licensing Authority 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, issues in relation to public nuisance and disorder issues in the vicinity of this type of premises, the Licensing Authority may restrict the hours of sale of alcohol.

## **6. Cumulative Impact**

6.1 In determining an application, where there has been a relevant representation, the Licensing Authority will, where appropriate, take into account the cumulative (collective) effect of the number, type and density of licensed premises already existing in the area. A saturation of licensed premises can attract customers to an area to such a degree, that it has an adverse impact on the surrounding area beyond the control of individual licence holders.

6.2 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 four Licensing Objectives would be refused.

- 6.3 In 2009 the Licensing Authority identified Fulham Broadway as an area where the number, type and density of premises providing licensable activities after 11pm was having a serious negative impact on the local community and local amenities. In order to ensure that residents are protected from the negative impact of late night local licensing activities, the Licensing Authority has adopted a special policy. This policy is set out in Annex 4 and will be applicable to all applications where relevant representations are made in that area, except applications for Personal Licences. The special policy will be reviewed regularly to assess whether it is still needed or should be expanded or amended.
- 6.4 In 2011 the Licensing Authority also identified Shepherd's Bush as an area which was suffering adversely from the concentration of a number of licensed premises in a specified area. After an extensive evidence gathering process a new policy was approved by full council in June 2011. The Policy is set out in Annex 5. This policy is also only applicable where relevant representations are made in the area specified.
- 6.5 The absence of a special policy in other areas does not prevent any Responsible Authority or other persons from making representations on the grounds that the premises will give rise to a negative cumulative impact in the area in question, on one or more of the four Licensing Objectives.
- 6.6 Where there is sufficient evidence that another particular area has reached a point where existing licensing activity is at such levels that if by granting a licence, it would contribute to the negative impact in the area, the council may adopt a special policy in relation to that area.
- 6.7 If any further special policies were adopted it would not be absolute and each application would still have to be considered on its own merits.
- 6.8 In coming to any decision regarding cumulative impact the Licensing Authority 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, a local resident, business or Councillor to seek a review of the licence or certificate in question.

## **7 Promotion of other strategies**

- 7.1 The Licensing Authority will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing. Only appropriate, 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.

- 7.2 Arrangements have been made for licensing committees to receive, when appropriate, reports on the needs of the local tourist economy.
- 7.3 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.
- 7.4 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.
- 7.5 The Equalities Act 2010 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 groups. The council has an Equal Opportunities Policy and this revised Statement of Licensing Policy will be monitored for any adverse impact on the promotion of opportunities for all.
- 7.6 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:
- Public Protection and Safety Division's Enforcement Policy;
  - Crime and Disorder Reduction strategy;
  - Licensing strategy
  - National Alcohol 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 (Note LACORS is now Local Government Regulation – LGR)
  - Health Act 2006
  - Violent Crime Reduction Act 2006
  - Clean Neighbourhoods and Environment Act 2005

## 8 Prevention of crime and disorder

- 8.1 The Licensing Authority will require the applicant to detail in their operating schedule 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. Please refer to Section 15 – Operating Schedule.
- 8.2 The Licensing Authority 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.

- 8.3 The Licensing Authority is aware of the link between the supply of discounted alcohol and incidents of alcohol related disorder as well as the impact that excessive consumption of alcohol or binge drinking can have on public health and will consider whether any measures or restrictions can be placed on alcohol sales to prevent binge drinking and promote 'sensible drinking'. See Annex 2.
- 8.4 The Licensing Authority will use the powers contained within the Licensing Act to ensure operators' promotional activities do not undermine the Licensing Objectives. Where alcoholic drinks are heavily or extensively discounted, or there are other forms of promotion such as 'two for one' or 'drink all you can' offers, this is likely to encourage excessive consumption or binge drinking and result in alcohol fuelled incidents of crime and disorder and implications for public safety, public nuisance and may expose children to risk of harm. See Annex 2.
- 8.5 Any premises found to be participating in heavily discounted and irresponsible alcohol drinks promotions will be considered as high risk premises for multi-agency compliance and enforcement visits. See Annex 2.
- 8.6 The responsible authorities have stated that where evidence shows that a premises' alcohol drinks promotions are undermining one or more of the Licensing Objectives, then they may instigate a review of the licence.
- 8.7 Off Licences, shops, supermarkets and stores selling alcohol for consumption off the premises potentially have a high risk of crime and disorder as well as being targeted as an easy premises from where to acquire alcohol. Such premises can contribute to anti social behaviour and disorder through the consumption of alcohol on the street and in open spaces by groups of drinkers, through the sale of alcohol to children, and through the sale of alcohol to street drinkers and persons who are already drunk.
- 8.8 The Licensing Authority expects off licences to show particular diligence in areas where these problems are prevalent, and to strictly monitor the way they sell alcohol where the premises are located close to schools and hostels and similar premises that provide shelter or services to alcohol dependent persons.
- 8.9 It is important that staff working at off licences are suitably trained in the Licensing Act 2003 and can discharge their duties in full compliance with the licence conditions and requirements of the Act. This includes the ability to competently check a customer's age with acceptable forms of identification where necessary. The Licensing Authority will particularly consider the following matters where they are material to the individual application:
- The likelihood of any violence, public order or policing problem if the licence is granted;
  - 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, where and to the extent that these matters are within their control, for example the use of Security Industry Authority registered door supervisors to control customers on the pavement or in a beer garden, as a result of the smoking ban,.
  - Past conduct and prior history of complaints proved against the premises;
  - Whether a dispersal policy has been prepared to minimise the potential for disorder as customers leave the premises; and
  - Any relevant representations.

- 8.10 If there are concerns about illegal drugs, 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 Licensing Authority and the police on the handling of illegal drugs found on their premises.
- 8.11 If there are concerns about weapons, applicants must show that they can comply with the control of weapons on their premises. They should agree a protocol with the Licensing Authority and the police on the handling of weapons found on their premises.
- 8.12 Conditions will, so far as possible, reflect local crime prevention strategies, and the Licensing Authority will also have regard to the views of the local Crime and Disorder Reduction Partnership.
- 8.13 Police powers to deal with any disorder have been strengthened and they have a key role to play in the prevention of crime and disorder on licensed premises.
- 8.14 The Police and the Licensing Authority will need to work closely together in order to ensure that this important objective of the Act is fulfilled by any applicants. As a result the Licensing Authority and the Police will sign up to a Memorandum of Understanding. This document will provide an outline of how the Licensing Authority will liaise, communicate and work to ensure full and proper consultation and effective joint working with this key responsible authority.
- 8.15 It is recommended that applicants discuss the crime prevention procedures in their premises with the Licensing Authority 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.

## **9 Public safety**

- 9.1 The Licensing Authority 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. Please refer to Section 15 – Operating Schedule
- 9.2 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 Licensing Authority will not normally include a limit as a licence condition.
- 9.3 The Regulatory Reform (Fire Safety) Order 2005 ('the Fire Safety Order') now means that any conditions imposed by the Licensing Authority that relate to any fire safety requirements or prohibitions that are or could be imposed by the Order automatically cease to have effect.
- 9.4 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.

9.5 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 may 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

9.6 The Licensing Authority 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;
- Measures to protect against overcrowding; and
- Consideration of the needs of disabled people and appropriate provisions.

## 10 The prevention of nuisance

10.1 The Licensing Authority 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 Licensing Authority will not permit an extension unless it is satisfied that the Licensing Objectives would be met. Please refer to Section 15 – Operating Schedule

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

10.3 The Licensing Authority will particularly consider the following matters where they are material to the individual application:

- One of the most common complaints the Licensing Authority receive is about nuisance caused by customers as they leave licensed premises at night. The Licensing Authority recommends that primarily alcohol led premises such as nightclubs and pubs, located close to any residential premises, implement a dispersal policy at their venue. All relevant staff should be trained on any policy, and all reasonable steps should be taken to ensure it is adhered to. Further guidance on

dispersal policies can also be found on the NOCTIS website at [www.noctisuk.org/](http://www.noctisuk.org/)

- The proximity of residential accommodation;
- The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity;
- 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;
- 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 late at night and/or in the early hours of the morning. However nuisance can arise at any time of the day or night so the Licensing Authority will consider representations from Responsible Authorities and/or Interested Parties relating to potential nuisance from any activity at all times dependant on the merits of the application/steps taken or proposed to prevent nuisance.
- Limiting the number of people permitted to use a garden/other open-air areas, including those for the use of smoking, at any one time.
- Restricting the use of a garden/other open-air areas, including those for the use of smoking, after a particular time e.g. 11:00pm (or such earlier time as may be considered appropriate).
- 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;
- The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;
- The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
- The provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- The level of likely disturbance from associated vehicular and pedestrian movement to and from the premises;
- The delivery and collection areas and delivery/collection times;
- The siting of external lighting, including security lighting that is installed inappropriately;
- The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees;
- The history of the applicant in controlling anti-social behaviour and preventing nuisance;
- The generation of odour, e.g. from the preparation of food;
- Any other relevant activity likely to give rise to nuisance;
- Any representations made by the Police, or other relevant agency or representative;
- Whether a dispersal policy has been prepared to minimise the potential for disturbance as customers leave the premises.

## **11 Protection of children from harm**

- 11.1 The Licensing Authority will require operating plans to specify the measures and management controls in place to protect children from harm. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff. Please refer to Section 15 – Operating Schedule

11.2 The legislation recognises the right of licence holders (serving alcohol) to allow accompanied children into their premises at any time. The Licensing Authority 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:

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

11.3 The Licensing Authority will particularly consider if:

- There is entertainment or services of an adult nature commonly provided;
- There have been convictions, Fixed Penalty Notices (FPNs) or cautions for serving alcohol to minors or premises with a reputation for under-age drinking;
- There is a known association with drug taking or dealing;
- There is a significant element of gambling on the premises;
- There is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held);
- 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;
- There have been representations from police, the Local Safeguarding Children Board, Trading Standards or other relevant agency or representative.

11.4 The sale of alcohol to a minor is a criminal offence and Trading Standards will conduct appropriate covert test purchasing exercises and will take account of any complaints and intelligence. The Licensing Act 2003 permits the use of children under the age of 18 to undertake test purchases.

11.5 Where a sale of alcohol has been made on the same premises, to a minor on two or more different occasions within three months the premises licence could be suspended for a defined period.

11.6 Where there are restrictions (whether imposed by statute or by the Licensing Authority) 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. See Annex 2.

11.7 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.

11.8 The Licensing Authority 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. See Annex 2.

- 11.9 The Licensing Authority 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 Licensing Authority 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.
- 11.10 There may be occasions where a display of film is required and needs to be classified by the Licensing Authority or the need for a classification needs to be waived. In this case applicants must apply to the Licensing Authority for this to be carried out.
- 11.11 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.
- 11.12 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.

## 12 Premises licences

- 12.1 An application for a premises licence must be made in the prescribed form to this Licensing 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.
- 12.2 Please note the fee for a premises licence is payable annually on the anniversary of the granting of the application. Non payment of this fee will be treated by the Licensing Authority as a serious matter and could result in the suspension of the licence.
- 12.3 Officers will determine on a case-by-case basis which premises require an inspection, and will arrange for such inspection.
- 12.4 The Licensing Authority will proactively monitor licensable activity within the borough and carry out a programme of risk based inspections.

## 13 Variations to existing premise licences

- 13.1 Where a premise licence requires a *material* change to the licence a variation application should be made. This would include an increase in the capacity of the premises, a change in the hours of operation of the premises, a 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 licence. The procedure is similar to the process for a new application, in that it will require a 28 day consultation period and a site notice to be displayed.
- 13.2 The Licensing Act was amended to include the ability of premises licence and certificate holders to apply to vary their existing licence for a *minor* variation.
- 13.3 A minor variation application may not be used to vary the licence to:
- vary substantially the premises
  - vary the Designated Premise Supervisor
  - authorise the sale by retail of alcohol
  - authorise the supply of alcohol at any time between 11 pm and 7 am
  - authorise an increase in the amount of time on any day during which alcohol may be sold by retail
- 13.4 There are 4 main types of variation suitable for the minor variation application:
- Minor changes to the structure or layout of a premises
  - Small adjustments to licensing hours (except for the sale/supply of alcohol)
  - Removal of out of date, irrelevant or unenforceable conditions and volunteered conditions
  - Licensable activities: adding/removing certain licensable activities, including live music
- 13.5 Applications are made to the Licensing Authority on prescribed forms. The application must be advertised on a **white A4 notice** at the premises, and contain basic details such as a brief description of the proposed variation; name of the applicant or club; address of the premises; and date by which any other persons may make representations. There is no requirement for the applicant to advertise the application in a local newspaper. Applicants can volunteer conditions as part of the minor variations process, whether from their own risk assessment of the variation, or from informal discussions with the responsible authorities or the Licensing Authority.
- 13.6 There are no hearings under the minor variation process. The application will be determined by licensing officers under the Delegated Authority powers of the Council.
- 13.7 There is no requirement for applicants to notify responsible authorities of their application. Responsible authorities only become involved at the request of the licensing officer. The guidance states that licensing officers “must consult relevant responsible authorities if there is any doubt about the impact of the variation on the Licensing Objectives and they need specialist advice, and take their views into account in reaching a decision.” The guidance also states “in many cases the Licensing Authority may be able to make a decision without consultation”.
- 13.8 Other persons may make representations based on the Licensing Objectives. Representations do **not** trigger a hearing under the minor variations process, but the guidance states that licensing authorities must take any representations into account in arriving at a decision.



- 13.9 The timescale set out in the legislation is 15 **working** days. Day one is the first working day after the day the Licensing Authority receives the application. The Licensing Authority must then process the application and determine it within 15 working days.
- 13.10 If the Licensing Authority fails to determine the application within 15 working days, the application is deemed refused, and the fee must be returned to the applicant.
- 13.11 The first 10 working days of the 15 working day period constitute a consultation period in which other persons may make representations to the Licensing Authority. During this period officers may consider the application and may consult relevant responsible authorities. A determination of the application cannot be made during the 10 working day period; a decision on the application must be made during the remaining 5 working days.
- 13.12 The key test by the Licensing Authority is whether the proposed variation could impact adversely on any of the four Licensing Objectives.” Licensing officers have no power to impose conditions; only conditions volunteered by the applicant can be added to the licence under the minor variations procedure. The determination must be to grant or to refuse an application. There are notice requirements following determined applications.
- 13.13 **Granted applications:** the Licensing Authority must notify the applicant of any variation granted, together with the time that the variation will take effect. This will usually be as stipulated in the application, but if the applicant stipulates a date before the notice of determination is given, the Licensing Authority will specify a later time in the notice.
- 13.14 **Refused applications:** the Licensing Authority must give notice to the applicant that the application has been refused, together with the reasons for the refusal. Applications that have been rejected under the minor variations process can then be the subject of a full variation application or of a revised minor variations application. The minor variations refusal does not affect any subsequent variation application in respect of the same premises. Licences and summaries will be re-issued on the grant of a minor variation to reflect the changes made.

## 14 Planning Permission

- 14.1 The local planning authority exercises its powers to control opening times of all new establishments seeking planning permission, where harm would otherwise arise.
- 14.2 Applications for premises licenses should normally relate to premises with an existing lawful use for the activities proposed.
- 14.3 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.
- 14.4 The council's Planning Policies are currently set out in its Unitary Development Plan (UDP) 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 the Planning Division on 020 8753 1084.

- 14.5 The strength of these policies is that there is an obligation both on the council, as the 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.
- 14.6 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.
- 14.7 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 the revised planning permission or a variation or removal of the relevant planning condition.
- 14.8 In general, the planning position should be resolved before a licence application is made. The Licensing Authority may refuse to grant a licence if the:
- Activity to be authorised would amount to an unlawful use of the premises;
  - Hours being sought exceed those authorised by any planning permission.
- 14.9 The Licensing Authority may nonetheless determine a licence application without evidence of a lawful planning use where the applicant satisfactorily demonstrates special reason justifying such an approach.
- 14.10 The Licensing Act states that any authorisation for the supply of alcohol in relation to a petrol station will have no effect if the premise is used primarily as a garage. It is for the Licensing Authority to decide in the light of the facts whether or not any premises is used primarily as a garage. The Licensing Authority will establish primary use based on an examination of the intensity of use by customers of the premises and not based on an examination of gross or net turnover.
- 14.11 All applicants are encouraged to obtain the correct planning permission. Further information and advice can be obtained from the Planning Portal at <http://www.planningportal.gov.uk/>, where applicants can also download an application form. In order for applications to be carefully considered it is useful to include a description of the current use of the premises and whether there will be a change of use. E.g. It is currently being used as a take-away and will be changing to a restaurant. Please note that operating a licence without the relevant planning permission could be a breach of planning control and could leave licence holders vulnerable to enforcement action.

## 15 Operating schedules

- 15.1 Operating schedules for premises licences are the key to ensuring compliance with the four Licensing Objectives. The measures proposed in the operating schedule will normally be converted into conditions to be attached to the premises licence and should therefore fulfil the following criteria :

- i) Be precise and enforceable
- ii) Be unambiguous
- iii) Not duplicate other statutory provisions
- iv) Be clear in what they intend to achieve, and
- v) Be appropriate, proportionate and justifiable

- 15.2 Prospective holders of new premises licences, and those seeking variations to existing premises licences are advised to consult with the Licensing Authority and the various responsible authorities at the earliest possible stage in order to reduce the risk of any dispute arising.
- 15.3 The Licensing Authority will seek to impose conditions appropriate to promote the Licensing Objectives. For those premises, which present the lowest risk to public safety and the other Licensing Objectives, the Licensing Authority will adopt a light touch approach to regulation.
- 15.4 Operators of licensed premises will have to comply with planning, environmental health, trading standards, fire safety, licensing and building control legislation when opening or adapting licensed premises. The Licensing Authority 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.
- 15.5 During the course of its inspections, the Licensing Authority may refer matters to any other agency where there appears to be a contravention of the legislation enforced by that agency.
- 15.6 The Licensing Authority considers that it would be beneficial if operating schedules include all the following:

#### **GENERAL**

- 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);
- A description of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to area where children may congregate;
- Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.
- 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 appropriate, details of the accessibility of the premises for disabled people. The Licensing Authority 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;

## LICENSABLE ACTIVITIES

### 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; except in some Community Premises (**see Designated Premises Supervisors in Community Premises at section 19**)
- whether the alcohol will be supplied for consumption on or off the premises or both;
- details of what seating arrangements will be provided and where;
- When completing operating schedules and in their management of premises, applicants should consider guidance documents on the responsible promotion of alcohol and on binge drinking, such as the British Beer and Pub Association’s document – Point of Sales Promotion Standards for the Management of Responsible Drinks Promotions including happy hours, which is also available via the [www.beerandpub.com](http://www.beerandpub.com) website. Refer to Annex 2.

For sales of alcohol for consumption off the premises – applicants in respect of off licences and other premises selling alcohol for consumption off the premises may need to consider whether:

- there are shutters to prevent alcohol from being selected in non-licensed periods.
- there are appropriate numbers of staff on duty to deal with possible ‘intimidation’ to sell alcohol.
- there are restrictions required on the sale of low price, high strength alcohol and drink promotions.
- an incident log book is available to record incidents.
- there are measures necessary to prevent underage sales. (See Annex 2)
- there are measures necessary to prevent alcohol from being sold outside permitted hours where the operating hours of the premises exceed those for the sale of alcohol.
- there are procedures in place to prevent sales of alcohol to intoxicated persons (with particular attention to street drinkers) or individuals leaving premises in the vicinity such as a late night bar; where there is evidence to suggest this is a problem the Licensing Authority may require a temporary cessation of alcohol sales during high risk times.

### Where the licensable activities include dance:

- a description of the type of dancing in broad terms, such as if dancing will be done by professionals or if it will be for members of the public, where it will take place on the premises, if the dancing involves striptease or lap dancing;

## LICENSING OBJECTIVES

- 15.7 The Licensing Authority will robustly examine any application and its operating schedule to ensure premises do not impact negatively in the community measuring against the four Licensing

Objectives. The Licensing Authority will consider the steps which the applicant proposes to take to promote the Objectives. The Licensing Authority will use further conditions where they are not satisfied an operating schedule is sufficient to control these potential issues. The following provides a non-exhaustive list of measures/issues that the Licensing Authority considers may be relevant to licence applications:

### **The prevention of crime and disorder**

15.8 The following provides a non-exhaustive list of risks associated with the crime and disorder objective that applicants may want to consider when preparing their Operating Schedule:

- **Crime and disorder in the vicinity of the premises** : this may include the crime and disorder risks arising from persons queuing to enter the premises; persons exiting the premises and customers smoking eating or drinking in outdoor areas and on the highway outside the premises. This can also include crime arising from pickpockets and bag snatchers, particularly in open spaces or crowded areas where alcohol is being consumed.
- **alternative to glass bottles and glasses** - restricting the use of glass bottles and beer glasses to customers in preference for containers made from polycarbonate materials.
- **CCTV** - using CCTV inside and/or outside the premises together with appropriate procedures and having staff properly trained to use CCTV equipment.
- **dispersal procedures** - establishing appropriate dispersal procedures to minimise the potential for crime and disorder when customers are leaving the premises
- **dealing with and reporting crime and disorder** - training for staff and door security aimed at reducing crime and disorder in the premises and its vicinity and dealing with and reporting incidents if they occur.
- **door staff** - considering whether the premises employs a sufficient number of SIA registered door staff, whether Door Premises Supervisors check the legitimacy of the badges and whether SIA staff display their badges prominently. (Note: All door supervisors must be Security Industry Authority (SIA) registered). See Annex 1.
- **drugs and weapons** - ensuring compliance with relevant guidance regarding illegal drugs and weapons. Attention should be paid to search procedures, procedures for the safe storage and surrender of seized drugs and weapons and drug awareness issues, designing out the ability to take drugs in the premises, etc.
- **excessive drinking** - training for staff to recognise when customers are becoming drunk and adopting appropriate 'cut off' procedures for drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.
- **local schemes** – joining and attending local Pubwatch meetings and participating in the Behave or Be Banned Scheme (BOBB) and/or signing up and using the Council's Safety Net Radio scheme.
- **prevention of theft** - using bag hooks and signage to warn customers of pickpockets and bag snatchers.

- **Event type** - in some cases the type of regulated entertainment proposed could attract elements which increase the possibility of violence and/or disorder occurring in, or in the vicinity of, the premises. For example, some externally promoted live music events carry an increased risk of violent crime and disorder. It may be appropriate to carry out a risk assessment of the activities proposed and, in some cases, to provide such risk assessment to the Events Team at Fulham Police and or the Clubs and Vice Unit of the Metropolitan Police before the event is agreed.

### Public safety

15.9 The following provides a non-exhaustive list of risks associated with the public safety objective that applicants may want to consider when preparing their Operating Schedule:

- **special effects** - 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.
- **incident and occurrence book** – keeping an incident book on the premises so staff can record any instances of crime, disorder, refused sales, ejections and intimidating behaviour.
- **risks associated with special promotions/events** – ensuring compliance with guidance from the Metropolitan Police relating to specific event risk assessments for externally promoted live music events well in advance of the event. Risk assessment forms can be obtained from the Metropolitan Police Licensing Officer.
- **getting home safely** - providing information to customers and staff (including contact telephone numbers) regarding safer options available for travelling home late at night - including night buses, licensed taxis and private hire (mini-cabs).
- **overcrowding** - developing policies and procedures regarding capacity to prevent overcrowding and patrons possibly becoming aggressive.
- **premises environment** - applicants should consider the physical environment of the premises and have regard to issues that could increase the likelihood of patrons becoming agitated or aggressive. This may include procedures regarding door supervision, identification and management of drunken customers and issues of overcrowding and capacity, which may result in patrons becoming aggressive or rowdy.

### The prevention of public nuisance

15.10 The following provides a non-exhaustive list of risks associated with the public nuisance objective that applicants may want to consider when preparing their Operating Schedule:

- **Deliveries/collections** – noise from deliveries to and/or collections (e.g. refuse) from the premises are another common source of complaint. Consider therefore the times of such deliveries/collections and make sure you specify to any contractors that deliveries/collections should not be made at anti-social times. As a guide, the Environmental Protection Team recommend that deliveries/collections should only be done between the hours of 8:00am and 8:00pm, depending on the proximity of residential and/or other noise-sensitive properties.

- **Drink promotions** – adopting policies to discourage excessive drinking such as happy hours, buy one get one free, etc. See Annex 2.
- **Late night refreshment** - applicants in respect of late night takeaways should demonstrate that they have assessed the risk of persons congregating in large numbers in the vicinity of their premises. Where appropriate, applicants should demonstrate suitable measures to address this problem.
- **Light pollution** – this is an increasingly common source of complaint, particularly from illuminated signs and external security lighting. Where provided, illuminated signs should not cause glare to neighbouring properties, ideally being turned off at night, and external lighting should be angled and/or diffused to also prevent nuisance.
- **Noise and/or vibration breakout from the provision of regulated entertainment, particularly from (but not limited to) live music** – consider what type of entertainment is to be provided, in what room/area of the premises and the suitability of the construction of this room/area to contain sound. Windows are a particular weak-point for noise break-out so consider providing regulated entertainment in a room without windows or with as few windows as possible, particularly windows that face towards nearby residential properties.
- **Odour** – odour from cooking is a common source of complaint, particularly from restaurants and fast-food takeaways. The Councils Environmental Protection Team may therefore require evidence that the kitchen ventilation and/or extract systems are regularly maintained and serviced to ensure that it is operating efficiently and with minimal nuisance to neighbours arising from odour and also noise. This includes the siting of BBQs.
- **Queue management** - establishing appropriate procedures to avoid the need for customers to queue before entering the premises or, where queuing cannot be avoided, to manage queues so as to minimise the potential for crime and disorder or public nuisance by customers who are queuing.
- **Ventilation** – where regulated entertainment is to be provided there may be a requirement to keep doors and/or windows closed during its provision to limit noise breakout, consider therefore the provision of air conditioning for the comfort of your customers if doors and windows have to be closed during the summer. However, also note air conditioning can be the source of noise complaints in itself, so careful consideration also needs to be given to the siting of this equipment.
- **Waste** – consider how and where waste will be stored/disposed of at the end of trading hours, particularly if trading until late at night. This is important because the disposal of glass and/or cans to outside bin areas can be very noisy and give rise to complaints, so it may be necessary to store such items and other non-degradable refuse inside the premises until the next trading day.

Commercial waste can also be taken directly to one of the council's approved waste transfer sites. Alternatively there are several licensed waste carriers operating within the Borough, which are listed on the council website.

If you do not have a commercial waste agreement the Council offers a flexible service that allows businesses to increase and decrease their collection service every three months, and the contract can be revised by calling the trade waste team on 020 8753 3021 or alternatively email them on [tradewasteemails@lbhf.gov.uk](mailto:tradewasteemails@lbhf.gov.uk).

## The protection of children from harm

15.11 The following provides a non-exhaustive list of risks associated with the protection of children from harm objective that applicants may want to consider when preparing their Operating Schedule:

- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks. See Annex 2. The Council will expect premises only to accept current passports, driving licences or documents bearing the national PASS logo, such as Citizencard. The Proof of Age Standards Scheme (PASS) is the UK's national guarantee scheme for proof-of-age cards as endorsed by the Home Office. More information can be found on <http://www.brc.org.uk/pass/default.asp>
- Where an application has not indicated any adult entertainment a voluntary condition that no nudity or adult entertainment will take place at the premises.

## 16 Consultation

16.1 The applicant will be expected to advertise the application in accordance with the Regulations made under the Licensing Act 2003.

16.2 The Licensing Authority will carry out a consultation process in accordance with the regulations made under the Licensing Act 2003. In exceptional circumstances the Licensing Authority may consider it appropriate to carry out a more extensive form of public consultation. The Licensing Authority will publicise details of applications received.

16.3 In order to give residents a fair chance to learn about new applications we have set up an email alert system on the Council website. This will enable residents and other persons to make representations to the Licensing Authority if they wish to do so.

## 17 Applications for Personal Licences

17.1 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.

17.2 The Licensing Authority requires that any photographs submitted to it must be clearly endorsed on the reverse side with the persons name, date of birth and contact number in order to ensure these are correctly processed.



- 17.3 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 Licensing Authority before making an application.
- 17.4 A personal licence is valid for 10 years. A designated premises supervisor must hold a personal licence.

## **18 Temporary Event Notices (TENs) and Other Events**

- 18.1 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 168 hours) do not need a licence providing that a minimum of 10 working days notice is given to the police and the Licensing Authority. The annual allowance covered by a Temporary Event Notice in relation to a single premises is 21 days. The Police and the Council's Environmental Protection team can object to Temporary Event Notices if the event is likely to undermine the licensing objectives.
- 18.2 Section 193 of the Act defines "working day" as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales. "Ten working days" notice means ten working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given.
- 18.3 Where Police or Environmental Protection submit an objection to the notice the licensing authority will hold a hearing to consider the objection.
- 18.4 Licensing authorities will be given discretion to apply existing licence conditions to a Temporary Event Notice if there are objections from the police or the Council's Environmental Protection team.
- 18.5 The Licensing Authority will consider whether the limitations set down by the act in terms of numbers and duration of events and capacities are being observed.
- 18.6 It is recommended in general that the Licensing Authority and police be given at least 28 calendar days notice of any event, to allow them to help organisers plan their events safely.
- 18.7 Organisers of temporary events are strongly advised to contact the Licensing Authority, the Environmental Protection Team 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.
- 18.8 The Licensing Act 2003 allows event organisers to submit up to 10 "late notices" per year if they hold a personal licence and 2 "late notices" if they do not hold a personal licence. These "late notices" can be submitted to the Licensing Authority, Police and Environmental Protection between 5 and 9 days before the event. However, the Secretary of State's Guidance states that "They should not be used save in exceptional circumstances". It should be noted that if either the Police or the Council's Environmental Protection Team submits an objection to a late notice the Council will issue a counter notice prohibiting licensable activities for the duration of the TEN.

### **Large Outdoor Events**

- 18.9 Public safety and the prevention of public nuisance at large outdoor events is of paramount importance to the Licensing Authority. Applications for large events that are normally temporary in

nature, may not be suitable for licensing under the TENs process. Events will be licensed under a time limited Premises Licence lasting for the duration of the event. Applicants are encouraged to make applications for a new Premise Licence and should therefore ensure that they apply in good time.

- 18.10 Applicants for such events must consider “The Event Safety Guide” and other guidance published or recommended by the Health and Safety Executive on all aspects of arranging and staging events safely. Further information is available at : [www.hse.gov.uk/event-safety/index.htm](http://www.hse.gov.uk/event-safety/index.htm)
- 18.11 Applications for large temporary events may be scrutinised by a Safety Advisory Group (SAG) as well as the licensing committee. The SAG will consist of officers from Responsible Authorities such as the Police, Environmental Protection, Commercial Services Team, Fire Authority, and may include officers from other relevant departments and agencies such as the London Ambulance Service, Transport for London (TFL) and Highways.
- 18.12 The Safety Advisory Group allows officers to question applicants about the operation of their event to ensure it will be a “safe” event, and will minimise disruption to traffic management and nuisance.
- 18.13 The SAG will not determine licence applications. It may recommend conditions. The Licensing Authority will expect applicants and organisers of large temporary events to produce a satisfactory Event Management Plan for their event and to comply with any recommendations made by the group.
- 18.14 The Licensing Authority recommends that for significant events and the use of promoters 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.
- 18.15 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.
- 18.16 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.
- 18.17 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 [fhevents@met.police.uk](mailto:fhevents@met.police.uk) and [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk)

## **GENERAL**

- 18.18 Generally, applicants are advised to offer only the following conditions in their Operating Schedule.
- The Licensee shall comply with the Event Management Plan submitted to and approved by the Licensing Authority.

- The Event shall be run in accordance with the site plan submitted to, and approved by, the Licensing Authority. No changes shall be made to the site plan without the prior consent of the Licensing Authority.

18.19 This approach allows the event organiser flexibility to make changes to the layout of the event or to specific activities without the need to make a fresh application for a Premises Licence or an application to vary the Premises Licence already granted. Without this approach, any changes made could be unauthorised and possibly result in enforcement action.

18.20 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.

18.21 The Council is fully committed to a safe and successful Olympic and Paralympic games in London in 2012. The Council recognises that the resources of the police and emergency services will be planned out and prioritised for the security of major events before, during and after the games from 1<sup>st</sup> May 2012 until 31<sup>st</sup> October 2012. Due consideration will be given by the Council to representations from the Police in relation to licence applications for activities during the games time on the grounds of public safety and security when police and other emergency services resources are insufficient to deal with the risks presented. Where, as a result of representations from a responsible authority, it is identified that a licence or proposed event presents a risk and that the licensing objectives will be compromised, it is likely that such applications will not be granted.

18.22 Anyone planning an event of this nature is strongly recommended to enter into discussion with the Police and Licensing Authority as early as possible to ensure the event can be properly planned. Failure to liaise with the Licensing Authority may see the committee refusing a licence for the event on grounds of Public Safety.

## **19 Designated Premises Supervisors (DPS) in community premises**

19.1 Community premises can have a licence to supply alcohol without the requirement to have a Designated Premises Supervisor (DPS).

19.2 Such an application can only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises. The following condition will be attached to the premise licence: "Every supply of alcohol under the premises licence must be made or authorised by the management committee."

19.3 Church halls, chapel halls, parish halls, community halls, village halls are examples of community premises. Where it is not clear whether premises are community premises, the matter will be approached on a case-by-case basis, with the main consideration being how the premises are predominantly used. If they are:

- genuinely made available for community benefit most of the time;
- accessible by a broad range of people and sectors of the local community;
- providing facilities to benefit the community as a whole;

- they are likely to be considered to be community premises.

- 19.4 If it is authorised for the sale of alcohol, the management committee of the premises can apply to remove the DPS requirement. This removes the mandatory conditions in relation to a DPS and the personal licence holder(s). See Annex 1.
- 19.5 The application form requires the applicants to provide the names of the management committee's key officers to the Licensing Authority. The Licensing Authority must be satisfied that arrangements for the management of the premises by the committee or board are sufficient to ensure the adequate supervision of the supply of alcohol on the premises.
- 19.6 Existing premises licence holders must pay a fee and the application will take 28 days to process.
- 19.7 In exceptional circumstances, the police can object to the request on grounds of crime and disorder. The Licensing Authority must then hold a hearing to reach a decision on whether to grant the application.

## **20 Enforcement Policy**

- 20.1 The Licensing Authority operates a proactive inspection regime that is based on risk. These inspections are linked to the Enforcement Policy, which targets premises failing to support the Licensing Objectives. Relevant action will be taken after each visit in accordance with this policy.
- 20.2 Premises that produce disorder, threaten public safety, generate public nuisance or threaten the well being of our children will be targeted for enforcement action.
- 20.3 The Licensing Authority has a long-established Enforcement Policy, based around the principles of consistency, transparency and proportionality it also takes into account the Attorney General's Guidelines to Crown Prosecutors for bringing prosecutions.
- 20.4 The Licensing Authority will take necessary enforcement action in accordance with our Enforcement Policy.
- 20.5 The Licensing Authority will use a range of sanctions such as letters of warning, simple cautions, Fixed Penalty Notices (FPNs), closure notices and legal proceedings.
- 20.6 The Licensing Authority will seek to work with the police and other responsible authorities in enforcing licensing legislation and will strive to have a joint enforcement protocol with all the relevant agencies.
- 20.7 Enforcement will be focussed on premises or persons found to be failing to promote the four Licensing Objectives.

## **21 Dealing with Complaints, Representations and Reviews**

- 21.1 The Act describes two "groups" that may make representations to applications and may apply for an existing premises licence or club premises certificate to be reviewed by the Licensing Authority. These groups are Responsible Authorities and "Other Persons".

- 21.2 “Other Persons” means any individual, body or business who is affected by the operation of a licensed premises regardless of their geographical location. Although they may be in any geographical position, any representation they make must be relevant to one or more of the licensing objectives, and must not be considered to be frivolous or vexatious. Additionally, any application to review a premises licence must not be repetitious.
- 21.3 This Licensing Authority will, however, look at the geographical location of the author of any representation or review application received. Where the author lives or works a significant distance from the premises subject of an application or review, this Authority will examine the content of the representation particularly closely to ensure that it is valid and complies with the requirement of the Licensing Act 2003.
- 21.4 The Licensing Authority may initially arrange a mediation meeting to address concerns where “Other Persons” have made:
- Valid representations about licensed premises; or
  - A valid application for a licence to be reviewed
- 21.5 At any stage, following the grant of a premises licence, a responsible authority, such as the police or the fire authority, or other persons, may ask for a licence to be reviewed because of a matter arising at the premises in connection with any of the four Licensing Objectives.
- 21.6 A licence will be reviewed where it is alleged that the Licensing Objectives are not being promoted and there is evidence to show this. The Licensing Authority 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 drugs money;
  - 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.
- 21.7 At a review hearing the committee can make the following decisions:
- 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.

- 21.8 Other persons aggrieved by decisions of the Licensing Authority are entitled to appeal to the magistrates court.
- 21.9 In order to give residents a fair chance to learn about new applications we have set up an email alert system on the Council website. This will enable residents and other persons to make representations to the Licensing Authority if they wish to do so. Please note that representations cannot be made anonymously.
- 21.10 Where the Licensing Authority considers that action under its statutory powers is necessary it may seek to issue a warning letter, a simple caution or prosecute for the offence.
- 21.11 Complaints about breaches of conditions e.g. trading after hours stated on their licence should be brought to the attention of the Licensing Team on 020 8753 1081 or by email at [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk). They can also provide a copy of the licence with the full licence conditions.
- 21.12 Where event organisers are looking to submit a late TEN they should be aware that “late notices” can be submitted to the Licensing Authority, Police and Environmental Protection between 5 and 9 days before the event. **However**, the Secretary of State’s Guidance states that “They should not be used save in exceptional circumstances”. It should be noted that if either the Police or the Council’s Environmental Protection Team submits an objection to a late notice the Council will issue a counter notice prohibiting licensable activities for the duration of the TEN.
- 21.12 Complaints about other issues e.g. noise nuisance, underage sales should be brought to the attention of the relevant responsible authority. See section 2 – Consideration of Our Residents.

## 22 CONSIDERATION OF OUR RESIDENTS

- 22.1 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.

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.

- 22.2 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, to the extent that these matters are within their control.
- 22.3 Population densities in our borough are high, with many residential premises located above or in close proximity to licensed premises. This means that the public nuisance and crime and disorder objective will be of paramount concern when evaluating Operating Schedules. Committees will place high regard on the control measures in place by the applicant in order to ensure our residents are protected from the potential detrimental effects of any licences premises.

- 22.4 Residents are advised to contact the Environment Protection Team's out of hours service at the time that any noise nuisance is occurring. Any review of a licence would need to be evidence based and as such is best supported by evidence from responsible authorities such as the Police or Environmental Protection to be successful. For this reason it is vital to call our 'out of hours' team on 020 8748 8588 at the time nuisance is occurring.
- 22.5 If residents are experiencing ongoing problems with particular licensed premises, please refer to Section 21 – Dealing with Complaints, Representations and Reviews.

## **23 Licensing Committee**

- 23.1 The Licensing Committee will consist of up to fifteen councillors that may sit annually to discuss policy, review delegated decisions and administrative matters. The Licensing Authority will determine this Statement of Licensing Policy at least every five years. Any changes to the policy will include full consultation of all interested parties.
- 23.2 A sub-committee of three councillors will determine applications where representations have been received from other persons and responsible authorities.
- 23.3 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, sex establishments, gambling, etc.
- 23.4 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.
- 23.5 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 Licensing Authority.
- 23.6 The Licensing Authority'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.
- 23.7 The Licensing Authority's authorised 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.

# Annex 1 – Original Licensing Conditions

## (1) Supply of alcohol:

No supply of alcohol may be made under the premises licence –

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

## (2) Exhibition of Films

Admission of children must be restricted in accordance with any recommendation made by the film classification body specified in the licence

Or

where the licensing authority has notified the holder of the licence that it considers a classification or an alternative classification is necessary then

Admission of children must be restricted in accordance with any recommendation made by that licensing authority

In this section-

"children" means persons aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

## (3) Door Supervisors

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority.



## Annex 2 – New Mandatory Licensing Conditions

1. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
  - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:
    - (i) the outcome of a race, competition or other event or process, or
    - (ii) the likelihood of anything occurring or not occurring;
  - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
4. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.  
(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
5. The responsible person shall ensure that:
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and
  - (b) customers are made aware of the availability of these measures.

# Annex 3 – Local Pool of Licence Conditions

## Local Pool of Licence Conditions

The following licensing conditions can be applied to different types of premises (A – F below). They can be used as a guide for applicants, residents, Councillors, agencies and responsible authorities such as the Police when making, commenting on or considering applications. This list is not exhaustive and should be used as a guide to help promote the four licensing objectives, in its application, to the following types of premises:

**A: Restaurants**

**B: Late night refreshment Venues**

**C: Public houses and bars:**

**D: Nightclubs**

**E: Off Licences**

**F: Theatres, Cinemas, Qualifying Clubs, Hotels and Community Premises**

Conditions should only be added where considered appropriate and proportionate to the promotion of the licensing objectives.

Exit routes and evacuation procedures	Application
Means of escape shall be maintained unobstructed, immediately available and clearly identifiable.	Public Safety A, B, C, D, E, F
Exit doors shall be checked before opening each day to ensure they function satisfactorily.	Public Safety A, B, C, D, E, F
Notices shall be prominently displayed at each exit from the premises asking patrons to be considerate to neighbours when leaving.	Public Safety A, B, C, D, E, F
Customers shall not be permitted to sit or stand in gangways or aisles or in any position that will impede means of escape from the premises.	Public Safety A, B, C, D, F
An evacuation policy shall be in place that is to the satisfaction of the Fire Authority, Licensing Authority and Police. All staff members shall be trained in the evacuation policy. Written records of staff training shall be kept and produced to Police and authorised Council officers on request.	Public Safety A, B, C, D, E, F
Emergency/fire drills and tests will be conducted monthly. Records of these tests shall be made available upon request.	Public Safety A, B, C, D, E, F
Use of beer gardens/external areas	
The use of the garden/external area shall cease after <i>(insert time)</i> hours on <i>(insert days of the week)</i> .	Nuisance A, C, D, F
Alcohol shall not be sold to customers to drink on the pavement outside the premises unless a Tables and Chairs Licence is in force.	Nuisance A, B, C, D
A maximum of <i>(insert number)</i> customers will be allowed in outdoor areas of the	Nuisance

premises. These customers shall not be such as number as to cause obstruction of the public highway.	A, B, C, D
Where a Tables and Chairs licence is in effect, only seated customers shall be permitted to drink in the area covered by the Tables and Chairs licence.	Nuisance A, B, C, D
Where customers are permitted to drink alcohol outside the premises, ( <i>insert number</i> ) of registered door supervisors will be used to monitor and manage those customers from ( <i>insert times</i> ).	Nuisance A, C, D
A physical barrier, such as a rope, will be used to mark the boundary of the area outside the premises where customers are allowed.	Nuisance A, C, D
The garden of the premises shall be closed to customers at ( <i>insert time</i> ).	Nuisance A, C, D
The tables and chairs outside the premises shall be brought inside at ( <i>insert time</i> ).	Nuisance A, B, C, D
No more than ( <i>insert number</i> ) of patrons shall be permitted to drink or smoke outside the premises at any one time.	Nuisance A, B, C, D
Customers shall not be permitted to take drinks outside with them and prominent signage shall be provided to this effect.	Nuisance A, B, C, D
Staff shall regularly supervise the pavement area outside the premises to ensure customers are not blocking pavements or causing nuisance to neighbouring premises.	Nuisance A, B, C, D
Customers shall not be permitted to take glass bottles or glasses outside the premises.	Nuisance A, B, C, D, F
Persons wishing to leave the premises to smoke shall not be permitted to take drinks outside with them.	Nuisance A, B, C, D, F
External lighting for the premises shall be turned off after the premises are closed to the public.	Nuisance A, B, C, D, E, F
Where customers are permitted to smoke immediately outside the premises, smoking bins/ashtrays/receptacles should be provided.	Nuisance A, B, C, D, F
<b>Door supervisors and door entry policies</b>	
A minimum of ( <i>insert number</i> ) door supervisors shall be on duty on the premises during the hours of ( <i>insert times</i> ) on ( <i>insert days of week</i> ).	Crime/disorder C, D, F
A minimum of ( <i>insert number</i> ) of door supervisors shall be provided on ( <i>insert days of week</i> ) to patrol external areas of the premises between the hours of ( <i>insert times</i> ).	Crime/disorder C, D, F
Policy and procedures for door staff will be put into place around dispersal techniques for customers and procedures for dealing with incidents that occur in	Crime/disorder C, D, F

the vicinity of the premises.	
The premises shall operate a dispersal policy and all staff shall be trained in its implementation.	Crime/disorder C, D, F
Random searches shall be undertaken of customers entering the premises between the hours of <i>(insert times)</i> and prominent signage provided to this effect.	Crime/disorder C, D, F
At least one female door supervisor shall be provided where door supervisors are used to search female customers.	Crime/disorder C, D, F
Customers shall be supervised when leaving the premises and shall be asked to leave quietly.	Nuisance C, D, F
There shall be no admittance or re-admittance to the premises after <i>(insert time)</i> .	Nuisance C, D
A minimum of <i>(insert number)</i> door supervisors shall be on duty on the premises from <i>(insert time)</i> until all customers have left the premises and its vicinity.	Nuisance C, D, F
Door supervisors shall be provided with radios to enable them to contact each other and the duty manager at the premises.	Crime/disorder C, D, F
<b>Capacity</b>	
A maximum of <i>(insert number)</i> customers shall be permitted on the premises at any one time.	Public Safety A, B, C, D, F
"Clickers" or other devices shall be used by door staff to monitor the number of persons present on the premises at any one time.	Public Safety C, D, F
<b>CCTV</b>	
Appropriate signage will be displayed, in a prominent position, informing customers they are being recorded on CCTV.	Crime/disorder A, B, C, D, E, F
CCTV covering areas inside and outside of the premises should be installed and maintained to police recommendations with properly maintained log arrangements. All images will be stored for a minimum of 31 days.	Crime/disorder A, B, C, D, E, F
A staff member from the premises that is conversant with the operation of the CCTV system will be on the premises at all times that the premises are open to the public. This staff member will be able to show police or authorised local authority officers recent data footage with the minimum of delay when requested. This data or footage reproduction should be almost instantaneous.	Crime/disorder A, B, C, D, E, F
<b>Training</b>	
At least one member of staff on duty whilst this licence is being used shall be trained in the requirements of the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence. Such person(s) shall be competent to ensure offences are not	ALL A, C, D, E, F

committed and that the premises shall be run in accordance with the licence.	
All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003. Written records of this training shall be retained and made available to Police and Council officers on request.	ALL A, C, D, E, F
All staff shall be trained in how to identify drunk or drug impaired customers. This training shall be repeated at least biannually and written records of the training kept and made available to Police and authorised Council officers on request.	ALL A, C, D, E, F
<b>Weapons</b>	
A metal detection device shall be randomly used by door supervisors to search patrons for weapons.	Crime/disorder C, D, F
A search arch shall be used at the entrance to the premises to detect customers who may be carrying weapons.	Crime/disorder C, D, F
Any drugs or weapons confiscated from customers shall be stored in a locked and secure container and the Police shall be notified as soon as reasonably practicable.	Crime/disorder C, D, F
<b>Responsible management</b>	
The licence holder shall actively participate in any local Pubwatch or similar scheme.	Crime/disorder A, B, C, D, E
The premises shall be a member of any local radio scheme that allows them to be in contact with other venues in the local area.	Crime/disorder B, C, D, E, F
An incident log book will be maintained by the premises that details incidents of note that occur in the premises. This shall include refused sales, disorder, and ejections as a minimum. The log book shall be kept on the premises and be available for inspection at all times the premises is open, and management shall regularly check the book to ensure all staff are using it.	Crime/disorder A, B, C, D, E, F
<b>Protecting children, proof of age schemes</b>	
A Proof of Age scheme shall operate at the premises and all staff shall be trained in its implementation. Only photographic ID such as a British driving licence, a current passport or a PASS ID card shall be treated as acceptable forms of identification.	Children A, C, D, E, F
All staff shall be trained in the Proof of Age policy and how to identify acceptable means of identification.	Children A, C, D, E, F
Posters shall be displayed in prominent positions around the till advising customers of the Proof of Age policy in force at the premises.	Children A, C, D, E, F

A refusals book shall be kept at the premises to record details of all refusals to sell alcohol. This book shall contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. The book shall be made available to Police and authorised Council officers on request.	Children A, C, D, E, F
The Designated Premises Supervisor shall regularly check the refusals book to ensure it is being consistently used by all staff.	Children A, C, D, E, F
<b>Noise issues</b>	
A sound limiting device shall be installed, set and sealed at a level approved by the Council.	Nuisance C, D, F
Only the Premises Licence Holder and the Designated Premises Supervisor shall have access to the sound limiting device.	Nuisance C, D, F
The sound limiting device shall be used whenever relevant regulated entertainment is taking place.	Nuisance C, D, F
A cut-out device shall be connected to the exit doors and will be operational at all times the licence is in use.	Nuisance C, D, F
When the premises doors are open the levels of music shall cut out completely or fall to ambient levels that are not intrusive to local residents.	Nuisance C, D, F
No sound emanating from regulated entertainment shall be audible a metre from the façade of the nearest noise sensitive premises between 2300 and 0700 hours.	Nuisance A, C, D, F
All external doors and windows to the premises shall be kept closed during the provision of regulated entertainment, save during access and egress.	Nuisance A, C, D, F
The licence holder or duty manager shall make regular patrols at no less than hourly intervals around the perimeter of the premises when regulated entertainment is taking place. Noise levels shall be adjusted to ensure local residents are not disturbed by excessive noise break out.	Nuisance A, C, D, F
<b>Litter</b>	
Patrols of the area outside the premises shall be undertaken every ( <i>insert time period</i> ) during the use of the licence and any litter accumulations cleared.	Nuisance A, B, C, D, F
Where customers are permitted to drink alcohol outside the premises, regular litter and glass collections shall be carried out in all areas where customers are congregating.	Nuisance A, C, D, F
Litter bins should be provided in the area immediately outside the Premises	Nuisance A, B, E, F

Cigarette litter bins should be provided in the area immediately outside the Premises	Nuisance A, B, C, D, E, F
<b>Proprietary clubs</b>	
Admission to the licensed premises shall be restricted to Members of the Club and their bona fide guests.	ALL F
No person shall be admitted to the premises without an interval of at least 48 hours between application for membership and admission.	ALL F
Only one guest per member shall be permitted.	ALL F
No more than three guests per member shall be admitted to the club, and details of all guests shall be recorded on site and to be made available to Police immediately upon request on any given night that they visit the premises.	ALL F
The maximum number of guests in attendance on any given night is not to exceed 25% of the total number of persons at the premises.	ALL F
Members and guests shall be required to "sign in" when entering the premises.	ALL F
Any book used for the signing in of members and guests shall be kept on the premises at all times and made available on request to Police and authorised Council officers.	ALL F
<b>Selling alcohol</b>	
Strong beer and cider above 5.5% ABV will not be sold.	Nuisance E
No single cans or bottles of beer or cider will be sold.	Nuisance E
A minimum of two members of staff shall be present at all times whilst the premises remain open for the sale of alcohol.	Nuisance E
At least one person holding a Personal Licence shall be on duty at the premises when alcohol is being sold.	Nuisance E
All alcohol kept in the public part of the premises shall be kept in display units. All display units for alcohol will have lockable shutters Shutters shall be closed and locked at the end of the permitted hours for the sale of alcohol, and shall not be unlocked again whilst the premises is open until the start of the permitted hours on the following day.	Nuisance E
All alcohol shall be stored and displayed behind the service counter and not in aisles or other areas accessible to the public.	Nuisance E
All alcoholic drinks shall be clearly labelled or marked with the name of the premises.	Nuisance E
Any alcohol sold for consumption off the premises shall be sold in a sealed container.	Nuisance C, D, E, F

Alcoholic and soft drinks shall be served in polycarbonate containers.	Crime/disorder C, D, F
Alcoholic drinks sold in cans or bottles should be marked with a unique identifier, that identifies the premises from which the alcohol was originally sold	Nuisance B, E
<b>Drug use</b>	
The premises shall operate a zero tolerance policy to drug use and posters shall be prominently displayed to this effect.	Crime/disorder C, D, F
All staff shall be trained in the implementation of the venue's drugs policy.	Crime/disorder C, D, F
Toilet cisterns shall be provided with sloping lids or similar to discourage drug use.	Crime/disorder C, D, F
Any drugs confiscated from customers shall be stored in a locked and secure container and the Police shall be notified as soon as reasonably practicable.	Crime/disorder C, D, F
<b>Theft and security</b>	
Bag clips shall be made available on all tables.	Crime/disorder A, B, C, D, F
A cloakroom or similar facility shall be available for customers to leave their belongings.	Crime/disorder C, D, F
Notices shall be displayed throughout the premises to advise customers of the potential for thefts.	Crime/disorder A, B, C, D, F
The premises shall participate in any local radio scheme in operation that enables them to be in contact with other local radio scheme users.	C, D, F
<b>Hotels</b>	
Alcohol may be sold at any time to hotel guests for consumption on the premises.	Nuisance F
Alcohol shall only be sold to non hotel residents from the hours of <i>(insert times)</i> on <i>(insert days of the week)</i> and during the following times to persons attending bona fide private functions at the hotel <i>(insert days and times)</i> .	Nuisance F
<b>Premises providing Nudity, Striptease and other Adult Entertainment</b>	
No person under the age of eighteen shall be admitted to the premises or be permitted to remain on the premises when adult entertainment is taking place.	Children A, C, D, F
Prominent notices shall be displayed at each entrance to the premises when adult entertainment is taking place stating that there shall be no admission to the premises for persons aged under 18.	Children A, C, D, F
The premises shall be arranged so adult entertainment is not visible from the street.	Children A, C, D, F



There shall be no external advertisement at the premises for adult entertainment.	Children A, C, D, F
There shall be no leafleting or touting of the adult entertainment at the licensed premises.	Children A, C, D, F
Nudity shall only be permitted by performers and not by customers.	Children A, C, D, F
A minimum of one metre distance shall be maintained between dancers and customers during adult entertainment.	Children A, C, D, F
A written Code of Conduct for staff participating in the provision of striptease or nudity shall be in place, and shall be kept on the premises for inspection by Police or authorised Council officers at all times the premises are open to the public. Management shall ensure all staff are aware of the Code of Conduct and shall take all reasonable steps to ensure it is adhered to.	Children A, C, D, F
<b>Hiring or letting of rooms or premises</b>	
Where rooms at the premises are let to individuals or groups for private hire, a hire agreement shall be in place that includes an outline of the conditions on the Premises Licence ( <i>or Club Premises Certificate</i> ) and clearly states the responsibilities of the hirer in respect of upholding such conditions.	ALL A, C, D, F
Where the premises are let to individuals or groups for private hire, a named person shall be responsible for ensuring that conditions of the Premises Licence ( <i>or Club Premises Certificate</i> ) are adhered to. This person shall provide their details to the licence holder ( <i>or Secretary of the Club</i> ) in writing in advance of the event and their details shall be retained for a period of at least thirty one days after the date of the event.	ALL A, C, D, F
<b>Special effects</b>	
Any special effects or mechanical installation shall be planned, commissioned, arranged, subject to inspection and maintenance, operated and stored so as to minimise any risk to the safety of the audience, performers and staff. . Special effects include: <ul style="list-style-type: none"> <li>• Dry ice machines and cryogenic fog</li> <li>• Smoke machines and fog generators</li> <li>• Pyrotechnics, including fireworks</li> <li>• Real flame</li> <li>• Firearms</li> <li>• Motor vehicles</li> <li>• Strobe lighting</li> <li>• Lasers</li> </ul> • Explosives and highly flammable substances.	Public Safety A, C, D, F
The Licence Holder shall not permit the use of special effects, except with the prior consent of the Licensing Authority, which may be subject to additional conditions if necessary to promote the public safety objective.	Public Safety A, C, D, F
<b>Promotions or events</b>	
The licensee shall undertake a risk assessment of any promotion or event using the Metropolitan Police Promotion/Event Risk Assessment (Form 696) or an	Public Safety A, C, D, F

equivalent and provide a copy to the Police and the Licensing Authority not less than 14 days before the event is due to take place. Following submission of the risk assessment, all directions of the Police shall be complied with, including cancellation of an event if necessary.	
Where an 'event' has taken place, the licensee shall complete a Metropolitan Police After Promotion/Event Debrief Risk Assessment (Form 696A) and submit this to the Metropolitan Police and the Licensing Authority, within three days of the conclusion of the event.	Public Safety A, C, D, F
The licensee shall take all reasonable steps to ensure that there is no unauthorised advertising of events to be held at the premises.	Public Safety A, C, D, F
<b>Miscellaneous conditions</b>	
Furniture at the premises for customer use shall be fixed in position so space cannot be made to allow the provision of dancing or other entertainment.	Nuisance A, C, F
The premises will be adequately ventilated in all areas to which the staff and public have access.	Public Safety A, B, C, D, F

**In the future other conditions may be added which will be made available on the Councils website.**

## Annex 4— Special licensing policy for Fulham Area

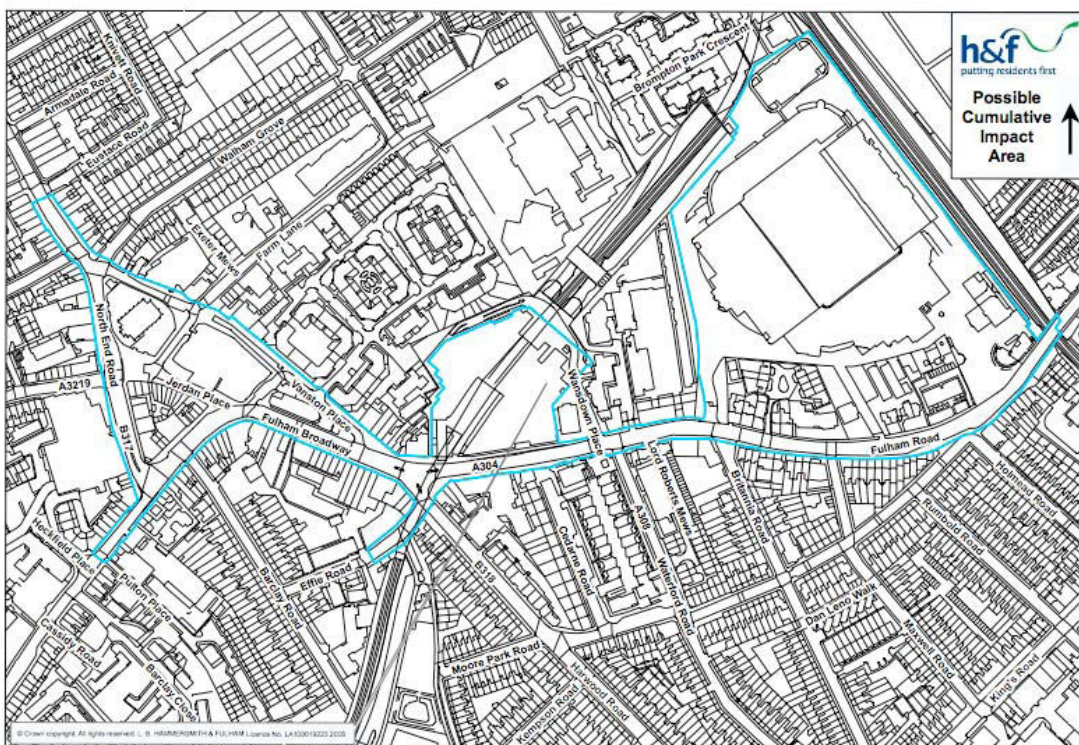
1 The Council has decided to introduce a special policy relating to cumulative impact as provided by the Secretary of State in the Guidance issued under section 182 of the Licensing Act 2003 (paragraphs 13.24 to 13.39) and the Council's own Statement of Licensing policy dated November 2007 at paragraph 4.3 to the Fulham Town Centre Area (being the shaded area and all premises which have a principal form of access onto the shaded area as shown on the plan.

2 "Cumulative impact" means the potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area.

3 The Fulham Town Centre Area has been identified as being adversely affected in terms of the Licensing Objectives because of the cumulative impact of the concentration of drink led premises. There is evidence that the cumulative impact includes serious problems of crime, disorder and public nuisance. Having regard to the evidence, the Licensing Authority has been satisfied that it is appropriate and necessary to include an approach to cumulative impact. The evidence for this special policy may be viewed on request at the Council Offices.

4 Applications for new premises licences, club premises certificates or any variations within the Fulham Town Centre Area that are likely to add to the existing cumulative impact will normally be refused where a relevant representation has been made, unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the Licensing Objectives. Accordingly, the presumption of refusal in this policy is not absolute and the circumstances of each application will be considered where a relevant representation has been made.

5 The presumption of refusal does not relieve responsible authorities or other persons of the need to make a relevant representation. Applicants will need to address the special policy issues in their operating schedules. If there are no representations the Licensing Authority must grant the application in terms consistent with the operating schedule submitted.



6. The cumulative impact policy will be kept under review by the Licensing Authority.

7. The geographical boundary of the proposed area

**Figure 1. Cumulative Impact Area (CIP).**

# Annex 5— Special licensing policy for the Shepherd’s Bush Area

1. The Council has decided to introduce a special policy relating to cumulative impact (as provided by the Secretary of State in the Guidance issued under section 182 of the Licensing Act 2003 (paragraphs 13.24 to 13.39) and the Council’s own Statement of Licensing policy dated January 2011 (paragraph 6.1 to 6.7) to the Shepherd’s Bush Area (being the area outlined and all premises which have a principal form of access onto the outlined area as shown on the attached map).

2. “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

3. The four licensing objectives are:-

- The prevention of Crime and Disorder
- Public Safety
- The prevention of Public Nuisance
- The protection of Children from Harm
- Protection

4. This policy will apply to all licensed premises as the Shepherd’s Bush Area has been identified as being adversely affected in terms of the licensing objectives because of the cumulative impact of the concentration of licensed premises.



November 2010

5. There is evidence that the cumulative impact includes serious problems of crime, disorder and public nuisance. Having regard to the evidence, the Licensing Authority has been satisfied that it is appropriate and necessary to include an approach to cumulative impact. The evidence for this special policy may be viewed on request at the Council Offices.
6. Applications for new premises licences, club premises certificates or any variations within the Shepherd's Bush Area that are likely to add to the existing cumulative impact will normally be refused where a relevant representation has been made, unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the four licensing objectives. Accordingly, the presumption of refusal in this policy is not absolute and the circumstances of each application will be considered where a relevant representation has been made.
7. The presumption of refusal does not relieve responsible authorities or interested parties of the need to make a relevant representation. Applicants will need to address the special policy issues in their operating schedules. If there are no representations the licensing authority must grant the application in terms consistent with the operating schedule submitted.
8. The cumulative impact policy will be kept under review by the Licensing Authority

# 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 Licensing Authority'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 (DPS)

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.

## 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 Licensing Authority 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.

## Other Persons

Other Persons means any individual, body or business who is affected by the operation of a licensed premises regardless of their geographical location.

## 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 (objection) by an other persons 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 four Licensing Objectives.

## Responsible authorities

These include:

- Licensing Authority
- Chief Officer of Police;
- The Fire Authority;
- The enforcing authority for health and safety at work;
- The Primary Care Trust
- 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 artiste;

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.



## Contact details

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 Authority  
Transport and Technical Services Department  
5<sup>th</sup> 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)

# Agenda Item 6.3



## Report to Council

4 JULY 2012

### LEADER

*Councillor Nicholas  
Botterill*

### APPOINTMENT OF MONITORING OFFICER

**WARDS  
All**

#### SYNOPSIS

This report provides details on the proposed appointment of an Monitoring Officer pursuant to Section 5 of the Local Government and Housing Act 1989.

### CONTRIBUTORS

EDFCG  
Monitoring Officer

#### RECOMMENDATIONS:

1. That Ms Tasnim Shawkat be appointed Monitoring Officer from 1 October 2012.

## 1. BACKGROUND

- 1.1 The former Assistant Director (Legal and Democratic Services) left the authority on 31 March 2012 to take up the post of Comptroller and City Solicitor at the City of London Corporation. In the interim, the Head of Litigation, Janette Mullins, was appointed as Monitoring Officer from 1 April until a new Director was appointed.
- 1.2 Following a successful recruitment exercise, Ms Tasnim Shawkat, has been appointed as Bi-Borough Director of Legal Services for the Royal Borough of Kensington and Chelsea (RBKC) and London Borough of Hammersmith and Fulham (LBHF). While Ms Tasnim Shawkat will act only as the Director of Legal Services for RBKC, it is necessary for the Council to appoint her as the officer to discharge the duties of Monitoring Officer pursuant to Section 5 of the Local Government and Housing Act 1989 for LBHF. The statutory role of the Monitoring Officer is to act as a “whistle-blower” and prepare a report to Cabinet or Council as appropriate, where she considers that an act or proposed act of the authority is unlawful or where there is a finding of maladministration by the Ombudsman. The Monitoring Officer will also discharges various functions under the Localism Act 2011 regarding making arrangements for dealing with complaints alleging a failure to comply with the Code of Conduct made against a Member or co-opted Member of the Council.
- 1.3 The Monitoring Officer has the power to appoint a deputy where he or she is unavailable or unable to act. This is a power conferred on the Monitoring Officer and not the Authority.

## 2. COMMENTS OF THE DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)

- 2.1 These are contained in the body of the report.

## 3. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE

- 3.1 There are no direct financial implications.

### **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>
	Council Report 29 February 2012	Kayode Adewumi	Room 133a, 1 <sup>st</sup> floor, Hammersmith Town hall.

# Agenda Item 7.1

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## **SPECIAL MOTION NO. 1 – RIGHT TO BUY**

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Standing in the names of:

- (i) Councillor Andrew Johnson
- (ii) Councillor Harry Phibbs

“This Council welcomes the decision by the Government to raise the cap on the Right to Buy discount from £16,000 to £75,000 with effect from 2<sup>nd</sup> April this year.

That this Council notes that:

- The Right to Buy has helped thousands of council tenants in H&F to buy their own home since it launched over 30 years ago.
- Completions under the scheme all but collapsed when the maximum discount in the capital was reduced in 2004 from £38,000 to £16,000, leading to a slump from 245 Right to Buy sales in 2003/04 to 7 in H&F last year.
- Since the revised discount came into force on 2<sup>nd</sup> April, a total of 119 new applications have been received by the Council’s HomeBuy unit, with a total of 134 applications currently being processed.
- That the first launch event of the Right to Buy road show at 145 King Street attracted over 384 residents

That this Council resolves to:

- Continue to promote the Right to Buy to all eligible tenants within Hammersmith and Fulham
- Continue to promote other forms of low-cost home ownership to council tenants and provide them with help in getting onto the property ladder.
- Continue to lobby the Government to increase the discount in high value residential areas such as Hammersmith & Fulham, to make the discount more meaningful for our tenants.
- Re-invest a proportion of the receipts received from each sale into the provision of new affordable housing in line with current Government guidance on the use of receipts”.

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## **SPECIAL MOTION NO. 2 – ACCIDENT AND EMERGENCY SERVICES**

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Standing in the names of:

- (i) Councillor Marcus Ginn
- (ii) Councillor Andrew Johnson

“This Council notes that:

1. NHS North West London is proposing as options the closure of Charing Cross, Hammersmith or Chelsea and Westminster Hospital Accident & Emergency departments.
2. Residents in Hammersmith and Fulham value these hospitals and would not support any proposal that downgrades their status from that of major hospitals.
3. Hammersmith and Fulham is a high density inner-London borough in need of quick access to high quality accident and emergency services. The option of closing Charing Cross, Hammersmith or Chelsea and Westminster Hospital A&E departments will result in H&F residents having to travel further to obtain this critical service.

This Council resolves to oppose the closure or downgrading of Charing Cross, Hammersmith or Chelsea and Westminster Hospital Accident & Emergency departments”.

# Agenda Item 7.3

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## SPECIAL MOTION NO. 3 – CHILDREN IN CARE

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Standing in the names of:

- (i) Councillor Helen Binmore
- (ii) Councillor Donald Johnson

“This Council:

1. Notes that:

- The number of looked after children in the borough has fallen in every year since 2006 and that by the end of 2011 there were only 233 children in care at the end of 2011;
- Hammersmith & Fulham Council has outperformed the national average by 40% every year for the last 5 years for children leaving care on permanency orders;
- The Council is ranked first in the country for Special Guardianship Orders, and;
- The Council has met both thresholds for the new Adoption Scorecard this year.

2. Welcomes:

- the work of the recently formed Children in Care Council;
- the official launch of the Council's 'Pledge to all Children in Care' in September, and;
- the establishment of the Hammersmith & Fulham Opportunity Trust.

3. Resolves to:

- Review the 'Pledge to all Children in Care' every year;
- Work closely and collaboratively with the Children in Care Council;
- Drive to secure stable attachments through permanency orders;
- Actively manage adoption cases and continue to tackle delays, and;
- Further support our children in care and care leavers by promoting the Hammersmith & Fulham Opportunity Trust”.

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## **SPECIAL MOTION NO. 4 – LEGAL CHALLENGES**

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Standing in the names of:

- (i) Councillor Stephen Cowan
- (ii) Councillor PJ Murphy

“This Council undertakes to carry out an independent value-for-money review to consider the hundreds of thousands of pounds of tax payers’ money it is spending on legal fees, officers’ time and other council resources fighting local residents and local businesses on its high profile, large developments across the Borough.

The Council recognises that these are difficult times economically and that public money should be prioritised for front line services and tax cuts”.

# Agenda Item 7.5

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## **SPECIAL MOTION NO. 5 – CHILD POVERTY**

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Standing in the names of:

- (i) Councillor Caroline Needham
- (ii) Councillor Mercy Umeh

“Hammersmith and Fulham have one of the highest rates of child poverty in the country with 33% of children in our area growing up without adequate resources. This council resolves to compile a comprehensive child poverty strategy and to submit that for consideration by the Select Committees no later than 31st December 2012. The strategy will define a series of measures the council commits to undertake to locally which will alleviate family poverty and meet our legal obligations, as set out in the Child Poverty Act 2010”.



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## **SPECIAL MOTION NO. 6 – OBJECTION TO THE CONSERVATIVE-LED GOVERNMENT'S LOCAL HOSPITAL CLOSURES**

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Standing in the names of:

- (i) Councillor Rory Vaughan
- (ii) Councillor Colin Aherne

“This Council is deeply concerned that the Conservative-led government is looking to cut A&E and other essential services from Charing Cross, Chelsea and Westminster and Hammersmith hospitals. NHS managers have now confirmed that local NHS services will definitely be cut – it is just in the process of deciding exactly where the axe will fall.

The Council notes the Government’s shambolic leadership on NHS reform and resolves to campaign against these potentially disastrous cuts to local NHS services”.