

AGENDA ITEM: 3 Page nos. 1 – 6

Meeting **Licensing Committee**
 Date **1 December 2004**
Subject Licensing Policy
 Report of **Head of Environmental Services**
 Summary **The Licensing Act 2003 makes major changes to the existing alcohol and entertainment licensing regimes. It places new responsibilities on local authorities. The Council must publish its Licensing Policy by 7 January 2005. This is a report on the outcome of formal consultation on the Council’s draft policy.**

Officer Contributors	Terry Vaughan, Group Manager (Health and Safety and Licensing)
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix 1, table summarising responses to consultation Appendix 2, summary of replies to questionnaire Appendix 3, proposed Licensing Policy Appendix 4, synopsis of submission from the Metropolitan Police Service Appendix 5, DCMS guidance on saturation policies
For decision by	} Council (re. adoption of policy)
Function of	
Reason for urgency / exemption from call-in (if appropriate)	

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1. RECOMMENDATIONS (1.1 FOR RECOMMENDATION TO COUNCIL 14/12/04)

- 1.1 That the proposed licensing policy, including the proposed delegation of functions set out in paragraph 19 of the policy, be approved by Council and that the Chief Officers concerned be instructed to arrange for it to be published by 7 January 2005.**
- 1.2 That the Head of Environmental Services develop proposals for further research into the identified stress areas, with a view to reporting back to the Licensing Committee on the results of the research and any resultant proposed changes to the Council's Licensing Policy.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Decisions of Cabinet, 3 November 2003, relating to cost of implementing the Act.
- 2,2 Decision of Cabinet member for Housing and Environmental Health, 28 August 2004, adopting the draft licensing policy.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The licensing policy will support the corporate priorities of tackling crime by ensuring that the sale of alcohol is properly regulated; supporting the vulnerable by ensuring that children are not put at risk by licensable activities; and making the Borough cleaner by minimising nuisance.
- 3.2 The policy will support the targets in the Safer Communities Strategy 2002-2005.
- 3.3 The objectives of the Community Plan will be supported by licensing decisions made in accordance with this policy. They will reduce crime and the fear of crime, reduce nuisance, improve public safety, stimulate cultural development and encourage a well-regulated evening economy.

4. RISK MANAGEMENT ISSUES

- 4.1 The adoption of an unsound policy could cause difficulty to businesses and residents, as it could lead to unsound licensing decisions. This could leave the policy open to challenge, with consequent expense and adverse affect on the Council's image. Failure to adopt a policy at all would mean that no decisions of the Licensing Committee would be valid under the Act.
- 4.2 The proposed policy acknowledges that longer licensing hours are important to ensure that concentrations of customers leaving premises simultaneously are avoided. This should reduce the risk of friction away from licensed premises, for example at late night fast food outlets and transport queues, and it is hoped that it will reduce crime and disorder. However, the outcome is not certain, and although increased freedom for businesses is central to the new licensing arrangements, there is some reputational risk to the Council should the policy not prove successful in this respect.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 5.1 There is a need for additional staffing to provide for the implementation of the Act, for which provision has been made as part of the 2004/2005 budget setting process.

6. LEGAL ISSUES

- 6.1 Addressed in the body of the report.

7. CONSTITUTIONAL POWERS

- 7.1 Regulations recently issued by the Government make the determination of licensing policy a responsibility of the Council rather than the Executive.
- 7.2 The Council's Constitution delegates to the Licensing Committee:
"All functions under the Licensing Act 2003 and associated Regulations, not otherwise delegated to the Licensing Sub-Committee." (Part 3 "Responsibility for Functions"; Section 2 "Responsibility for Council Functions").
- 7.3 The statutory and regulatory provisions reserve to full Council the decision to approve the draft licensing policy, and it will therefore be necessary for the Committee to make a recommendation to the Council meeting on 14 December in order to meet the statutory deadline for publication of the draft policy.

8 BACKGROUND INFORMATION

- 8.1 The Licensing Act 2003 makes major changes to the regulation of alcohol sales, public entertainment and other activities. On 7 February 2005, the Council will take over responsibility for licensing the sale of alcohol in pubs, off-licences and restaurants from the Magistrates.
- 8.2 The Act requires the Council to develop a licensing policy. It also defines 'responsible authorities' and 'interested parties', which will have the right to object to applications for new premises licences or variations to existing licences, and to seek a review of existing licences. Whenever there is an unresolved objection, the Licensing Committee will determine the matter, and must do so with regard to the policy. The policy must be published. It can be changed at any time, after consultation, and must be renewed every three years.
- 8.3 The draft policy was prepared taking into account the statutory guidance from the Department of Culture, Media and Sport. It was subject to wide consultation. A copy was sent to the Police, the Fire Authority, and to persons and bodies representing holders of existing premises licences, club premises certificates and personal licences, local businesses and residents. Approximately 1700 copies were distributed, and it was also made available on the Council's web site. As much time as reasonably practicable was set aside for consultation, bearing in mind the requirements of the Council's

decision-making procedures and that the Statement of Policy must be agreed and published by 7 January 2005.

8.4 The responses to the consultation were generally supportive of the draft policy. People completed a questionnaire covering certain key points, and the majority confirmed that:

- the policy is fairly easy to understand
- the policy objectives are sound
- they could not identify any area of cumulative impact
- we should not allow the views of a small number of objectors to predominate over the interests of the community when considering applications for cultural activities
- licensing officers should carry out inspections
- the Council should seek licences in its own name to facilitate cultural activities
- our interpretation of 'nuisance' is correct
- our concerns about risk to children are correct and sufficient
- we should notify local people of new applications
- we should deal with complaints about premises informally when possible
- we should establish a licensing forum.

A detailed summary of replies to the questionnaire is given at Appendix 2.

8.5 A revised Statement of Policy, taking into account the outcome of the consultation, is attached at Appendix 3. The main changes in the policy are:

- re-ordering to give a more logical sequence
- greater emphasis on litter and waste management
- wider interpretation of equalities issues
- greater clarity over the circumstances under which licence conditions may be applied and personal licences must be granted
- confirmation that we will work with neighbouring authorities on cross-border cumulative impact issues
- included reference to the Community Plan
- that the Council will, rather than may, seek licences in its own name to facilitate cultural activities
- that the Council will, rather than may, set up a licensing forum
- confirmation that although the views of a small number of objectors will not predominate over the interests of the community with respect to cultural activities, all objections will be taken into account.
- greater emphasis on support for a wide range of cultural activities
- inclusion of the existence of previous convictions of staff at the premises for offences against children, or where the police believe there is a risk, as circumstances giving concern about the protection of children

- inclusion of additional nuisances that might arise
 - greater emphasis on the provision of information and advice to licence applicants to assist them when drafting their operating schedules
 - confirmation that temporary event notices need only give 10 days notice to comply with the Licensing Act
- 8.6 An important issue for consultation was whether the council should adopt special saturation policies. These would be a presumption against new licences or variations in defined areas, if they would increase the cumulative impact of existing licences on the licensing objectives. Any such policy could discourage investment in the area affected and could be challenged by anyone wanting a licence in that area
- 8.7 The proposed policy requires that each application must be considered on its merits. The Licensing Act provides that no licence or variation may be refused unless there is an objection, and any objection on the grounds of cumulative impact must be taken into account, whether or not the Council has a saturation policy. Such a policy may discourage applications, but can not prevent them. If there is an objection, a licence or variation can be refused, or licence conditions, enforced by our Licensing Officers, may be applied to minimise the risk to the licensing objectives, including crime and disorder. There are powers to deal with any problem premises after a licence has been granted.
- 8.8 As part of the consultation exercise, we asked for information about areas of high cumulative impact. Of the 66 replies received, 6 (in addition to the Police submission referred to below) identified stress areas in North Finchley, High Barnet and New Barnet.
- 8.9 The Metropolitan Police Service has made a submission (a synopsis of which is given at Appendix 4) on the need for special saturation policies for High Barnet, Edgware, Cricklewood, Golders Green, Finchley Central and Tally Ho. They have provided evidence of the extent of alcohol-related crime and disorder in those areas.
- 8.10 The Council would support saturation policies in appropriate circumstances, and has agreed to review the areas referred to by the police. This review will be conducted over the next six months, and where detailed evidence supports the establishment of such zones the policy may be varied accordingly.
- 8.11 For information, neighbouring authorities are not planning to introduce saturation policies currently, with the exception of Camden, which proposes two such areas (Camden Town and Covent Garden).
- 8.12 The statutory guidance on saturation policies is Appendix 5

9 LIST OF BACKGROUND PAPERS

- 9.1 Licensing Act 2003 (www.culture.gov.uk)

- 9.2 Guidance issued by the Secretary of State under s182 of the Act (www.culture.gov.uk)
- 9.3 Replies to consultation
- 9.4 Draft Licensing Policy
- 9.5 Any person wishing to inspect the background papers listed above may telephone Terry Vaughan 020 8359 7469

BS: SM
BT: CM

Appendix 1

Licensing policy consultation responses

Num ber	Statutory Consultee	Summary of response	LBB comment	Action to be taken	Change policy?
0001	No	Forum every 2 months	To be agreed	Forum to be established	no
0002	Yes	Noise complaint contact to be amended	Agreed		yes
0003	No	No detailed comment			no
0004	No	No detailed comment			no
0005	No	Forum once pa	To be agreed	Forum to be established	no
0006	No	No detailed comment			no
0007	No	Finchley Church End is appropriate for 24 hr licensing Forum quarterly	Each application must be dealt with on its merits. To be agreed	Forum to be established	no
0008	No	Forum twice pa	To be agreed	Forum to be established	no
0009	No	There must be conditions restricting hours for cultural activities Forum twice pa	Conditions will be applied where necessary. Each case must be dealt with on its merits. To be agreed	Forum to be established	no

0010	No	The following are important for child protection: No smoking area with priority for children; adequate provision of soft drinks for children.	When there is an objection, conditions can be attached to licences if necessary for public safety. Anti-smoking measures are outside the remit of the Licensing Act, as public health is not a licensing objective.		no
		There must be adequate noise insulation at music venues	Each case must be dealt with on its merits. Conditions may be applied if there is an objection.		no
		Forum once pa	To be agreed	Forum to be established	no
0011	No	Stonegrove Park to be licensed Forum twice pa	Appropriate locations to be identified To be agreed		no
0012	No	Forum twice pa	To be agreed	Forum to be established Forum to be established	
		Parking concerns	Parking problems are primarily a matter for planning control and/or parking legislation.		no
0013	No	No specific comment			no
0014	No	Issues relating to auctions	Not relevant. Auctions will not normally be licensed under this legislation.		no

		Issue of disabled access needs more emphasis	Licensing powers can not be used to enforce disabled access.	Applicants will receive advice on this issue	no
		Barnet's regulations are draconian	Not reflected in other comments		no
0015	No	Specific section on litter and waste management required. Policy should promote Barnet's trade waste collection service.	Covered by nuisance section	No separate section for this in policy but greater emphasis within existing nuisance section. Information about waste collection service to be included in application pack rather than policy.	yes
0016	No	Wants no smoking in licensed premises	Anti-smoking measures are outside the remit of the Licensing Act and policy, as public health is not a licensing objective		no
0017	No	Forum monthly	To be agreed	Forum to be established	no
0018	No	Forum monthly	To be agreed	Forum to be established	no
		Concerned about Council's ability to restrict hours, and how this will affect policing of anti-social behaviour	If there is an objection to an application the Council may limit hours. There are various measures available to deal with anti-social behaviour, including review of the licence if the problems are within the licensee's control		no
0019	No	Useful to review policy after implementation	This is covered in policy		no
		Concerned that compliance costs may mean cultural events may be cancelled	Policy demonstrates support for cultural events.		no
		Could Council run training on	Not relevant to	Training may be	no

LICENSING POLICY QUESTIONNAIRE

Q1.a	Are you replying as:		
	A private individual		21%
	On behalf of a business		35%
	On behalf of other organisations		21%
	As representative of local residents, businesses or licensees		15%
	Did not answer		8%

Q2.a	Did you find the draft policy easy to understand		
	It was very easy to understand		11%
	It was fairly easy to understand		50%
	Not Sure		6%
	It was fairly difficult to understand		6%
	It was very difficult to understand		3%
	Did not answer		24%

Q3.a	Do you agree or disagree with our policy objectives as stated in paragraphs 2.1 -2.3.		
	Strongly agree with policy objectives		11%
	Agree with policy objectives		48%
	Not sure		12%
	Disagree with policy objectives		0%
	Did not answer		29%

QQ4.a	Do you believe that any area is at or near the point where the cumulative impact of licensed premises is unacceptable		
	Yes		12%
	No		17%
	Not sure/don't know		42%
	Did not answer		29%

Q5.a	Are there other circumstances that should cause us to consider imposing restrictions on the licence to protect children from harm		
	Yes		14%
	No		32%
	Not sure/don't know		23%
	Did not answer		31%

Q6.a When dealing with proposals for cultural activities such as live music and dancing, are we right not to allow the views of a small number of objectors to predominate over the general interests of the community

Yes	30%
No	23%
Not sure/don't know	20%
Did not answer	27%

Q7 Do you agree that our licensing officers should carry out inspections to check that licence conditions are complied with

Yes	64%
No	5%
Not sure/don't know	5%
Did not answer	26%

Q8.a Do you think the Council should seek licences in its own name for appropriate public spaces and give permission for cultural activities to be presented there by individuals or organisations

Yes	45%
No	8%
Not sure/don't know	21%
Did not answer	26%

Q9.a Do you agree with our interpretation of 'nuisance'

Yes	52%
No	8%
Not sure/don't know	12%
Did not answer	28%

Q10 Are we right to notify local people who we think may be affected of new applications so they can make representations if they wish

Yes	61%
No	5%
Not sure/don't know	8%
Did not answer	26%

Q11. Are we right to deal with complaints about premises informally, with the agreement of the complainant, instead of holding a formal review of the licence in every case

Yes	62%
No	2%
Not sure/don't know	9%
Did not answer	27%

Q12.a Should we establish a forum for interested parties to discuss licensing issues and the effects of our policy

Yes	55%
No	5%
Not sure/don't know	15%
Did not answer	25%

Q12.c If we establish a forum, would you wish to attend

Yes	39%
No	6%
Not sure/don't know	29%
Did not answer	26%

London Borough of Barnet

Licensing Policy

Contents:	Section
Introduction	1
Policy objectives	2
Licensing principles	3
Cumulative impact	4
Other Mechanisms for controlling cumulative effect	5
Licensing hours	6
Integration of licensing with other strategies	7
Prevention of crime and disorder	8
Protection of children from harm	9
Prevention of nuisance	10
Cultural activities and entertainments	11
Planning and Building Control	12
Applications for premises licences and club premises certificates	13
Premises licence and club premises certificate conditions	14
Complaints about premises	15
Enforcement	16
Review of premises licence or club premises certificate	17
Temporary events	18
Personal licences	19
Transport	20
Tourism and employment	21
People with disabilities	22
Promotion of equality	23
Administration and the exercise and delegation of functions	24
Licensing register	25
Licensing forum	26
Guidance	27
Relevant documents	28
Complaints about our service	29
Commencement and review	30
Contacts	appendix 1

1 Introduction

- 1.1 The Council is a licensing authority in accordance with the Licensing Act 2003. We are empowered to grant premises licences, personal licences

and club premises certificates, and deal with temporary event notices. We can take enforcement action when premises or activities are unlicensed, or licence conditions are not complied with.

- 1.2 This policy provides a framework for all decisions and actions of the Council and its officers in connection with the Council's function as licensing authority.

It provides information for elected Members and officers about the powers of Licensing Authorities. It sets out the boundaries within which decisions are made.

It informs applicants of the way in which the Council will make licensing decisions and how a licensed premises is likely to be permitted to operate.

It informs residents and businesses of the way in which the Council will make licensing decisions and how their needs will be addressed.

It will support licensing decisions made by the Council if they are challenged.

- 1.3 The policy covers the following licensable activities:

- The retail sale of alcohol
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club
- The provision of regulated entertainment, including plays, films, indoor sports events, boxing and wrestling, live music and dance
- The provision of late night refreshment.

- 1.4 The Act defines four licensing objectives:

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

- 1.5 The Council wants to work in partnership with all parties involved to ensure that these objectives are safeguarded. The other parties are:

- ‘Responsible authorities’ as defined in the Act, with which we may share information, and which may make representations to the Council and seek a review of a licence. In Barnet, these are:
 - The Metropolitan Police Service
 - The London Fire and Emergency Planning Authority
 - The Council’s health and safety enforcement service, or in a small number of cases, the Health and Safety Executive
 - The Council’s Planning Service
 - A group comprising the Council’s Scientific Services Group Manager, Noise and Statutory Nuisance Manager and Street Services Manager
 - The Safeguarding Children Board
- ‘Interested parties’ as defined in the Act. These are people living, or involved in a business, in the vicinity of the premises concerned, and their representatives. An interested party can make representations to the Council on an application for the grant, variation or review of a premises licence or club premises certificate, and may seek a review of an existing premises licence or club premises certificate.
- Premises licence and certificate holders or applicants, designated premises supervisors and personal licence holders.

1.6 This policy provides important support for the Council’s aims as set out in the Corporate Plan 2004/5 – 2007/8. They are:

- Tackling crime
- Creating a cleaner, greener Barnet
- Supporting the vulnerable in our community

1.7 In producing this policy, we took into account the Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the

Act (www.culture.gov.uk), and all submissions received following consultation.

2 Policy objectives

- 2.1 The Council recognises that licensed venues can make Barnet more attractive, provide employment and are valued by residents and visitors to the Borough. We want businesses to thrive, and fully support the provision of recreational and cultural activities that everyone can enjoy. Our Community Plan includes a commitment to encourage a regulated evening economy in suitable locations (for example in connection with the Artsdepot in North Finchley), but we are mindful of the tensions that such activities may generate. They can sometimes cause nuisance or safety risks, harm children or increase the risk of crime and disorder. We will therefore seek to balance competing interests, so that problem businesses are controlled, while those that will not cause significant risk to the licensing objectives are not subject to unnecessary restrictions.
- 2.2 We will take account of any relevant representations on the issue of a licence or applications for review of a licence (provided they are not frivolous, vexatious or repetitious as described in the statutory guidance). However, we will not attempt to prevent or restrict any licensable activity by withholding a licence, imposing conditions or revoking a licence unless it is clearly justified by the risk to the licensing objectives in the specific individual circumstances of each case.
- 2.3 The over-riding intention of this Policy is that the Council will deal with each application on its merits.

3 Licensing principles

- 3.1 The purpose of licensing is the proper control of licensable activities on licensed premises, by qualifying clubs, and at temporary events within the terms of the Act. Conditions may be attached to a licence if they are volunteered by the applicant in the operating schedule, or if there is a representation against the application. These conditions will focus on matters within the control of the licensee and others in possession of relevant authorisations. Accordingly, these matters will centre on the premises being used for licensable activity, and the vicinity of those premises. When considering the affect of licensable activities outside the premises, the Council will 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.

- 3.2 The Council acknowledges that licensing powers, although important, are not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual business or club holding the licence, certificate or authorisation concerned.

4 Cumulative impact

- 4.1 This is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 4.2 The Council will take account of the possible cumulative impact of licensed premises on the licensing objectives. In doing so, we will differentiate between cumulative impact and the possible need or commercial demand for the premises to be licensed. 'Need' and 'commercial demand' are not matters for a licensing authority.
- 4.3 Although the likely cumulative impact may constitute grounds for refusing a licence, we will not do so without taking full account of the individual merits of the application.
- 4.4 The Council is aware that some responses to consultation on this policy expressed concern about cumulative impact in certain areas. There is not at this time clear evidence to justify a special saturation policy that would be a presumption against new premises licences or club premises certificates, or variations, in any part of the Borough. However, we will keep this matter under review, through the licensing forum meetings that will be held, and by other means. We will work with the Metropolitan Police Service and others to research the cumulative impact of licensed premises in these areas, and may if necessary, after further consultation, introduce special saturation policies at a later date. It is important to note that the absence of a saturation policy does not prevent any responsible authority or interested party from making representations in connection with an application on the grounds of cumulative impact.
- 4.5 The Council is aware that premises providing late night refreshment can be a useful amenity, but we are concerned that a proliferation of such premises, particularly in the vicinity of premises selling alcohol can add to the cumulative impact of the licensable activities in the area. We will take this factor into account when considering representations in connection with new licence applications, but will treat each case on its individual merits.

- 4.6 If necessary, and as is consistent with Guidance and the remainder of this policy, we will seek to work with neighbouring licensing authorities to deal with any cumulative impact that may straddle the Borough boundary.

5 Other mechanisms for controlling cumulative impact

- 5.1 Licensing powers are not the primary mechanism for the general control of nuisance and anti-social behaviour away from licensed premises. Other means are available, including:

- Planning controls;
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council;
- The adequate provision of CCTV surveillance in town centres, taxi ranks, public conveniences open late at night, street cleaning and litter patrols;
- Powers of the Council to designate places where alcohol may not be consumed publicly;
- The confiscation of alcohol from adults and children in designated areas;

- Police enforcement of the general law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices;
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or noise emanating from the premises;
- When legislation permits, closure of the premises by an authorised environmental health officer on the grounds of noise nuisance;
- The Metropolitan Police Service or other responsible authority, or a local resident or business can seek a review of the licence or certificate in question;
- At certain times of day, action by parking control officers or the Council's Street Enforcement Service;
- The prosecution of any personal licence holder or member of staff at such premises who commit offences such as selling alcohol to children under 18.
- Action by Metropolitan Police Service Community Support Officers;
- Closure by the Metropolitan Police Service of premises where drugs crime is taking place.
- The issue of Dispersal Notices, in areas designated under Part 4 of the Anti-social Behaviour Act 2003, by the Metropolitan Police Service
- Action by the Council to tackle anti-social behaviour, including the use of Anti-Social Behaviour Orders (ASBOs)

6 Licensing hours

- 6.1 Before the introduction of the Licensing Act 2003, there were permitted hours for the sale of alcohol. The Council recognises that longer licensing hours for the sale of alcohol are important to avoid concentrations of customers leaving premises simultaneously, and that this can reduce the risk of nuisance and crime and disorder. For example, it can reduce friction at fast food outlets and transport queues.
- 6.2 We will consider any application regarding licensing hours on its merits, and this policy makes no presumption about closing times. In determining applications, we will be mindful that although nuisance can arise at any time, it may be possible for licensed premises to operate at any time of the day or night without adverse effect. If the applicant's operating schedule has adequately addressed the licensing objectives there may be no justification for restricting opening hours. If representations are made, appropriate licence conditions may be applied, and these may be stricter if the application is for later hours.
- 6.3 The Council will not establish zones within which we set fixed trading hours that may be different to those set elsewhere, as this could lead to problems when customers move from one zone to another. However, we will always take due account of local circumstances and stricter conditions may be applied where there is denser residential occupation.
- 6.4 The Council will not use licensing powers to limit the retail sale of alcohol for consumption off the premises unless the Metropolitan Police Service make a representation, for example because the premises are a focus of disorder and disturbance.

7 Integration of licensing with other strategies

The Council will ensure, so far as is consistent with the licensing objectives, that action taken under this policy supports and does not conflict with strategies for local crime prevention, community safety, drugs and alcohol, planning, transport, equality, tourism and cultural issues, including in particular:

- The Community Plan for Barnet 2003-2006
http://www.barnet.gov.uk/local_democracy/community_plan/index.php3
- The Cultural Strategy for London
http://www.london.gov.uk/view_press_release.jsp?releaseid=1618

- The Mayor's London Ambient Noise Strategy
<http://www.london.gov.uk/mayor/strategies/noise/index.jsp>
- The objectives of the Security Industry Authority <http://www.the-sia.org.uk/pdf/SIA-Corporate-and-Business-Plan.pdf>
- The Safer Communities Strategy
http://www.barnet.gov.uk/community/safer_communities/index.php3
- The Alcohol Harm Reduction Strategy
<http://www.pixunlimited.co.uk/sys-files/Society/documents/2004/03/15/alcoholstrategy.pdf>
- Putting the community first: Barnet's Equalities Policy
<http://www.barnet.gov.uk/community/equalities/index.php3>

8 Prevention of crime and disorder

- 8.1 Conditions attached to licences will so far as is possible reflect and support local crime and disorder prevention strategies. The Metropolitan Police Service will be informed of applications, and may make a representation about a licence or request a review.
- 8.2 When a relevant representation is made, the Council will consider applying conditions to minimise the risk of crime and disorder, which include, for example:
- Drugs being taken onto, sold or distributed, or used at or in the vicinity of licensed premises, and to minimise the harmful consequences should drug use occur
 - Weapons being taken onto or used at licensed premises
 - Fighting between customers
 - Theft and other property crime taking place at or in the vicinity of the premises.
- 8.3 Applicants may refer to the Home Office guide 'Safer Clubbing' and the Metropolitan Police Service publication 'Controlled drugs and weapons in licensed premises' for advice on minimising crime and disorder.
www.drugs.gov.uk/reportsandpublications/communities/103417428/safer_clubbing_txt.pdf

9 The protection of children from harm

- 9.1 The Council will take all appropriate action to protect children from harm. This will include education of traders, parents and minors and targeted test purchasing using volunteer children.
- 9.2 However, we will not seek to prevent or limit access by children to licensed premises unless it is necessary to protect them from physical, moral or psychological harm. Licences may be sought for a great variety of premises in addition to pubs and nightclubs, at many of which the admission of children will not cause any significant risk. Each application will be considered on its individual merits.
- 9.3 Circumstances that are likely to give rise to particular concern include the following, and the Council will give special consideration to such cases:
- There have been convictions of members of the current staff at the premises for serving alcohol to minors or the premises have a reputation for under-age drinking
 - There is a known association with drug taking or dealing
 - There is a strong element of gambling on the premises
 - Entertainment or services of an adult or sexual nature are commonly provided
 - There has been a conviction of a member of the current staff for an offence against a child or the Police believe that person could otherwise be a risk to children
 - The supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 9.4 Although the Council will not normally prohibit access by children to any premises, we may apply licence conditions, including the following options:
- Limitations on the hours when children may be present
 - Age limitations
 - Limitations or exclusion of the presence of children under a specified age when particular specified activities are taking place

- Requirements for children to be accompanied by an adult (including for example a combination of requirements which provide that children under a particular age must be accompanied by an adult)
- Exclusion of people under 18 from the premises when any licensable activities are taking place.
- Limitations on the parts of premises to which children may be given access.

9.5 The Council will not impose a condition requiring the admission of children to any premises.

9.6 The Portman Group, on behalf of the alcohol industry, has produced a code of practice on the naming, packaging and promotion of alcoholic drinks (www.portman-group.org.uk). We endorse this Code, and encourage licensees to adhere to it.

9.7 In the case of premises giving film exhibitions, we will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification.

9.8 The Council recognises the Barnet Safeguarding Children Board as the responsible authority competent to advise on matters relating to the protection of children from harm. The Board will be informed of applications, and may make a representation about a licence or request a review.

10 Prevention of nuisance

10.1 We use the term 'nuisance' with its every-day meaning, to include, for example, excessive noise (whether generated within the licensed premises, or in the vicinity by people arriving or leaving, queuing or spilling out of the premises), vibration, accumulated refuse, litter or lack of cleanliness outside licensed premises, problem advertising and leaflet distribution, obstruction of rights of way and smell or light pollution.

10.2 If a relevant representation is made, the Council may attach conditions to a licence to prevent nuisance.

10.3 We encourage licence applicants to give careful consideration to the likely environmental effect of their proposed activities, and to take steps to minimise any adverse impact, for example by providing noise insulation

where appropriate, adequate refuse disposal arrangements and anti-litter measures.

- 10.4 We will bear in mind that, in appropriate locations, such as where there is a cluster of licensed premises with little impact on neighbouring premises, limited noise emanating from the premises can have a positive effect, adding to the 'city soundscape'.

11 Cultural activities and entertainments

- 11.1 The Council is aware of the value to the community of a broad range of cultural activities and entertainments, such as live music, dancing, theatre, circuses and street arts. Live performance is central to the development of cultural diversity and vibrant, exciting communities. We wish to encourage these activities for the benefit of all.
- 11.2 When there is a representation in connection with an application for such activities, we will seek to obtain a balance between the potential for limited neighbourhood disturbance and the benefits of cultural activities, particularly for children. Although all representations will be taken into account, we will not allow the views of vocal minorities to predominate over the general interests of the community.
- 11.3 We will only attach licence conditions that are reasonable, proportionate, and strictly necessary for the promotion of the licensing objectives. We are aware of the need to avoid measures as far as possible that deter live music, dancing and theatre for example by imposing unnecessary costs.
- 11.4 The Council will 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 in those spaces, as they will not need to apply for a licence or give a temporary event notice themselves. They will only need to obtain our permission. We will consider any request for permission to use such public spaces for cultural activities.
- 11.5 We will monitor the impact of licensing on regulated entertainment in the Borough, particularly on live music and dancing. If there is evidence that licensing requirements deter such activities, we will consider how to prevent it, and if necessary will change this Policy.

12 Planning and Building Control

- 12.1 The Council wishes to reconcile planning, building control and licensing considerations whenever possible. Licensing decisions will not over-rule

planning or building control decisions, as the legal framework for each is different.

- 12.2 Licensable activities cannot lawfully be carried on at premises unless there is a premises licence or club premises certificate and any necessary planning permission and building regulation approval. A licence will not relieve the licensee of the need to apply for planning permission or building regulation approval, should these be required. The onus is on the licensee or applicant to ensure that these conditions are satisfied.
- 12.3 Where there is no relevant planning permission or building regulation approval, or where there are planning conditions that conflict with the licence application, we invite the applicant to submit a planning application or building regulation approval application as early as possible in order to regularise the position. The Council's Planning Service and Building Control Service will be informed of new applications. As a responsible authority in Barnet, the Planning Service may make a representation about the licence.
- 12.4 However, when making decisions the Council will ensure separation of its licensing function from its planning and building control functions. The Licensing Committee will determine applications where there is a relevant representation, and may grant a premises licence or club premises certificate where there is no planning consent or building regulation approval. In such a case we expect that a planning application or building regulation approval application would be submitted and determined separately.

13 Applications for premises licences and club premises certificates

- 13.1 The Act requires the licence applicant to publicise the application. This is to enable interested parties and responsible authorities to make a representation if they wish. Our experience as a licensing authority is that statutory publicity may not always bring applications to the attention of all parties. Therefore, in addition to putting applications on our web site, we may notify interested parties and responsible authorities when we have received an application. In doing so, we will not solicit representations.
- 13.2 When notified of an application, responsible authorities will consider whether to make a representation, and may carry out an inspection. The Council's licensing officers may check that adequate risk control measures are in place to achieve the licensing objectives. If they consider that the objectives may be at risk they may inform the relevant responsible authority, which may then decide to make a representation. The licensing officers may offer the applicant the opportunity to make changes that will

better protect the licensing objectives. This may avoid the need for a Licensing Committee hearing.

- 13.3 The Licensing Committee will take account of representations from the applicant and from interested parties or responsible authorities making representations, treating each fairly and equally. Matters of fact will be decided on the balance of probabilities.
- 13.4 If the Committee considers that the impact on the licensing objectives of granting the licence is likely to be acceptable it will grant the licence, subject to any conditions that it considers necessary to protect the objectives.

14 Premises Licence and club premises certificate conditions

- 14.1 Applications during the transitional period to convert existing licences to premises licences or club premises certificates will be granted under the same conditions as the existing licence.
- 14.2 In the interests of speed and efficiency, applicants for a new premises licence or club premises certificate, or a variation, should make sure that their operating schedule adequately addresses each of the four licensing objectives.
- 14.3 To assist applicants, we will provide information and advice, in the form of a good practice guide, about the expectations of the responsible authorities with respect to the licensing objectives in various circumstances. Although applicants are not bound by these expectations, and we will not seek to enforce them where they are unnecessary or unsuitable, we encourage applicants for new licences or variations to refer to our good practice guide (or other appropriate guidance) when preparing their operating schedules. Where the control measures suggested in the guide are appropriate, we expect that applicants will include them, or others with equivalent effect. We may apply licence conditions from the guide if there is a relevant representation in connection with the application.
- 14.4 If risk control measures such as those in our good practice guide are included in the operating schedule (and will therefore become licence conditions if the licence is granted), people will see that the licensing objectives are safeguarded. They may then be less likely to object to the licence. It may therefore be to the applicant's advantage to take care over their operating schedule and to volunteer adequate risk control measures.

- 14.5 A pool of potential conditions is included for the information of all parties in the Guidance to the Act (www.culture.gov.uk). Applicants may adopt relevant conditions from the pool, and incorporate them in their operating schedules.
- 14.6 We will not set licence conditions that duplicate clear and specific requirements of other regulatory regimes.
- 14.7 We accept as a key concept underscoring the 2003 Act that any conditions that the Licensing Committee attaches to licences and certificates must be tailored to the individual style and characteristics of the premises and events concerned. We will not apply conditions from a standard list unless they are necessary for the promotion of the licensing objectives. In this way, unnecessary or disproportionate conditions will be avoided. Unless a relevant representation is made, only conditions that are consistent with the applicant's operating schedule can be applied to the licence.

15 Complaints about premises

The Council is prepared to receive complaints about licensed premises and, with the agreement of the complainant, deal with them informally with the aim of securing improvement if necessary without the need for a formal review of the licence.

16 Enforcement

- 16.1 The Council will establish and maintain adequate liaison with the responsible authorities to agree enforcement protocols.
- 16.2 Our licensing officers will monitor ongoing compliance with licence conditions in accordance with a risk-based enforcement strategy. They may carry out inspections without prior notice to the occupier or licensee.
- 16.3 We will develop a risk rating system for individual premises, so premises with the greatest assessed risk receive the most regulatory attention. The ratings will be kept under review and we may share this information with responsible authorities. Our inspection program will supplement those of the responsible authorities, and we will co-ordinate our activities with theirs as far as possible.
- 16.4 We will take appropriate enforcement action, in accordance with our Enforcement Policy, when there is licensable but unlicensed activity or a

breach of licensing conditions causing significant risk to the licensing objectives.

- 16.5 The Council has adopted the Enforcement Concordat (www.cabinetoffice.gov.uk/regulation/pst/enforce/enforcecon.asp), which sets out the principles of enforcement for local authorities.

17 Review of premises licence or club premises certificate

- 17.1 Any interested party or responsible authority may request the Council to review an existing premises licence or club premises certificate. Without prejudice to this right, with the agreement of the relevant interested party or responsible authority, we may deal with complaints informally to avoid the need for a review (see 'Complaints about premises'). When possible we will inform licence holders of any concerns that could lead to a review, in order that improvements can be made.
- 17.2 In every case where a review is requested, the representation must relate to particular premises for which a premises licence or club premises certificate is in existence, and must be relevant to the promotion of the licensing objectives. Representations must be in writing, although they may be amplified at the subsequent hearing.
- 17.3 The Council will not consider a request for a review if the Head of Environmental and Neighbourhood Services deems it irrelevant, vexatious, frivolous or repetitious within the terms of the statutory guidance to the Act.

18 Temporary events

- 18.1 The Act allows a limited number of events for less than 500 people and lasting up to 96 hours to be held without a premises licence, providing certain conditions are met and due procedure is followed. Anyone wishing to hold such an event may contact our licensing officers for information and advice.
- 18.2 The Act only requires event organisers to give ten days notice, but this may not always allow for the proper planning of the event and meaningful consultation with responsible authorities in the interest of the licensing objectives. We strongly recommend that they give us at least three months notice of all but the smallest events. The Metropolitan Police Service may object to events that have not been properly planned and may undermine the Crime Prevention Objective.

18.3 Guidance is available to organisers to assist in the planning of temporary events. Organisers of large scale events which require a premises licence are strongly advised to seek guidance from the following documents in the preparation of their operating schedules:

- The Event Safety Guide - A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Guide”) ISBN 071762453
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- Five Steps to Risk Assessment; Case Studies (HSE 1998) ISBN 0717615804
- The Guide to Safety at Sports Grounds 1997 (“The Green Guide”) ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the independent Street Arts Network,
www.streetartsnetwork.org/pages/publications

19 Personal licences

19.1 If there is no representation from the Metropolitan Police Service, the Council must grant any valid application for a personal licence where the appropriate qualifications are satisfied.

19.2 The Licensing Committee will determine any application from an individual who has a conviction for a relevant unspent offence. Such an application may be refused unless there are, in the opinion of the Committee, exceptional and compelling reasons that justify granting the application.

20 Transport

20.1 The Council recognises the relevance of transport availability to licensing decisions, as it affects the way in which people can disperse from town centres swiftly and safely. We support the Safer Travel at Night initiatives in conjunction with Transport for London, the Greater London Authority and the Metropolitan Police (www.london.gov.uk/mayor/safer_travel/index.jsp).

20.2 Reports will be made to the Council’s Planning, Highways and Design

Service when appropriate so that the Service can take proper account of licensing issues.

21 Tourism and employment

The Council recognises the relevance of licensing to tourism and employment in the Borough. The Licensing Committee will receive reports from any body that it considers appropriate on the needs of the local cultural strategy, and tourist economy, including the employment situation in the area and the need for new investment and employment, so that these issues can be taken into account when making licensing decisions.

22 People with disabilities

The Council assumes that people with disabilities may be present when licensable activities take place, and encourages the provision of proper facilities for them at licensed premises. We will offer advice and information where necessary to assist applicants.

23 Promotion of equality

- 23.1 The Council is obliged to have due regard to the need to eliminate unlawful discrimination, for example on the grounds of race, gender, disability, sexual orientation or religion, and to promote equality of opportunity and good relations between persons of different groups.
- 23.2 We encourage equal representation at any meetings of the Licensing Forum, and will monitor the impact of this Policy on the promotion of equality. When considering applications and representations, we will take into account only the issues provided for in the Licensing Act and Guidance, and will not discriminate against any group.

24 Administration and the exercise and delegation of functions

24.1 In the interests of speed, efficiency and cost-effectiveness the Council delegates all administrative functions to its officers.

24.2 Table of delegation of licensing functions

Matter to be dealt with	Licensing sub-committee	Head of Environmental and Neighbourhood Services
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Application for personal licence	If a Metropolitan Police Service representation made	If no representation made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a Metropolitan Police Service representation	All other cases
Request to be removed as designated personal licence holder		All cases
Application for transfer of premises licence	If a Metropolitan Police Service representation	All other cases
Application for Interim Authorities	If a Metropolitan Police Service representation	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, repetitious, frivolous or vexatious within the terms of the statutory guidance		All cases
Decision to make a representation when Local Authority is a	All cases	

consultee and not the relevant authority considering the application		
Determination of a Metropolitan Police Service representation in connection with a temporary event notice	All cases	

25 Licensing Register

The Council will establish and maintain a Licensing Register containing the information required by statute, and keep it available for inspection.

26 Licensing Forum

The Council is keen to hear people's views on licensing issues, and we will establish a licensing forum at which they can be discussed. To supplement information gained from the forum, we may use other appropriate methods.

27 Guidance

The Council and its officers will at all times take into account guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 (www.culture.gov.uk), and guidance or advice from any other appropriate source.

28 Relevant documents

- The Council's Enforcement Policy
- The Enforcement Concordat
www.cabinetoffice.gov.uk/regulation/pst/enforce/enforcecon.asp
- The Human Rights Act 1998
www.hms0.gov.uk/acts/acts1998/19980042.htm

- Crime and Disorder Act 1998
www.hmso.gov.uk/acts/acts1998/19980037.htm
- Disability Discrimination Act 1995
http://www.hmso.gov.uk/acts/acts1995/Ukpga_19950050_en_1.htm
and other anti-discrimination legislation
- Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003
(www.culture.gov.uk).
- Home Office Safer Clubbing Guide
www.drugs.gov.uk/reportsandpublications/communities/103417428/safer_clubbing_txt.pdf
- Metropolitan Police Service publication 'Controlled drugs and weapons in licensed premises'
- The Mayor's London Ambient Noise Strategy
www.london.gov.uk/mayor/strategies/noise/index.jsp

The above is not an exhaustive list.

29 Complaints about our service

In accordance with the Council's complaints procedure, we will investigate any complaint about the way our officers dealt with a licensing issue, and we will inform the complainant of the outcome. If the complaint is justified, we will put the problem right if possible

30 Commencement and review

This Policy will come into effect on 7 February 2005. It will be kept under review and the Council may make changes after consultation. It will be renewed every three years. We will be pleased to receive the views of responsible authorities, interested individuals or organisations at any time and, after consultation, may change the Policy.

Appendix 1

Contacts

The Council is willing to give advice and guidance on licensing matters to applicants, businesses and residents. The following list of contacts may be altered from time to time.

Area of responsibility	Name of authority	Address	Contact
General enquiries and first point of contact. Applications, fees, licence conditions, complaints, representations, licence reviews and administration	London Borough of Barnet Licensing Team	Licensing Team, Building 4, North London Business Park, Oakleigh Road South, London, N11 1NP	020 8359 7995 terry.vaughan@barnet.gov.uk fax 0870 889 6739 www.barnet.gov.uk
Crime and Antisocial Behaviour	Metropolitan Police Service	Borough Commander, Colindale Police Station, Grahame Park Way, Colindale NW9 5TW	mark.ricketts@met.police.uk www.met.police.uk/barnet 020 82001212
Antisocial Behaviour	London Borough of Barnet Environmental and Neighbourhood Services	Building 4 North London Business Park Oakleigh Road South New Southgate N11 1NP	Street Services Manager Tom Morrissey 020 8359 7495 tom.morrissey@barnet.gov.uk
Community Safety Partnership	London Borough of Barnet Leisure and Youth Services	Safer Communities Team Building 4 North London Business Park	andrew.nathan@barnet.gov.uk 020 8359 7029 Julia.hicks@barnet.gov.uk 020 8359 4469

		Oakleigh Road South New Southgate N11 1NP and room 201 Colindale Police Station	www.barnet.gov.uk
Fire Safety	London Fire and Emergency Planning Authority	LFEP 1 st . Floor Finchley Fire Station 227 Long Lane London N3 2RP	Assistant Divisional Officer Turan Turan turan.turan@london-fire.gov.uk www.london-fire.gov.uk Tel 0207 587 2276 Fax 020 7587 2271
Protection of Children	London Borough of Barnet Safeguarding Children Board	Barnet House 1255 High Road Whetstone N20 0EJ	Bridget Griffin bridget.griffin@barnet.gov.uk www.barnet.gov.uk 020 8359 4532
The sale of alcohol to children and underage test purchasing of alcohol using child volunteers	Metropolitan Police Service London Borough of Barnet Trading Standards service	John Bennett Principal Trading Standards Officer	john.bennett@barnet.gov.uk 020 8359 4928
Nuisance	London Borough of Barnet Environmental and Neighbour- hood Services	Noise and Statutory Nuisance Manager Building 4 North London Business Park Oakleigh Road	Belinda Livesey belinda.livesey@barnet.gov.uk 020 8359 7438

		South New Southgate N11 1NP	
Planning issues	London Borough of Barnet Planning,	Barnet House 1255 High Road Whetstone N20 0EJ	Stewart Murray 020 8359 4838 stuart.murray@barnet.gov.uk
Building Control	London Borough of Barnet Highways and Design	Barnet House 1255 High Road Whetstone N20 0EJ	Premila Abadia 020 8359 4850 premila.abadia@barnet.gov.uk
Transport issues	Highways and Design Traffic and Transportation	Barnet House 1255 High Road Whetstone N20 0EJ	Ian Counce Acting Chief Engineer 020 8359 4343 ian.counce@barnet.gov.uk www.barnet.gov.uk
Use of public spaces for licensable activities	Environmental Services	Building 4 North London Business Park Oakleigh Road South New Southgate N11 1NP	David Dench, Service Manager for Green Spaces 020 8359 7803 david.dench@barnet.gov.uk
Public safety - At premises where selling food or drink is the main activity - At other premises	Food team Health and Safety team	Building 4, North London Business Park, Oakleigh Road South, London, N11 1NP Building 4, North London Business Park, Oakleigh Road South, London,	Chris Carabine, Group Manager, Food. chris.carabine@barnet.gov.uk 0208 359 7995 fax 0870 889 6793 terry.vaughan@barnet.gov.uk 020 8359 7995 fax 0870 889 6793

- At schools and premises managed by the Council	Health and Safety Executive	N11 1NP Rose Court, Southwark Bridge, London, SE1 9HS	020 7556 2100 www.hse.gov.uk
Licensing Committee issues	London Borough of Barnet	Democratic Services, Town Hall, The Burroughs, Hendon, London, NW4	John Marr John.marr@barnet.gov.uk 020 8359 2031
Disability issues	London Borough of Barnet		Dan Ash, Building Surveying Manager 020 8359 4320
	Disability Action in Barnet	945 High Road, Finchley, N12 9RX	020 8446 6935 disability@dabb.org.uk
	Centre for Accessible Environments	Nutmeg House, 60 Gainsford Street, London, SE1 2NY	020 7357 8182 www.cae.org.uk info@cae.org.uk

Appendix 4

Synopsis of submission from Metropolitan Police service on Barnet's Draft Licensing Policy

The Metropolitan Police, as a key player in ensuring that licensing objectives are met, reminds the Council that the policy must have regard to the Council's duties under the Crime and Disorder Act 1998 (to exercise its functions with regard to the likely effect, and to do all it reasonably can to prevent crime and disorder)

If the policy does not address 'stress areas', it will create a huge burden of administrative work and additional police work to control these areas. The policy will require police to challenge every single application in the stress areas, as the policy does not actively discourage applications in these areas.

In particular, the council should:

- Apply stricter conditions with regard to licensing hours where disturbance is likely between 11.30 pm and 7.00 am.
- Not normally allow people under 18 on premises after 11.00 pm where the primary activity is the sale of alcohol
- Not normally permit alcohol to be sold between 11.00 pm and 5.00 am at take-away food premises
- Refuse premises licences when there is a representation to the effect that the licence would, due to the concentration of premises in an area, result in exceptional problems to the detriment of the licensing objectives. This submission is supported by evidence from police statistics, which identify the following stress areas: High Barnet, Edgware, Cricklewood, Golders Green, Finchley Central and Tally Ho. 43% of all disorder in these areas is alcohol-related, and 31% of alcohol-related disorder across the borough took place between 10.00 pm and 4.00 am.

The British Crime Survey shows that 44% of violent incidents involve offenders under the influence of alcohol, and 77% of all alcohol-related disorder is some type of violence against the person.

- Keep under review areas designated as not for public consumption of alcohol
- Have regard to the impact of licensed premises on the observance of the designated areas, particularly with regard to sale of alcohol for consumption off premises and where drink may be removed from premises without authorisation.
- Seek to ensure that children are not permitted to remain at or enter licensed premises after a specified cut-off time. This time should be determined with reference to the concerns expressed in representations;

the steps to be taken by the applicant to protect children from harm; and the type of event.

- Not normally permit access by under-18s to premises where alcohol is not supplied for consumption on the premises, but where certain risk factors are present. Conditions could be applied to licences if granted.
- Impose special conditions for certain types of venues to prevent the sale and consumption of drugs, and to create a safer environment for those who have taken them. These conditions will take into account the Home Office guidelines. In all cases where these conditions are to be imposed, advice should be taken from the Barnet Drug Action Team and the Police.
- Not issue a licence, or should consider revoking or imposing conditions, if not satisfied by applicants and licensees as to all matters relevant to crime and disorder reduction. Operating schedules should address:
 - noise from taxis
 - noise from premises, including beer gardens
 - noise and anti-social behaviour caused by people leaving
 - adequacy of lavatories and supervision in the vicinity
 - congregations of persons waiting to enter, leaving or spilling outside premises
 - use of fireworks
 - crime prevention design, including lighting in car parks
 - door supervision arrangements
 - other measures to control violent or drunken or abusive behaviour
 - use of plastic glasses and refusal to sell beer in bottles
 - the removal from premises of drinking vessels and bottles
 - drug dealing and abuse
 - prostitution and indecency
 - discouragement of drinking in public place in vicinity
 - methods to discourage distribution of stolen or other illegal goods
 - adequacy of transportation arrangements
 - taxi arrangements and advertising to relate solely to licensed taxis
- Ensure that operating schedules address nuisance and crime and disorder reduction (detailed list of relevant issues supplied).
- Impose a condition that where persons are employed to carry out any security activity they must be licensed by the Security Industry Authority.
- Notify licensees when a film should not be shown because it is likely to lead to disorder or stir up hatred or violence towards any section of the public on grounds of colour, race, origin, disability, religion, sexual orientation or gender.
- Have agreed policies in relation to gaming machines, sex cinemas and sex encounter establishments
- Actively support joint protocols on co-operative working arrangements.

Appendix 5

Guidance issued under section 182 of the Licensing Act 2003

The cumulative impact of a concentration of Licensed premises

- 3.13 "Cumulative impact" is not mentioned specifically in the 2003 Act but means in this Guidance the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance on a town or city centre of a large concentration of licensed premises in that part of the local licensing authority area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.
- 3.14 A licensing authority may not impose conditions on or refuse to grant or vary a premises licence or club premises certificate unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or an interested party, such as a local resident or local business which is a relevant representation. It is however important that applicants, responsible authorities and interested parties should know through the statement of licensing policy; whether the licensing authority already considers that a particular concentration of licensed premises in a particular part of its area is considered to be already causing a cumulative impact on one or more of the licensing objectives. Whether an area is nearing this point should be one of the issues on which local residents are consulted. The open meetings recommended at paragraph 2.7 should assist licensing authorities in keeping the situation as to whether an area is nearing this point under review.
- 3.15 In some town and city centre areas, where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport. Queuing in turn may be leading to conflict, disorder and anti-social behaviour. While the general lengthening of licensing hours can be expected to reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises.
- 3.16 Where, after considering the available evidence and consulting those individuals and organisations listed in section 5(3) of the 2003 Act and any others, a licensing authority is satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement, it should indicate in the statement that it is adopting a special policy of refusing new licences whenever it receives relevant representations about the cumulative impact on the licensing objectives from responsible authorities and interested parties which it concludes after hearing those representations should lead to refusal (see paragraph 3.19 below).
- 3.17 There should be an evidential basis for the decision to include a special policy within the statement of licensing policy. For example, Crime and Disorder Reduction Partnerships will often have collated information which demonstrates cumulative impact as part of their general role on anti-social behaviour; and crime prevention

strategies may have already identified cumulative impact as a local problem. Similarly, environmental health officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.

3.18 In summary; the steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are:

- identification of concern about crime and disorder or public nuisance;
- consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
- consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy;
- subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of this Guidance in the statement of licensing policy;
- publication of the special policy as part of the statement of licensing policy required by the 2003 Act.

3.19 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the special policy issues in their operating schedules in order to rebut such a presumption. However, a special policy must stress that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before a licensing authority may lawfully consider giving effect to its special policy. If no representation is received, it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted. However, responsible authorities, such as the police, or interested parties, can make a written representation maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information which had been before the licensing authority when it developed its statement of licensing policy.

3.20 Once adopted, special policies should be reviewed regularly to assess whether they are needed any longer or need expanding. While a special policy is in existence, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact being experienced.

3.21 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

Limitations on special policies relating to cumulative impact

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

premises selling alcohol for consumption on the premises which may give rise to large numbers of people who have been drinking alcohol on the streets in a particular area.

- 3.23 A special policy should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives to be granted. Following receipt of representations in respect of a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics.

For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If after such consideration, the licensing authority decides that an application should be refused, it will still be for the licensing authority to show that the grant of the application would undermine the promotion of one of the licensing objectives and if it would, that necessary conditions would be ineffective in preventing the problems involved.

- 3.24 Special policies should never be used as a ground for revoking an existing licence or certificate when relevant representations are received about problems with those premises. After a licence or certificate has been granted or varied, a complaint relating to a general crime and disorder or nuisance situation in a town centre would generally not be regarded as a relevant representation if it cannot be positively tied or linked by a causal connection to particular premises that would allow for a proper review of its licence or certificate. In this context, it should be noted that the "cumulative impact" on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered. A review must relate specifically to individual premises, and by its nature, "cumulative impact" relates to the effect of a concentration of many premises. Identifying individual premises in the context of a review would inevitably be arbitrary. Where it becomes clear that there is a problem in a part of the licensing authority area after a premises licence or club premises certificate has been granted, and it becomes clear that an individual premises is undermining the promotion of the prevention of crime and disorder in that area, the licence may only be reviewed if representations are made about that objective by either an interested party; such as a residents' association, or a responsible authority such as the police.
- 3.25 Special policies can also not be used to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly necessary for the promotion of the licensing objectives.
- 3.26 A special policy relating to cumulative impact cannot justify and should not include provisions for a terminal hour in a particular area. For example, it would be wrong not to apply the special policy to applications that include provision to open no later than, for example, midnight, but to apply the policy to any other premises that propose opening later. The effect would be to impose a fixed closing time akin to that under the "permitted hours" provisions of the Licensing Act 1964. Terminal hours dictated by the Licensing Act 1964 were abolished to avoid the serious problems that arise

when customers exit licensed premises simultaneously. Attempting to fix a terminal hour in any area would therefore directly undermine a key purpose of the 2003 Act.

- 3.27 Special policies must not impose quotas based on either the number of premises or the capacity of those premises that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas. Quotas that indirectly have the effect of pre-determining the outcome of any application should not be used because they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all could sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard should be given to those differences and the differing impact they will have on the promotion of the licensing objectives.