

29 August 2010

Miss Sanju Manji
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Environment Services Department
Public Protection & Safety

When telephoning please ask for:
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Dear Sanju,

Environmental Protection Response to Statement of Licensing Policy Review

Thank you for giving us the opportunity to make comment on the Statement of Licensing Policy Review June 2010, please accept this letter as a response to the consultation on behalf of the Environmental Protection Responsible Authority.

Question 1: Please state whether you are a:

Responsible Authority.

Question 2: Do you feel that the revised Statement of Licensing Policy is clearly written and easy to understand?

Yes.

Question 4: Do you think that the length of the revised Statement of Licensing Policy is:

About right.

Question 5: We have added a new section to clarify the purpose of this policy under paragraph 2.2. Do you think that it is useful to include this in the revised Statement of Licensing Policy?

Yes.

Question 6: We have included a new section on "licence conditions" that specifically relates to football. This will help to ensure consistency and that our premises in the vicinity of football grounds do not become crime and disorder hot spots during match days.

Do you think that it is useful to include this information in the revised Statement of Licensing Policy?

Yes.

Question 7: We propose to include a pool of conditions that could be applied to different types of premises into our revised Statement of Licensing Policy. These conditions would apply to premises such as restaurants, hotels, public houses, nightclubs, premises supplying hot takeaway food and drink, and off licences.

We propose to introduce this change to make it easier for applicants, residents, Councillors and agencies such as the Police to understand and request consistent conditions for each type of premises when making, commenting on or considering applications.

Do you think that it is a good idea to include a pool of conditions in the revised Statement of Licensing Policy?

Not sure. As they stand.....

I can't work out why the potential licence conditions have been written to only apply to certain premises, categorised A to F inclusive. The inference appears to be that some conditions will not apply to some types of premises. Consequently it is our view this can lead to potential room for error e.g. just looking at the first condition for Escape Routes and Evacuation Procedures, 'Means of escape shall be maintained unobstructed, immediately available and clearly identifiable', to apply to premises C (public house and bars), D (nightclubs) and F (theatres, cinemas, qualifying clubs, hotels and community premises) – why not A (restaurants)?

I could give many other examples but I'm sure the point is made with the above.

Furthermore, while I accept model conditions are useful to promote consistency, I think there can be a temptation to add them regardless, without any thought for the necessity and / or proportionality of doing so. I would respectfully suggest therefore that it would be important (critical) to have a caveat to the effect that conditions should only be added where considered necessary and proportionate to the promotion of the licensing objectives, as well as not over-lapping with other legislation / regulation which, incidentally, many of these could be argued to do so e.g. with Health & Safety / Fire Safety, the Environmental Protection Act etc.

Question 8: The council has adopted a special licensing policy for the Fulham Broadway Area, as it was felt that the cumulative effect of many licensed premises within the vicinity was resulting in problems of public disorder and nuisance to the surrounding area. This included low level crime, such as littering, shouting, vomiting and urinating in residential streets. Details of the special licensing policy for the Fulham Broadway Area have been included in this revised policy.

The council considered that it was not appropriate for any further licensed premises to be established in the area or permitted hours of operation to be increased. The Licensing Authority are now empowered to reject new applications and restrict changes to existing licences following a valid representation. The policy has helped to reduce crime and disorder in the area.

Do you think that it is a good idea to adopt a special licensing policy for other parts of the borough?

Yes.

Where there is evidence to support this, naturally.

Question 9: The revised Statement of Licensing Policy retains the flexibility to take into account the cumulative effect that too many licensed premises in one area may have. Do you believe we should keep this flexibility in our Policy to make decisions on licence applications based on cumulative impact?

Yes.

Question 10: We have included a non-exhaustive list of measures/issues to be considered in relation to crime and disorder. Do you think that this is a good idea?

Yes.

Question 11: Applicants for on-licences must be able to demonstrate that they can comply with the control of illegal drugs on their premises. We have included a section in the revised Statement of Licensing Policy, that where requested, the licence holder should agree a protocol with the council and the police on the handling of illegal drugs on their premises. Do you think that this is a good idea?

Yes.

Question 12: Applicants for on-licences must be able to demonstrate that they can comply with the control of weapons on their premises. We have included a section in the revised Statement of Licensing Policy, that where requested, the licence holder should agree a protocol with the council and the police on the handling of weapons on their premises. Do you think that this is a good idea?

Yes.

Question 13: Do you think that it is a good idea to include guidance and examples of irresponsible drink promotions in the revised Statement of Licensing Policy?

Yes.

Question 14: Do you think that it is a good idea to include tighter controls for off licences around the sale of alcohol in the revised Statement of Licensing Policy, especially in order to control the population of street drinkers, football match day crime and disorder and illegal sales of alcohol to children?

Yes.

Question 15: We understand from the complaints that we receive that the noise and disruption from people leaving premises late at night is a particular cause of concern for our residents. We have included a new section about having consideration of our residents in the revised Statement of Licensing Policy. Do you think that this is a good idea?

Yes.

Question 16: We have recommended that defined dispersal policies are implemented at venues that are primarily alcohol led premises and close to residential premises, such as nightclubs and pubs. We have also recommended that all staff are trained on any such policy. Do you think that this is a good idea?

Yes.

Question 17: We have made reference in the revised Statement of Licensing Policy to the fact that the Licensing Authority will pursue any unpaid licence fees and that premises may have their licences time limited if they owe any annual maintenance fees. Do you agree with this?

Unsure.

Can we legally time-limit licences when there is no renewal of a licence – when does the opportunity to time-limit a licence arise?

Question 18: We have clarified the situations in which we will accept minor variation applications within our revised Statement of Licensing Policy. Do you think that it is useful for us to clarify our approach to full and minor variations of existing licences?

Yes.

Question 19: We have requested that applicants endorse the back of photographs with their name, date of birth and contact number, in order to speed up the processing time. Do you agree with this?

Yes.

Question 20: We have included guidance for holders of Large Outdoor Events in the borough in order to ensure that events are well planned and that the Public Safety and Prevention of Nuisance objectives are satisfied by applicants. Do you think that it is a good idea to include this guidance in the revised Statement of Licensing Policy?

Yes.

Question 21: We have included in our revised Statement of Licensing Policy guidance on the removal of a DPS for community premises. Do you think that this is a good idea?

Yes.

Question 22: We have included information about the fact that Councillors are now considered to be “interested parties” and can therefore make representations in their own right. Do you think that it is useful to include this information?

Yes.

Question 23: If you would like to make any other comments around this consultation on this revised Statement of Licensing Policy please detail them below:

The following comments relate to section 10 (The prevention of nuisance) of the Draft Review document dated June 2010.

Under **paragraph 10.3** there is a series of bullet points, the fourth of which describes some of the steps the Licensing Authority will particularly consider that the applicant has taken or proposed to undertake to prevent noise and vibration escaping from the premises. Naturally, this is not meant to be an exhaustive list but I think two significant measures have been overlooked which should be included to make applicants aware of them in advance.

These are:

- 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; and
- 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).

I also have a concern with the sentence in the fifth bullet point (“This will usually be of greater importance between 11:00pm and 7:00am than at other times of the day.”). Again, I accept we would not be ‘tied’ to these times, but such a statement could be misleading and be cited by an applicant if we are making representations about preventing nuisance from customers arriving at or leaving the premises (or, indeed, any other matter) outside of these time.

My preference would be for something more along the lines of:

- 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.

There is a spelling mistake in the bullet point relating to the siting of external lighting – siting is spelt sitting, which has clearly slipped through the computer spell check as a word in its own right.

The following comments relate to **paragraph 15.10**, which is meant to provide a non-exhaustive list of risks associated with public nuisance that applicants may want to consider when preparing their Operating Schedule.

Again, I accept this is a non-exhaustive list and, clearly, we retain our discretion to make representations on any matter we feel hasn’t been adequately addressed by the applicant, but I’m concerned an applicant may read paragraph 15.10 in isolation to

other parts of the Policy and consequently be under the impression that these are the only matters they need to address in their Operating Schedule.

I would therefore recommend adding the following:

- **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.
- **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.
- **Odour** – odour from cooking is a common source of complaint, particularly from restaurants and fast-food takeaways. The Councils Environmental Protection Service 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 BBQ's.
- **Deliveries / collections** – noise from deliveries too and / or collections (e.g. refuse) from the premises are another common source of complaint. Consider therefore the times of such deliveries / collections are make sure you specify to any contractors that deliveries / collections should not be made at anti-social times – as a guide, Environmental Protection tend to recommend 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.
- **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.
- **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.

The following comments relate to **paragraphs 18.4 and 18.5**, which relate to Temporary Event Notices. The paragraphs advise that organisers of temporary events are recommended / strongly advised to contact the Licensing Authority and the Police for advice when planning events.

I would like to see Environmental Protection added to these paragraphs.

Finally, I would like to reiterate my comments under **Question 7**, which relates to the pool of conditions that could be applied to different types of premises.

As stated above, while I accept model conditions are useful to promote consistency, I think there can be a temptation to add them regardless, without any thought for the necessity and / or proportionality of doing so. I would respectfully suggest therefore that it would be important (critical) to at least have a caveat to the effect that conditions should only be added where considered necessary and proportionate to the promotion of the licensing objectives, as well as not over-lapping with other legislation / regulation which, incidentally, many of these could be argued to do so e.g. with Health & Safety / Fire Safety, the Environmental Protection Act etc.

That said, I have a very strong fundamental concern with the inclusion of this pool of conditions as they stand for the reason also stated above i.e. I can't work out why the potential licence conditions have been written to only apply to certain premises, categorised A to F inclusive. The inference appears to be that some conditions will not apply to some types of premises. Consequently it is our view this can lead to potential room for error.

There is probably too large a debate here to have and resolve in time for the deadline to publish the revised Statement of Licensing Policy. I note the introductory paragraph to the pool of conditions states that 'This list is not exhaustive and should be used as a guide....' Etc, but I would respectfully suggest also adding the following:

The pool of licence conditions does not form part of this Statement of Licensing Policy and, as such, is subject to change at any time without prior notice or consultation.

For reference, we had a similar caveat on Appendices to our Statement of Licensing Policy at Enfield, which we were advised at the time was lawful.

Thank you once again for giving us the opportunity to comment on the draft review, I trust our comments are both helpful and can be included in the final published Statement of Licensing Policy.

Yours sincerely,

Dom Stagg
Environmental Health Officer

Environmental Protection

**Director of Environment
Nigel Pallace**