



Effective 1<sup>st</sup> November 2018

***The London Borough of  
Tower Hamlets  
STATEMENT OF  
LICENSING POLICY  
2018 – 2023***

# Statement of Licensing Policy under the Licensing Act 2003

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## Background and Context

**This Policy should be read in conjunction with:**

**The Licensing Act 2003** available from

<http://www.legislation.gov.uk/ukpga/2003/17/contents> or by telephoning +44 (0)333 202 507

**Government Guidance under Section 182 of the Licensing Act 2003:**

Available on the website [www.gov.uk](http://www.gov.uk) by telephoning 020 7035 4848

**Tower Hamlets guidance documents on making applications under the Licensing Act 2003** available from <http://www.towerhamlets.gov.uk/licensing>

Or available from the Licensing Service on 020 7364 5008

**Tower Hamlets** is a Borough that is diverse, improves choice and provides enjoyment for residents and visitors to the Borough of all ages. We want to provide an environment that is safe and welcoming for all to enjoy. While at the same time we also want to ensure that we protect the quality of life for our residents by ensuring that we have sensible controls that keep anti-social behaviour, and undesirable developments selling hot food and drink between 23:00 and 05:00 to a minimum.

However the policy only applies where the discretion of the licensing authority is engaged. That is, all applications which are unopposed must be granted as applied for. The only conditions that can be applied must relate to statements made in the application itself.

The Licensing Policy objectives and associated benefits have clear links with the Council's vision to improve the quality of life for everyone living and working in the Borough.

The four major themes that the Council has set out in the Tower Hamlets Partnership's Community Plan by means of which the vision is delivered are:

**A Great Place to Live**

**A Fair and Prosperous Community**

**A Safe and Cohesive Community**

**A Healthy and Supportive Community**

You will find there is more detailed information about the four themes, and how they support One Tower Hamlets at:

[http://www.towerhamlets.gov.uk/ignl/community\\_and\\_living/community\\_plan/strategic\\_plan.aspx](http://www.towerhamlets.gov.uk/ignl/community_and_living/community_plan/strategic_plan.aspx)

## **1 Introduction**

- 1.1 The London Borough of Tower Hamlets is the Licensing Authority under the Licensing Act 2003 (the Act). It is responsible for granting premises licences; club premises certificates; temporary events notices, in respect of the provision of licensable activities; and personal licences in the Borough.

The term 'Licensing Authority' will be used in all future references to 'the London Borough of Tower Hamlets' in this Statement of Licensing Policy.

All references to the Secretary of State's Guidance relate the statutory guidance published by the Home Office under section 182 of the Act on the 6<sup>th</sup> April 2017. A copy of this version is available at [www.gov.uk](http://www.gov.uk).

- 1.2 This policy is intended to provide clarity to applicants, 'other persons' and 'responsible authorities' on how this Licensing Authority will determine applications for the following licensable activities:

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of regulated entertainment (as defined in Schedule 1 of the Act)
- Supply of hot food and / or drink between 23:00 and 05:00 hours

## **2 The Policy**

- 2.1 This 'Statement of Licensing Policy' was prepared in accordance with the provisions of the Act and having had regard to the Secretary of State's Guidance issued under Section 182 of the Act.
- 2.2 The 2003 Act requires that the Licensing Authority, after consultation, adopts and publishes a "Statement of Licensing Policy" that sets out the policies the Licensing Authority will apply to promote the licensing objectives when making decisions on applications made under the Act. It is a requirement that this Policy is reviewed at least every five years. The Licensing Authority will apply the standards and policies set out in this Statement unless good reason exists not to do so. Each application will nonetheless be considered individually on its merits and both applicants and those making relevant representations will be treated fairly and objectively.

## **3 Consultation**

- 3.1 Before publishing this revised Policy Statement, the Licensing Authority has consulted those parties specified in Section 5(3) of the Licensing Act 2003, which are:

- the Chief Officer of Police,
- the Fire and Rescue Authority,
- Director of Public Health within Tower Hamlets
- representatives of holders of existing Premises Licences, Personal Licences and Club Premises Certificates in the Borough
- such other persons considered to be representatives of business and residents in the area.

The Licensing Authority has given due regard to the responses from this consultation process when completing the final version of this Policy Statement.

- 3.2 The Licensing Authority will ensure that its consultation is broadly based, available on the internet, and the responsible authorities as well as wide range of community, public, welfare and religious organisations, and other key stakeholders are consulted.
- 3.3 The Licensing Authority will give due weight to the views of all the persons / bodies consulted before the Policy Statement is agreed and implemented.
- 3.4 The Licensing Authority undertakes to involve the Tower Hamlets Community Safety Partnership (or equivalent organisation) in policy development and review.
- 3.5 All major reviews will be broadly based, as well as complying with statutory requirements.

## **4 Main Principles of the Licensing Policy**

- 4.1 The Act requires that the Licensing Authority carries out its various licensing functions so as to promote the following four licensing objectives:-
- 4.2 *The prevention of crime and disorder*

Consideration, among other things, a prescribed capacity; door supervisors; an appropriate ratio of tables and chairs to customers; and a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

- 4.3 *Public safety*

Consideration of requiring specific types of training for a DPS or security staff, including awareness of first aid or initiatives to protect women and vulnerable customers; provision and storage of CCTV footage; and ensuring safe departure of those using the premises.

#### 4.4 *The prevention of public nuisance*

Consideration of the prevention of irresponsible promotions, methods of preventing and managing noise and light pollution, and ways of managing litter.

#### 4.5 *The protection of children from harm*

Consideration of age verification schemes, test purchasing policies, and restrictions on the hours when children may be present.

4.6 All of the Policy and its implementation must be consistent with those four objectives.

4.7 Nothing in the Licensing Policy will undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits and / or override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act.

4.8 Licensing is about regulating licensable activities of licensed premises, by qualifying clubs and at temporary events within the terms of the Act. The conditions attached to licences and / or Temporary Event Notifications will be focused on matters that are within the control of individual licensees.

4.9 In relation to all applications where the Licensing Authority's discretion is engaged it will consider the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned relating to the four Licensing Objectives.

4.10 The Police Reform and Social Responsibility Act introduced the provision for the licensing authority to make representations. The Licensing Authority will not make representations that should be made by another responsible authority. The Licensing Authority may wish to make representations on its own account when they could include bringing together a number of minor unconnected complaints that in themselves do not require another responsible authority to make a representation, but when taken together may constitute a public nuisance, represent breaches of licence conditions only observed by licensing officers or which undermines the licensing objectives.

4.11 If representations are made by a "responsible authority" or other persons the application will be determined by the Licensing Sub-Committee. In making decisions on licence applications, the Licensing Sub-Committee will have regard to the Act and relevant Regulations, the Secretary of State's Guidance, and this Statement of Licensing Policy. Where this occurs the Licensing Authority's discretion is engaged and it may insert conditions such as ones detailed further on in this policy.

- 4.12 Where no representations are made the application will be granted subject only to the mandatory conditions and conditions that are consistent with the applicant's operating schedule.
- 4.13 When considering the addition of conditions consistent with applicant's operating schedule the Licensing Authority will ensure that such conditions are enforceable and proportionate.
- 4.14 Licensing laws are not the primary method of controlling anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. However, they are a key aspect of such control and will always be part of an overall approach to the management of the evening and night time economy.
- 4.15 In this respect, the Licensing Authority recognises that, apart from the licensing function, (and issues around cumulative effect) there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including (the list is not exhaustive):\_
- planning controls
  - ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments
  - designation of parts of the Borough as places where alcohol may not be consumed publicly
  - regularly liaison with Borough Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk, confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises
  - the power of the police, other responsible authority or a local resident or business to seek a review of the licence or certificate
- 4.16 The Licensing Authority recognises the positive benefits that the leisure industry brings to the Borough. This includes not just jobs and associated regeneration but also through music, dance and other entertainment that celebrates the rich mixture of cultural diversity and creativity that exists in the Borough.
- 4.17 The responsible authorities are given in **Appendix 1**.

- 4.18 Applicants for authorisations/permissions (e.g. premises licence etc.) under the Licensing Act 2003 must carry out the required statutory consultation with local residents. This statutory consultation requires an advertisement of the application in a local paper and the display of a pale blue notice on the premises. Failure to adhere to the statutory consultation will result in an invalid application and/or extension of the statutory consultation period.
- 4.19 Following consultation the Licensing Authority decided it will ~~to itself~~ contact all residents and businesses within 40 meters of the applicant's premises, where the application is for a new club or premises licence or its variation. The consultation will be strictly neutral, and will repeat the information required in the statutory notification.
- 4.20 For larger events and premises of a capacity of more than 1000 persons the Council will carry out a reasonable and relevant level of consultation with local residents and businesses.
- 4.21 In respect of paragraphs 4.19 and 4.20 above should the Licensing Authority, in the unlikely event, fail to carry out the voluntary consultation within the statutory consultation period, this will not be grounds for refusing or delaying any application. The Licensing Authority can only refuse or delay (restart the consultation period) where it receives an invalid application or where the applicant fails to comply with the statutory consultation requirements.

## **5 The Licensing Authority as a Responsible Authority**

- 5.1 The Council as a licensing authority is now included in the list of responsible authorities under the Licensing Act 2003.
- 5.2 The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes.
- 5.3 The Council as a Licensing Authority is not expected to act as responsible Authority on behalf of other parties (for example, local residents, local Councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these bodies have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.
- 5.4 It is also reasonable for the Council as a licensing authority to expect that other

responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.

- 5.5 The 2003 Act enables the Council as a licensing authorities to act as a responsible authority as a means of early intervention; it may do so where it considers it appropriate without having to wait for representations from other responsible authorities. For example, the licensing authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.
- 5.6 The Council recognises that in cases where it as the licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest.
- 5.7 The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different individual to the officer who is acting for the responsible authority.
- 5.8 The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing.
- 5.9 At the outset, of an application, or another licensing process a Licensing Officer in the Licensing Team will be allocated to act as the Licensing authority acting as a responsible authority. This licensing officer is not involved in the application process but sets up a separate record to consider the application for the authority in its capacity as responsible authority, engaging with other responsible authorities where appropriate and determining whether the authority acting as a responsible authority wants to make a representation. In certain circumstances the officer acting for the Licensing Authority as a Responsible Authority will be an officer from another team.

## 6 Home Office as a Responsible Authority

- 6.1 From 6<sup>th</sup> April 2017 the provisions of Immigration Act 2016 which relate to Licensing became effective. These provisions amend the Licensing Act 2003 making the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. For contact details please see the list of Responsible Authorities in Appendix 1.

When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.

- 6.2 From 6<sup>th</sup> April 2017 Licensing Authorities will check the eligibility to work for those applying for personal licences and premises licences for the sale of alcohol and late night refreshment (hot food or drink between 23:00 and 05:00 hours).

This does not apply to the licensable activity of Regulated Entertainment ONLY or Club premises certificate and temporary event notices (TEN). However, they will commit a criminal offence if they work illegally.

- 6.3 Those applying for a personal or premises licence (for sale of alcohol/provision of late night refreshment) must be able to satisfy the Licensing Authority that they have permission to be in the United Kingdom (UK), and are entitled to undertake work relating to the carrying on of a licensable activity. Essentially this means that licence cannot be granted to disqualified persons who are:

- Unlawfully present in the UK,
- Not permitted to work in the UK,
- Permitted to work, but not in this licensable activity.

Applications from disqualified persons above will be classed as invalid and will be rejected.

- 6.4 The application for personal and premises licences must submit one of the documents listed in Annex A of the Secretary of State's Guidance with their application, to show that they have permission to be in the UK and to undertake work in a licensable activity. Applicants may provide photocopies or scanned copies of the documents, which do not need to be endorsed as a copy of the original. Applicants are not required to submit original copies of documents.

- 6.5 Where an applicant has restrictions on the length of time they may work in the UK,

a premises licence or personal licence may still be issued, but the licence will cease to have effect when the right to work lapses.

- 6.6 A premises or personal licence issued in respect of an application made on or after 6 April 2017 will lapse if the holder's permission to live or work in the UK comes to an end. The licensing authority is under no duty to carry out on-going immigration checks to see whether a licence-holder's permission to be in the UK has been brought to an end, and the Act does not place a duty on the licensing authority to withdraw or revoke the licence if this occurs.
- 6.7 The Home Office as a Responsible Authority may request a review of a licence, where a licence is prejudicial to the prevention of illegal working. This may be as a result of:
- An enforcement operation or data sharing that identifies a relevant offence,
  - The issue of a civil penalty for employing illegal workers,
  - The identification of a licence holder whose leave to be in the UK, or their permission to work, has come to an end.

## **7 Crime and Disorder**

- 7.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems and to store prescribed information.
- 7.2 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular type of premises and / or activities) which are likely to adversely affect the promotion of the crime and disorder licensing objective. Such steps as are required to deal with these identified issues should be included within the applications operating schedule. Where the Metropolitan Police, acting as a responsible authority, makes recommendations in respect of an application relating to the licensing objectives the Licensing Authority would expect the applicant to incorporate these into their the operating schedule.
- 7.3 Applicants are recommended to seek advice from Council Officers and the Police as well as taking into account, as appropriate, local planning and transport policies, with tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.
- 7.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has duties under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough and to share prescribed information.

- 7.5 The Licensing Authority, if its discretion is engaged, will consider attaching Conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises and these may include Conditions drawn from the Model Pool of Conditions relating to Crime and Disorder given in the Secretary of State's Guidance.
- 7.6 **CCTV** - The Licensing Authority, if its discretion is engaged, will attach conditions to licences, as appropriate where the conditions reflect local crime prevention strategies, for example the provision of closed circuit television cameras.
- 7.7 **Touting** – This is soliciting for custom. There has been a historic problem with Touting in the borough, mainly in relation to restaurants, and as such in 2006 the Council introduced a byelaw under Section 235 of the Local Government Act 1972 for the good rule and government of the London Borough of Tower Hamlets and for the prevention and suppression of nuisances.

As a result, in relation to premises where there is intelligence that touting is, or has been carried out, the Licensing Authority, where its discretion is engaged will insert a standard condition that prohibits 'touting' as follows:-

- 1) No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public place within a 500 meters radius of the premises as shown edged red on the attached plan.( marked as Appendix -)
- 2) Clear Signage to be placed in the restaurant windows stating that the premises supports the Council's 'No Touting' policy.

- 7.8 **Responsible Drinking** - The Licensing Authority expects alcohol to be promoted in a responsible way in the Borough. This should incorporate relevant industry standards, such as the Portman Group Code of Practice. Where appropriate and proportionate, if its discretion is engaged, the Licensing Authority will apply conditions to ensure responsible drinking. The Licensing Authority also recognises the positive contribution to best practice that "Pubwatch" and other similar schemes can make in promoting the licensing objectives and is committed to working with them.

Model Pool Conditions can be found in the Secretary of State's Guidance

- 7.9 **Criminal Activity** - There is certain criminal activity that may arise in connection with licensed premises which the Licensing Authority will treat particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and

- music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

The Secretary State's Guidance states that it is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and this Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence, even in the first instance, should be seriously considered.

- 7.10 In particular the Licensing Authority is mindful of the Secretary of State's Guidance "Reviews arising in connection with crime".
- 7.11 From 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) will need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database which will be available from April 2017. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face criminal prosecution and their alcohol stock may be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses. Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC. Further information may be found at: <https://www.gov.uk/guidance/the-alcohol-wholesaler-registration-scheme-awrs>.

### **Smuggled goods**

- 7.12 The Licensing Authority will exercise its discretion to add a standard condition as follows:-

- 1) The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery to provide traceability.
- 2) The premises licence holder shall ensure that all receipts for goods bought include the following details:
  - i. Seller's name and address
  - ii. Seller's company details, if applicable
  - iii. Seller's VAT details, if applicable
  - iv. Vehicle registration detail, if applicable
- 3) Legible copies of the documents referred to in 2) shall be retained on the premises and made available to officers on request.
- 4) The trader shall obtain and use a UV detection device to verify that duty stamps are valid.
- 5) Where the trader becomes aware that any alcohol may be not duty paid they shall inform the Police of this immediately.

### **Olympic Park – Football Ground**

7.13 Premises where Police intelligence shows that football supporters congregate within the borough should consider in their application form the following conditions:

- 6) On Match Days for premises licensed for the supply of alcohol for consumption on the premises:
  - a. Drinks shall only be supplied in polypropylene or similar plastic and all bottled drinks shall be poured into such drinking vessels before being handed to the customer. These should be made of recyclable materials.
  - b. Registered door staff shall be employed to control the entry and exits to the premises and to manage any licensed outside area(s).

## **8 Public Safety**

8.1 The 2003 Act covers a wide range of premises that require a licence, and so such premises present a mixture of risks to users and should be constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.

- 8.2 The Licensing Authority will expect Operating Schedules to satisfactorily address these issues and applicants are advised to seek advice from the Council's Environmental Health (Health & Safety) Officers and the London Fire Brigade before preparing their plans and Schedules.
- 8.3 Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps that will be taken to ensure public safety. This needs to take into account any unique characteristics that arise in connection with the licensable activity, any requirements that are specific to the premises.
- 8.4 One of the Council's Community Safety Partnership Priorities is tackling violence against women and girls. As a result the Licensing Authority expects Licence holders to take a proactive approach to customer safety including the following:
- Making provisions to ensure that customers safely leave their premises, for example providing information on licensed taxi companies, adequate lighting outside the premises,
  - Training of staff in spotting signs of harassment, and how to intervene where safe and appropriate to do so, and/or reporting such harassment to management/emergency services.

The Licensing Authority may be able to sign post Licence Holders in regards to local/national safeguarding schemes which may assist with the above.

- 8.5 The Licensing Authority, where its discretion is engaged, will consider attaching proportionate and appropriate Conditions to licences and permissions to promote safety, and these may include Conditions drawn from a the Model Pool of Conditions found in the Secretary of States Guidance.
- 8.6 The Licensing Authority will impose conditions that relate to its licensing objectives, and in a way that is proportionate to the individual circumstances of the premises seeking a licence.

## **9 Prevention of Public Nuisance**

- 9.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 9.2 The concerns mainly relate to noise nuisance both from the premises and customer egress, light pollution, noxious smells and disruption from parked vehicles and due regard will be taken of the impact these may have in considering

a licence. The Licensing Authority will expect Operating Schedules to satisfactorily address these issues. Applicants are advised to seek advice from the Council's Environmental Health Officers before preparing their plans and Schedules.

- 9.3 The Licensing Authority, where its discretion is engaged, will consider, where appropriate, attaching conditions to licences and permissions to prevent the problems identified in 8.2 Section 18 of this Policy (Special Cumulative Impact Policy for the Brick Lane and Bethnal Green Area), and these may include conditions drawn from the Model Pool of Conditions found in the Secretary of States Guidance.
- 9.4 **Street Furniture** – placing of street furniture, which includes advertising boards, on the highway can cause a public nuisance by way of obstruction, or encourage consumption of alcohol on an unlicensed area. The Licensing Authority expects applicants to have ensured that they fully comply with the Councils rules relating to authorisation of obstructions on the highway, and that the required authorisations are obtained prior to submitting a licence application. Where proportionate and appropriate, and its discretion is engaged, the Licensing Authority will impose conditions in relation to street furniture, including on private land.
- 9.5 **Fly Posting** - The Council has experienced problems with "fly posting" in relation to venues that offer entertainment. Fly posting is the unauthorised posting of posters / advertisements etc. Where it considers it proportionate and appropriate, and its discretion is engaged, the Licensing Authority will attach conditions relating to the control of fly posting to ensure that venues clearly prohibit all fly posting in their contract terms with others and they effectively enforce this control.

**10 Prevention of Harm to Children** The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment. The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Home Office Guidance also expects Licensing authorities to consider the need to protect children from sexual exploitation when undertaking licensing functions.

- 10.2 Tackling Child Sexual Exploitation (CSE) is a key target both locally and nationally as such the Licensing Authority expects Licence Holders to:
- Understand that there are criminal offences in relation to sexual exploitation of a child,
  - Ensure that they and their employees have a basic awareness of the signs of CSE and how to report it;

- Report any concerns to the appropriate authorities or to the Licensing Authority can advise them of the appropriate authority to report concerns to.
- 10.3 Applicants are to consult with the Responsible Authority designated for Child Protection listed in appendix 1 - List of Responsible Authorities of this who this Licensing Authority recognises to be competent body to advise on the protection of children from harm.
- 10.4 The Act does not prohibit children from having access to any licensed premises; the Council recognises that limitations may have to be considered where it appears necessary to protect children from harm.
- 10.5 The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:-
- Where there have been convictions, Fixed Penalty Notices (FPNs) or formal cautions for serving alcohol to minors or with a reputation for underage drinking
  - With a known association with drug taking or dealing
  - Where there is a strong element of gambling on the premises
  - Where entertainment of an adult or sexual nature is provided
  - Where irresponsible drinking is encouraged or permitted.
- 10.6 Where its discretion is engaged, the Licensing Authority will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:
- Limitations on the hours when children may be present
  - Limitations on ages below 18
  - Limitations or exclusion when certain activities are taking place
  - Requirements for an accompanying adult
  - Full exclusion of people under 18 from the premises when any licensable activities are taking place
- 10.7 No conditions will be imposed requiring that children must be admitted to any

premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.

- 10.8 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 10.9 All licence holders will be expected to comply the Portman Group Code of Practice, and in particular the Retailer Alert Bulletin by which the Portman Group informs licensed retailers, which products have been found to be in breach of the code, and should be removed from sale.
- 10.10 The Licensing Authority expects all licensed suppliers of alcohol to have robust measures, effectively managed and monitored, in place to ensure that minors are fully protected from harm. This will require operating plans to specify these measures and management controls taking into account paragraph 11.1 and 11.2 above. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff.
- 10.11 The Licensing Authority will take appropriate and proportionate action where there are serious concerns in relation to the safeguarding of children in connection with a licensed premises, which may include consideration of applying for a review of the licence where there significant evidence of undermining the licensing objective of the protection of children from harm.
- 10.12 The sale of alcohol to a minor is a criminal offence and Trading Standards will conduct appropriate covert test purchasing exercises and will take account of any complaints and intelligence received. The Act permits the use of children under the age of 18 to undertake test purchases.
- 10.13 Where there are age restrictions imposed by the Act on the licensable activities in respect of children below a certain age, then the licensee will be required to demonstrate that they have age verification systems in place. This Licensing Authority believes that that Licensed Premises should have age verification policies to require individuals who appear to the person serving alcohol to be under the age of 25 years of age to produce on request appropriate identification. This is commonly referred to as the “Challenge 25 Scheme”. The rationale for this is because it can often be difficult to judge how old teenagers are and “Challenge 25 age verification system” would provide licensed premises with margin of error to prevent underage sales. Thus Challenge 25 can help to empower staff to challenge customers where there is doubt about their age. In turn this is likely to reduce the risk of the owner, or the seller of the alcohol, committing an offence.
- 10.14 Training in age verification systems should be given to all persons who might be in a position to serve or refuse the sale of alcohol to children. The training should

include a basic understanding of the law, seeking proof of age, verifying the authenticity of proof of age cards and handling and recording refusals.

10.15 Where proportionate and appropriate, and its discretion is engaged, the Licensing Authority will impose the following standard conditions in relation to age verification systems:

- 1) All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
- 2) A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
- 3) A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer at all times whilst the premises are open.
- 4) All staff whose duties include the serving of alcohol must be trained in the requirements of this scheme including the importance of recording any refusals.

## **11 Access to Cinemas**

- 11.1 Films cover a vast range of subjects, some of which deal with adult themes and / or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.
- 11.2 In order to prevent children from seeing such films, the Licensing Authority will impose conditions requiring licensees to restrict children from viewing age restricted films classified according to the recommendations of the BBFC, or the Council itself. The Licensing Authority will not consider reclassifying any films already classified by the BBFC. The Council will charge for classifying films, on a full cost recovery basis.
- 11.3 The Licensing Authority will classify films itself where it is satisfied that no BBFC classification exists. It will inform relevant licensee and require such classifications to be clearly contained in any advertising or informative material relating to such films.

## **12 Children and Public Entertainment**

- 12.1 Many children go to see and / or take part in an entertainment arranged

substantially for them. Consequently additional arrangements are required to safeguard them at such times.

12.2 Where 10.1 applies, and its discretion is engaged, the Licensing Authority will require the following arrangements in order to control their access and egress and to assure their safety:-

- An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof
- No child unless accompanied by an adult to be permitted in the front row of any balcony
- No standing to be permitted in any part of the auditorium during the Performance

12.3 Where children are taking part in any regulated entertainment, and its discretion is engaged, the Licensing Authority will require the operating schedule to clearly state the steps taken to assure their safety.

12.4 Where its authority is engaged, the Licensing Authority will consider attaching conditions to licences and permissions to prevent harm to children, and these may include conditions drawn from the Model Pool of. Conditions that can be found in the Secretary of State's Guidance

### **13 Health Considerations of Licensing**

13.1 Excess alcohol consumption can lead to a wide range of personal health related harms which are well documented in both the Alcohol Joint Strategic Needs Assessment factsheet and Tower Hamlets Substance Misuse Strategy. The short-term negative health effects of hazardous drinking can include impaired senses, mood or personality changes, loss of consciousness and an increased risk of injury and accidents, while regular alcohol consumption can lead to heart disease, stroke, liver disease, stomach damage and certain types of cancer . Although these are important personal health related harms they, by and large, fall outside the scope of the four licensing objectives as defined in the Licensing Act.

13.2 However the consequences of drinking go far beyond the individual drinker's health and well-being. They include harm to the unborn fetus, acts of drunken violence, vandalism, sexual assault and child abuse, and a huge health burden carried by both the NHS and friends and family who care for those damaged by alcohol. Many of these affects are relevant to the licensing regime.

13.3 The short-term negative health effects of harmful drinking can include impaired senses, mood or personality changes, loss of consciousness and an increased

risk of injury and accidents.

## 14 Licensing Hours

14.1 This Part of the Policy Statement details the Licensing Authority's approach to licensing hours. It states the reasons for the policy and identifies the issues the Licensing Authority will take into account when considering applications during the framework hours. This only applies where the Licensing Authority's discretion is engaged.

14.2 The policy set out in this Part applies to applications for:-

- a new premises licence;
- a new club premises certificate;
- variation of a converted premises licence;
- variation of an existing premises licence;
- variation of a converted club registration certificate; and
- variation of an existing club premises certificate where relevant representations are made.

14.3 The policies set out in this Part may, depending on the circumstances of the application, apply to applications for a provisional statement.

14.4 Any condition setting out the hours of premises refers to the hours during which alcohol may be sold or supplied, or (as appropriate) the hours during which other licensable activities may take place pursuant to the premises licence or club premises certificate. In attaching conditions on hours the Licensing Authority will generally require that customers should not be allowed to remain on the premises later than half an hour (30 minutes) after the cessation of licensable activities.

14.5 Tower Hamlets has a number of licensed venues that already have extended licensing hours. It also borders other London councils that have high concentrations of licensed premises including premises with extended licensing hours.

The Licensing Authority considers that the possibility of disturbance to residents late at night and in the early hours of the morning, and the effect that any such disturbance may have, is a proper matter for it to consider when addressing the hours during which licensable activities may be undertaken.

14.6 The Licensing Authority is concerned to ensure that extended licensing hours do not result in alcohol-related antisocial behaviour persisting into the night and early hours of the morning. For these reasons, applications to carry on licensable activities at any time outside the framework hours will be considered on their own merits with particular regard to the matters set out in the Policy section below.

14.7 The Licensing Authority has had regard to the Guidance to the Act when determining this policy. The end times set out in the policy are not (and should not be regarded as) the 'usual' or 'normal' terminal hour for licensable activities in the Borough. Instead, the 'framework hours' serve to identify cases where the Licensing Authority will pay particular regard to the likely effect on the local neighbourhood of carrying out the proposed licensable activities during the hours applied for. Applications for hours up to the end of the Framework Hours will not automatically be granted. This policy will be applied only where relevant representations are made. Each case will be considered on its merits.

14.8 Sunday – 06:00 hours to 22:30 hours  
Monday to Thursday – 06:00 hours to 23:30 hours  
Friday and Saturday – 06:00 hours to 00:00 hours (midnight)

Applications in respect of premises licences and club premises certificates to authorise licensable activities outside the framework hours, and in respect of which relevant representations are made, will be decided on their own merits and with particular regard to the following.

- a) The location of the premises and the general character of the area in which the premises are situated. (i.e. does the area include residential or business premises likely to be adversely affected).
- b) The proposed hours during which licensable activities will be take place and the proposed hours during which customers will be permitted to remain on the premises.
- c) The adequacy of the applicant's proposals to address the issues of the prevention of crime and disorder **and** the prevention of public nuisance.
- d) Where the premises have been previously licensed, the past operation of the premises.
- e) Whether customers have access to public transport when arriving at or leaving the premises at night time and in the early hours of the morning.
- f) The proximity of the premises to other licensed premises in the vicinity and the hours of those other premises.

14.9 Applicants who apply for authorisation to carry on licensable activities, throughout the entirety of the hours outside the frame work hours, when they do not intend to operate at these times run a risk that Responsible Authorities and interested parties may be more inclined, than they might otherwise be, to make relevant representations about the application.

Although this policy applies to all licensable activities, the Licensing Authority

will have regard to the proposed use of the premises when considering applications to carry on licensable activities outside the framework hours. Subject to any relevant representations that may be made to the contrary in individual cases, premises where the following licensable activities are authorised are not considered to make a significant contribution to the problems of late-night antisocial behaviour, and as such these premises will generally have greater freedom to operate outside the framework hours. These premises are:-

- Theatres.
- Cinemas.
- Premises with a club premises certificate.

14.10 In addition and in relation to all applications, whatever the hours applied for where its discretion is engaged, the Licensing Authority will generally deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents.

14.11 Where a negative impact is likely on local residents or businesses it is expected that the applicants' operating schedule will describe how this impact will be minimised.

## **15 Shops, Stores and Supermarkets**

15.1 The Licensing Authority will generally licence shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping.

15.2 However, it may consider there are very good reasons for restricting those hours, for example, where police representations are made in respect of particular premises known by them to be the focus of disorder and disturbance.

## **16 Integrating Strategies and Avoiding Duplication**

16.1 The Council's licensing function relates, in broad terms to a number of other matters in particular;

- Local crime prevention
- Planning
- Transport
- Tourism
- Cultural strategies
- The night time economy

- 16.2 The Licensing Authority will set up multi-disciplinary working groups to ensure proper integration of local crime prevention, planning, transport, tourism, cultural and night time economy strategies.
- 16.3 The Licensing Authority will arrange for protocols with the Borough Police to enable them to report to the Committee responsible for transport matters on the need for the swift and safe dispersal of people from relevant venues in the Borough.
- 16.4 Arrangements will be made for the Licensing Committees to receive reports on the following matters to ensure these are reflected in their decisions:
- The needs of the local tourist economy and cultural strategy for the Borough, and
  - The employment situation in the Borough and the need for investment and employment where appropriate.
  - The night time economy, its economic contribution to the Borough and the Council's strategy for its development and management. As the Council develops its policy towards the night time economy, through Community Plans or Town Centre Plans and Core Strategies, otherwise the Licensing Policy will be reviewed as necessary.
- 16.5 Licensing and Planning are two separate regimes. As a matter of law the Licensing Authority could not refuse an application because of the absence of appropriate planning consent. However the Licensing Authority would generally expect applicants to have planning and other permissions required for lawful operation of the premises in place at the time of the licensing application.
- 16.6 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing Committees are not bound by decisions made by a planning committee, and vice versa.
- 16.7 The granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 16.8 There are also circumstances when as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

- 16.9 Applicants for new premise or club licences or variations of them are advised to consult the London Borough of Tower Hamlets' Planning Authority about any planning restrictions which may apply to their premises. The Planning website is [http://www.towerhamlets.gov.uk/lgnl/environment\\_and\\_planning/planning/Planning.aspx](http://www.towerhamlets.gov.uk/lgnl/environment_and_planning/planning/Planning.aspx)
- 16.10 The responsible authorities are committed to avoid duplication with other regulatory regimes and the control measures contained in any conditions which are provided for in other legislation. This Policy does not intend to duplicate existing legislation and regulatory regimes that are already places obligations on employers and operators.
- 16.11 The power for licensing authorities to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. These provisions came into force on 31st October 2012.
- 16.12 Regulations prescribing the requirements in relation to the process for making an early morning restriction order (EMRO) were brought in force on 31st October 2012.
- 16.13 Guidance has been introduced in relation to:
- the EMRO process
  - the evidence base
  - introducing an EMRO
  - advertising an EMRO
  - dealing with representations
  - hearings
  - implementation
  - limitations
  - enforcement
- 16.14 The legislation gives licensing authorities discretion to restrict sales of alcohol by introducing an EMRO to restrict the sale or supply of alcohol to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour.
- 16.15 The order may be applied to the whole or part of the licensing authority area and if relevant on specific days and at specific times. The licensing authority must be satisfied that such an order would be appropriate to promote the licensing objectives.
- 16.16 The only exemptions relating to EMROs are New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.
- 16.17 The decision to implement an EMRO should be evidence based and licensing

authorities may wish to outline in the policy the grounds which they will take into consideration when considering implementation of an EMRO. This should include consideration of the potential burden imposed as well as the potential benefits. The Licensing Authority reserves the right to introduce an EMRO if it so desires and consultation and evidence from responsible authorities demonstrates the need.

16.18 The function of making, varying or revoking an EMRO is specifically excluded from the statutory delegation of functions to the Licensing Committee.

## 17 **Late Night Levy**

17.1 Following formal consultation in 2017 the Council introduced a Late Night Levy within the borough on 1<sup>st</sup> January 2018, with the levied hours being midnight to 6am (00:00 to 06:00 hours). The levy is a discretionary power, which this Council has adopted.

17.2 The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in the following legislation:

- Police Reform and Social Responsibility Act 2011, Chapter 2 of Part 2
- The Late Night Levy (Application and Administration) Regulations 2012
- The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.

17.3 The purpose of the levy is to assist local authorities and the police to manage and improve the night time economy. The money raised by the levy can be used for a range of activities and can be given to other agencies where they can assist in the reduction of crime and disorder, promotion of public safety, reduction or prevention of public nuisance, and cleaning of highways or land in the Borough.

17.4 The Late Night Levy will be applied in accordance with this Policy, having regard to the governing legislation and Home Office Guidance issued on 24<sup>th</sup> March 2015 in relation to the Late Night Levy (or any subsequent guidance).

17.5 From 1<sup>st</sup> January 2018 holders of premises licences or club premises certificates that are authorised by their licence for the sale/supply of alcohol (on and/or off sales) between the levied hours (00:00 to 06:00 hours). This will apply whether the hours detailed in such licences for the sale/supply of alcohol is used or not.

For example where a licence permits the sale/supply of alcohol until 02:00 hours (i.e. within the levied hours), however the premises closes regularly at 23:30 hours they will still be liable to pay the levy unless eligible for an exemption, see list of exemptions below.

17.6 The amount of the levy is set by the UK Government and is a yearly amount between £299 and £4,440 depending on the rateable value of the premises and the their actual use. See table below:

<b>Rateable Value Bands (based on the existing fee bands)</b>	<b>A</b> No rateable value to £4,300	<b>B</b> £4,301 to £33,000	<b>C</b> £33,001 to £87,000	<b>D</b> £87,001 to £125,000	<b>E</b> £125,001 and above	<b>D x 2</b> Multiplier applies to premises in category D that primarily or exclusively sell alcohol	<b>E x 3</b> Multiplier applies to premises in category E that primarily or exclusively sell alcohol
<b>Levy Charges</b>	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

17.7 The Licensing Authority will collect the levy from those premises liable to pay it at the same time as the Premises Licence or Club Premises Certificate annual fee.

17.8 Failure to pay the levy will result in suspension of Licence/Certificate until the levy has been paid, and any outstanding money owed can be recovered as a civil deb.

17.9 Exemptions from the Levy

The following permitted categories of premises are exempt from paying the levy

- a) Premises with overnight accommodation;  
this exemption does not apply if alcohol is served during the late night supply period to members of the public who are not staying overnight,
- b) Theatres and cinemas;  
this exemption only applies if alcohol is served during the late night supply period only for consumption on the premises to ticket holders, participants in the production, or invited guests to private events; they must be bona-fide theatres or cinemas and the sale of alcohol must not be their primary purpose,
- c) Bingo Halls;  
these premises must have licenses under the Gambling Act 2005 and the playing of bingo must be the primary activity,
- d) Community Amateur Sports Clubs;  
these must be clubs registered as Community Amateur Sports Clubs that are entitled to various tax concessions including relief from business rates,
- e) Community premises;  
these must be premises that form part of the church hall, chapel hall, village hall, parish hall, community hall or other similar buildings,

- f) New Year's Eve Premises only,  
this relates to premises which are authorised to sell alcohol between midnight and 6am, ONLY applies on New Year's Day.

#### 17.10 No exemptions will be granted for the following:

- a) Country Village Pubs – this has been decided because it is not relevant to a London Borough such as Tower Hamlets as the definition is pubs that are solely designated in rural settlements with a population less than 3000.
- b) Business Improvement Districts (BIDs) - BIDs are district led partnerships created through ballots process via businesses within the district and operate via a levy charge. There are currently none within the borough.

#### 17.11 Reductions

A 30% reduction of the levy will be given to premises who have achieved accreditation in Best Bar None (BBN) Scheme.

No reduction will be given to premises subject to small business rates relief. This has been decided because these premises receive business rates relief to assist in their viability; however, if they operate in the late night period there is no reason to suggest that they are less likely than similar businesses to contribute to the detrimental effects of the late night economy. Furthermore due to their rateable value, they are more likely to be liable to the lower levy amounts.

#### 17.12 Temporary Event Notices (TENs)

The levy does not apply to Temporary Event Notifications (TENs).

### 18 **Cumulative Effect**

- 18.1 The Licensing Authority will not take 'need' into account when considering an application (i.e. commercial demand), as this is not a licensing objective. However, it recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside and some distance from the premises.
- 18.2 Representations may be received from a responsible authority / other persons that an area has become saturated with premises, which has made it a focal point for large groups of people to gather and circulate away from the licensed premises themselves, creating exceptional problems of disorder and nuisance over and

above the impact from the individual premises.

18.3 In these circumstances, the Licensing Authority may consider that the imposition of conditions is unlikely to address these problems and may consider the adoption of a special policy of refusing new licences because the area is saturated with licensed premises and the granting of any more would undermine one or more of the licensing objectives.

18.4 The Licensing Authority will take the following steps when considering whether to adopt a special saturation policy:-

- identification of serious and chronic concern from a responsible authority or representatives of residents about nuisance and disorder
- where it can be demonstrated that disorder and nuisance is arising as a result of customers from licensed premises, identifying the area from which problems are arising and the boundaries of that area
- assessing the causes
- adopting a policy about future licence applications from that area

18.5 The Licensing Authority will not adopt a "cumulative impact" policy in relation to a particular area without having consulted individuals and organisations listed in Section 5(3) of the Licensing Act (i.e. those who have to be consulted about this policy). It will also have ensured that there is consultation with local residents.

18.6 The Licensing Authority will consider representations based on the impact on the promotion of the licensing objectives in the Borough generally of the grant of the particular application in front of them.

18.7 However, the onus would be on the objectors to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.

18.8 The Licensing Authority will review any special saturation policies every three years to see whether they have had the effect intended, and whether they are still required.

18.9 The Licensing Authority will not use such policies solely:-

- as the grounds for removing a licence when representations are received about problems with existing licensed premises, or,
- to refuse modifications to a licence, except where the modifications

are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits

- to impose any form of quota

18.10 The Licensing Authority recognises that there is a wide diversity of premises requiring a licence and will have full regard to the differing impact these will have on the local community.

18.11 It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application.

## **19 Special Cumulative Impact Policy for the Brick Lane and Bethnal Green Area**

19.1 As with many other London Borough's the majority of late night licensed premises are concentrated within one area of the Borough. Following guidance issued under the Licensing Act 2003 a cumulative impact policy for the Brick Lane area was adopted on 18<sup>th</sup> September 2013 by the Council and came into effect on the 1<sup>st</sup> November 2013.

19.2 After consultation the Council recognised that because of the number and density of licensed premises selling alcohol, on and off the premises and the provision of late night refreshment (sale of hot food after 11pm) within the Brick Lane Area as defined in Figure One, there might be exceptional problems of nuisance, disturbance and/or disorder outside or away from those licensed premises as a result of their combined effect.

19.3 The Council Cumulative Impact Zone (CIZ) was reviewed alongside this Statement of Licensing Policy by the Licensing Committee on 14<sup>th</sup> December 2017. Following this review and consultation in early 2018 the Council has decided to keep the Cumulative Impact Zone (CIZ). Local crime mapping showed that although there had been a reduction in crime and disorder linked to licensed premises within the CIZ since January 2015, the same crime mapping showed that the area of the CIZ is still higher than average in regards to crimes and disorder linked to licensed premises compared to the rest of the borough.

Further to the CIZ in the Brick Lane Area shown in Figure One below, data from 999/101 calls to Police in 2016/17 showed a large number of incidents linked to licensed premises within the area shown in Figure Two below (Bethnal Green Area). In light of this evidence and following consultation mentioned above the Council has decided to adopt a second CIZ in the Bethnal Green Area.

19.4 The Licensing Authority is of the view that the number, type and density of

premises selling alcohol for consumption on and off the premises and/or the provision of late night refreshment in the area highlighted in Figures One and Two is having a cumulative impact on the licensing objectives and has therefore declared a cumulative impact zone within these areas. The Brick Lane and Bethnal Green CIZ aims to manage the negative cumulative impact of the concentration of licensed premises in these areas and the stresses that the saturation of licensed premises has had on local amenity, environmental degradation and emergency and regulatory services in managing this impact.

19.5 The effect of this Special Cumulative Impact Policy will affect applications in respect of the sale or supply of alcohol on or off the premises and/or late Night Refreshment for the following:

- New Premises Licences applications,
- New Club Premises Certificates applications
- Provisional Statements,
- Variation of Premises Licences and Club Premises Certificate applications (where the modifications are relevant to the issue of cumulative impact for example increases in hours or capacity).

The Licensing Authority expects such applications to have regard for and make reference to the CIZ.

19.6 The Special Cumulative Impact policy creates a rebuttable presumption that where relevant representations are received by one or more of the responsible authorities and/or other persons against applications within the CIZ zones the application will be refused.

19.7 Where representations have been received in respect to applications within the CIZ zones the onus is on applicants to adequately rebut the presumption. Applicants will need to demonstrate in their applications why the granting of their application will not negatively add to the cumulative already experience within the CIZ Zones. Applicants may wish to address the following in their applications:

- Genuinely exceptional circumstances
- Relevant good practices they employ (for example, this could include details of membership of local Pubwatch/other trade groups,
- Accreditation of Award Schemes (as applicable), and any participation in Police/Council initiatives)
- Other good operational/practice arrangements in respect of any outside drinking and smoking to control potential impact in the area
- Measures used to promote the licensing objectives (for example, any relevant conditions to control noise, dispersal, litter and other anti-social issues

**19.8 This Policy will be strictly applied and where relevant representations are received it is the view of the Council that the application will be refused.**

**Applicants will need to demonstrate that there are exceptional circumstances and that granting their application will not negatively add to the cumulative effect on the Licensing Objectives within the Brick Lane and Bethnal Green CIZ if they wish to rebut this presumption.**

Examples of factors the Licensing Authority may consider as exceptional may include, though are not limited to:

- small premises with a capacity of fifty persons or less who only intend to operate during Framework Hours
- premises which are not alcohol led and operate only within Framework Hours, such as coffee shops
- instances where the applicant has recently surrendered a licence for another premises of a similar size and providing similar licensable activities in the same Special Policy Area.

Examples of factors the Licensing Authority will **not** consider as exceptional include:

- that the premises will be well managed and run
- that the premises will be constructed to a high standard
- that the applicant operates similar premises elsewhere without complaint.

19.9 The Special Cumulative Impact policy will not be used to revoke an existing licence or certificate and will not be applicable during the review of existing licences.

### **The Cumulative Impact Zone in the Brick Lane and Bethnal Green area**

The Cumulative Impact Zones are detailed in the maps below.

**Figure One – Brick Lane CIZ**

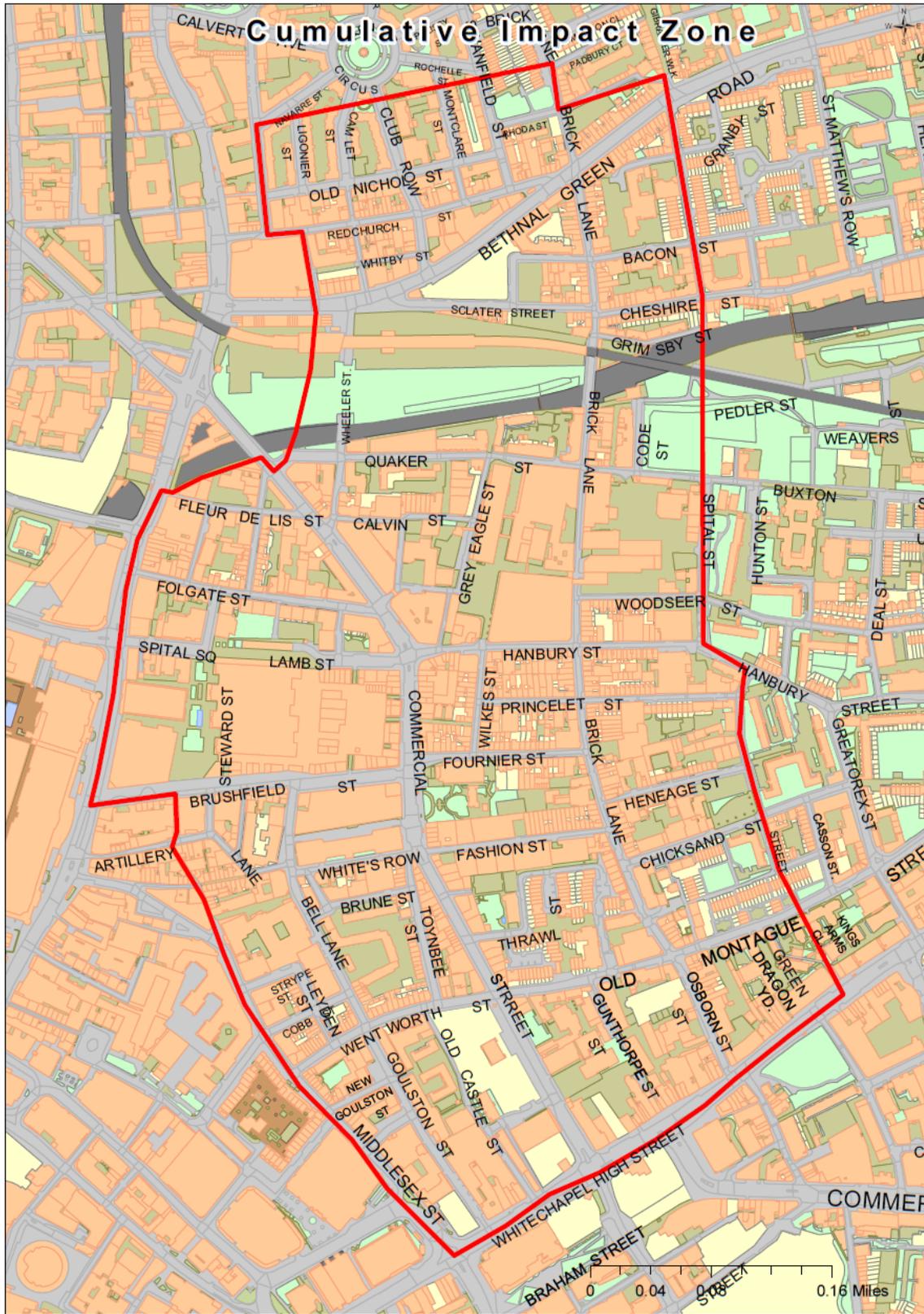
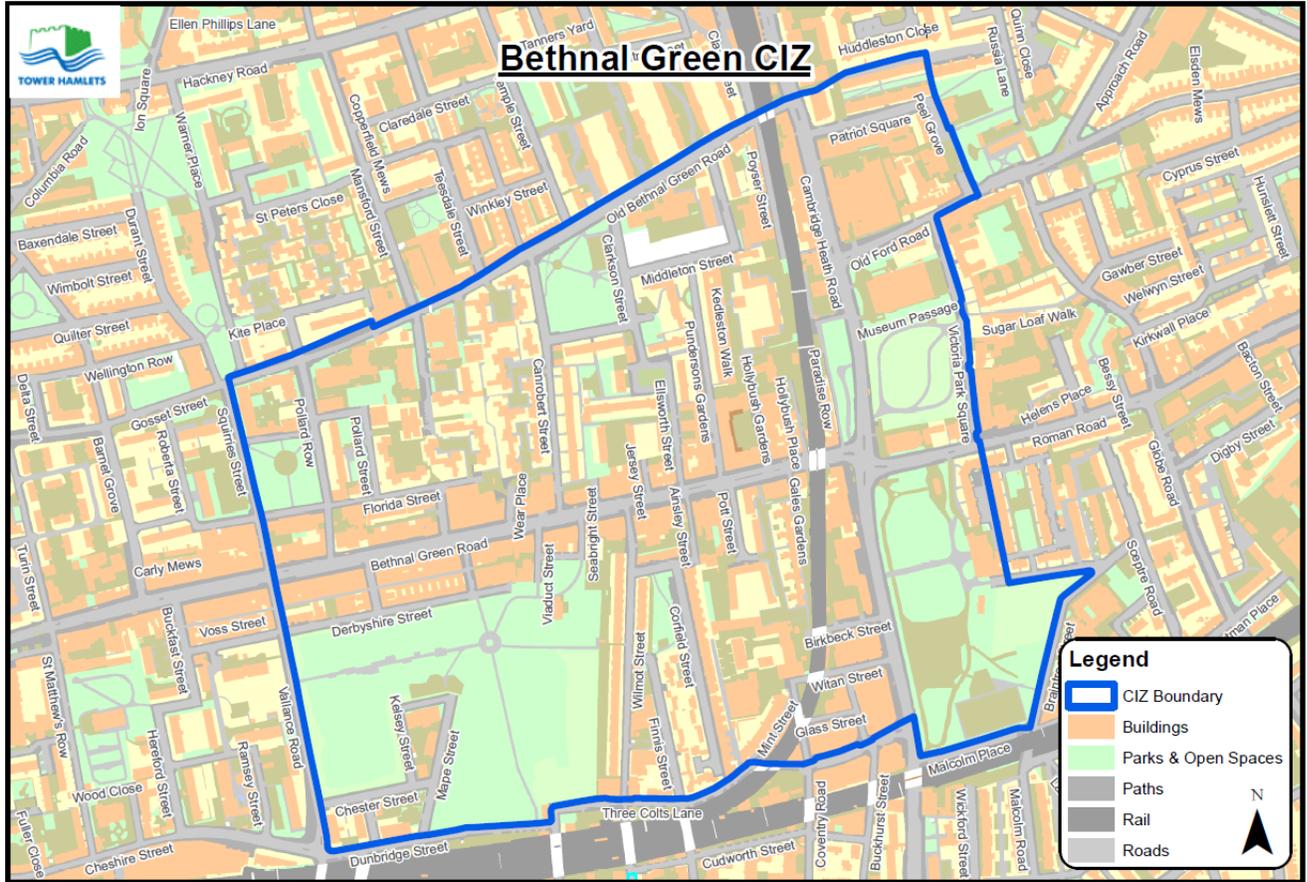


Figure Two – Bethnal Green CIZ



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## **20 Sexual Entertainment**

- 20.1 The Licensing Authority has a separate policy in relation to Sexual Entertainment Venues (SEVs), which can be found in Appendix 4'.

## **21 Late Night Refreshments and Deregulation Act 2015**

- 21.1 Paragraph 2A of Schedule 2 to the 2003 Act (as inserted by the Deregulation Act 2015) gives licensing authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment. Licensing authorities can choose to apply an exemption specifically where they think it will be helpful to businesses and where there are no problems with anti-social behaviour, disorder associated with the night time economy, or illegal working in licensed premises.
- 21.2 The Licensing Authority can only exempt types of premises set out in the regulations. These are:
- Motorway service areas;
  - petrol stations;
  - local authority premises (except domestic premises) unless there is an event taking place at which more than 500 people are present;
  - schools (except domestic premises) unless there is an event taking place at which more than 500 people are present;
  - hospitals (except domestic premises);
  - community premises (church, chapel, village, parish or community hall or other similar building) unless there is an event taking place at which more than 500 people are present;
  - licensed premises authorised to sell by retail alcohol for consumption on the premises between the hours of 23.00 and 05.00.
- 21.3 This Licensing Authority has decided it is not appropriate for the reasons of promotion of the licensing objectives to use the exemptions, and it requires all late night refreshment providers to be licensed.

## **22 Live Music, Dancing and Theatre**

- 22.1 In its role of implementing local authority cultural strategies, the Licensing Authority recognises the desirability of encouraging and promoting live music, dance, theatre and festivals for the wider cultural benefit of the community, particularly for children. This broad strategy includes all forms of licensable live entertainment. The Licensing Authority recognises that a rich cultural provision has a positive role in community cohesion.
- 22.2 When considering applications for such events and the imposition of conditions on

licences or certificates, the Licensing Authority will carefully balance these cultural needs with the necessity of promoting the licensing objectives.

- 22.3 Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused. The Licensing Authority will regulate live performances on a risk assessed basis and we will be mindful of the licensing objectives and the need to ensure we are not committing disproportionate costs to regulation.
- 22.4 The Live Music Act came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act :
- 22.5 Removes the licensing requirement for unamplified live music taking place between 8am and 11pm in all venues. This is subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence where the premises are authorised to supply alcohol for consumption on the premises.
- 22.6 Removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised to supply alcohol for consumption on the premises. This is subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence.
- 22.7 Removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons in workplaces (but not necessarily for workers) not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment).
- 22.8 Removes the licensing requirement for the provision of entertainment facilities and widens the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.

## 23 Risk Assessments

- 23.1 When the Licensing Authority's discretion is engaged it expects applicants to have regard to the advice of the Metropolitan Police in relation to the licensing objective of the prevention of crime and disorder. Therefore it recommends for significant events (please see note below for definition), a comprehensive risk assessment is undertaken by premises licence holders to ensure that crime and disorder and public safety matters are identified and addressed. Accordingly, for premises that wish to stage promotions, or events (as defined below) the Licensing Authority recommends that applicants carry out the Risk Assessment and debrief processes and when relevant include in their Operating Schedule.

- 23.2 The Licensing Authority further recommends the Metropolitan Police Promotion/Event Risk Assessment Form 696 and the After Promotion/Event Debrief Risk Assessment Form 696A as useful and effective tools for this purpose. Where the Risk Assessment forms are used to assess the likely risks from any promotion or event, the Licensing Authority anticipates that these will be completed in consultation with the Metropolitan Police. Risk assessments should be submitted to the Metropolitan Police and the Licensing Authority within 14 days of any proposed event and debrief forms submitted within 14 days of the conclusion.
- 23.3 Forms 696 and 696A are available on the Metropolitan Police web completion and transmission of the forms is undertaken by licensees.
- 23.4 **Promotion or Event** - The majority of venues have regular repeat artistes and DJs. Only one risk assessment and subsequent debrief is required for an artiste at the venue concerned. Where venues have promotions with different artistes or DJs on each occasion, it is anticipated that the risk assessment forms will be completed for each of these occasions.
- 23.5 The Premises Licence Conditions proposed by can be recommended as part of a pool of standard conditions. They will not be imposed on any licence as a condition, unless as suggested in the policy statement, applicants address risk assessment in their operating schedules, or one of the statutory authorities submits relevant representations for any application received. If conditions are to be applied, they will have to be relevant and proportionate to the matters raised in representations by the Responsible Authorities.
- 23.6 The recommended risk assessment conditions are:  
Prevention of Crime and Disorder - The licensee shall undertake a risk assessment of any significant promotion or event (as defined below) using the MPS Promotion/Event Risk Assessment (Form 696) or an equivalent and provide a copy\* to the Metropolitan Police Service and the licensing authority not less than **14 days** before the event is due to take place.
- 23.7 Where an 'event' has taken place, the licensee shall complete an MPS after Promotion/Event Debrief Risk Assessment (Form 696A) and submit this\* to the Metropolitan Police and the Licensing Authority, within 14 days of the conclusion of the event.  
\*submission of electronic documents by e-mail is preferred.
- 23.8 Definition of a 'Significant Event'  
This definition relates to events that require a Promotion/Event Risk Assessment Form 696.
- 23.9 A significant event will be deemed to be: any occasion in a premises licensed under the provisions of the Licensing Act 2003, where there will be a live performer(s) – meaning musicians, DJs, MCs or other artist; that is promoted in

some form by either the venue or an outside promoter; where entry is either free, by invitation, pay on the door or by ticket.

23.10 Licensees are advised to consult the local Metropolitan Police Licensing Unit to clarify whether their proposed event is significant.

## 24 Temporary Event Notices Process

24.1 The Licensing Act 2003 allows small scale events which include any licensable activities to be held without the need for a premises licence. However advanced notice of at least ten full working days' notice must be given to the Licensing Authority and the Metropolitan Police (please see paragraph 23.4 and 23.5 below for this Licensing Authority's required notice period).

24.2 Temporary Event Notices (TENs) authorise "one-off" licensable activities on a premises without the need for a premises licence or club premises certificate. TENs are not a Licence but a notification to the Licensing Authority, Police and Environmental Health of the intention to carry out Licensable activities. There are certain restrictions relating to TENs set out in the Act:

- a) the number of times a person (the "premises user") may give a TEN (these figures are inclusive of Late TENs):
  - 50 times per calendar year for a personal licence holder,
  - 5 times per calendar year for other people (non personal licence holders);
- b) the number of times a TEN may be given for individual premises is 15 times in a calendar year (this number took effect from 1<sup>st</sup> January 2016 as per the Deregulation Act 2015) so long as the total number of days used for these events does not exceed 21;
- c) the temporary event may last no more than 168 hours (this relates to the licensable activities only);
- d) the scale of the event in terms of the maximum number of people attending at any one time can be no more than 499 (including staff/volunteers etc. running the event).

24.3 Where events are planned outside the limits above, an application must be made for a limited duration Premises Licence.

24.4 The Secretary of State's Guidance states "Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing

authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them”

24.5 In accordance with this Guidance, this Licensing Authority expects event organisers’ to give at least 28 days’ notice of a temporary event, and that the event has been discussed with Metropolitan Police before submission. This will ensure that full detailed discussion can take place between the organiser and any other interested parties in order to ensure promotion of the 4 licencing objectives. The maximum timescale this Licensing Authority will accept a TEN in advance of an event is 3 months.

- i. Organisers of outdoor events are strongly advised to contact the Council’s Sports Leisure and Culture Department, Environmental Health and Health and Safety as well as the emergency services for advice.
- ii. With regards to giving notice to the relevant authority, as the term “give” used in section 100 of Licensing Act 2003 is not defined, the Licensing Authority considers this to mean the date on which the TEN is received by the Licensing Authority and not the date on which it was sent. Applicants are therefore advised to hand deliver notices if time is short, as late notices will not be accepted under any circumstances.

24.6 Applications for TENs must be made using the prescribed form. Applications must be given to the Licensing Authority and the Metropolitan Police in duplicate.

24.7 It should be noted that the Metropolitan Police and the Council’s Environmental Health Notice Service are the only bodies who may make representations to a TEN. However, these two bodies may object to a TEN on grounds that any of the licensing objectives would not be promoted should the event go ahead. Where objections are received the matter will be put before the Licensing Authority’s Licensing Sub-Committee. The Licensing Sub-Committee may:

- i) Allow the TEN to go ahead
- ii) Reject the TEN

24.8 The Act does allow for Late TENS to be submitted by event organisers subject to the to the limitations in paragraph 23.2 (b-d) above and the below limitations referred to below in relation to the number of times a person (the “premises user”) may give a Late TEN, which is:

- a) **10** times per calendar year for a personal licence holder,
- b) **2** times per calendar year for other people (non personal licence holders).

24.9 These “Late TENs” can be submitted to the Licensing Authority, Metropolitan Police and the Council’s Environmental Health Noise Section between 5 and 9

days clear working days before the event, this does not include the day of receipt of the TEN or the day of the proposed event. It should be noted that if either the Police or the Council's Noise and Nuisance team lodges an objection to a Late TEN the event will **not** go ahead.

- 24.10 The Licensing authority, with other partners, will provide advice where appropriate to help organisers to plan their events safely, check that the limitations set down in the Act are being observed and that there are no limitations or restrictions under other legislation.
- 24.11 TENs received that relate to premises within the Cumulative Impact Zone may be received objections from the Police or Environmental Health on the grounds that the giving of a TEN would undermine the licensing objectives in the Cumulative Impact Zone (CIZ). Therefore persons giving TENs within this Zone should have regard for the Cumulative Impact Policy detailed above and the Secretary State's Guidance relating to Cumulative Impact. The reason for the CIZ is to reduce crime and disorder, and nuisance from a concentration of licensed premises.

## 25 Enforcement

- 25.1 Once licensed, it is essential premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act and the Licensing Authority will make arrangements to monitor premises and take appropriate enforcement action to ensure this.
- 25.2 The Licensing Authority will work closely with Borough Police to establish protocols to ensure an efficient deployment of Police and Council Officers engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that resources are targeted at problem and high risk premises.
- 25.3 The Licensing Authority considers the protection of minors to be a particular priority for enforcement and will, in partnership with other agencies, especially the Police, seek to use the criminal sanctions of the Licensing Act to their fullest extent to achieve such protection.
- 25.4 In relation to enforcement the Council will abide by the Regulators Compliance Code and the Enforcement Concordat and the Council's Enforcement Policy. A copy of this policy is available on the Council's website. In most cases a graduated form of response will be used to resolve issues of non-compliance although it is recognised that in serious cases a prosecution or a review application are appropriate means of disposal. The Council will use test purchases as a legitimate way to determine compliance to the license conditions. Failed test purchases will be disposed with by reference to the Council Enforcement Policy

25.5 Following this Policy the Council include Licensing Authority can take the following action:

- a. Taking no action;
- b. Issuing an informal warning;
- c. Recommending improvements within a particular time;
- d. Monitoring by regular inspection and invite to seek a further review if problems persist;
- e. Investigate breaches of legislation and refer matters to the Council's Legal Department for consideration for prosecution.

25.6 Conditions (other than the statutory mandatory conditions) may only be attached to a licence or club premises certificate if relevant representations are received (except for conditions drawn from the applicant's operating schedule since these are voluntary propositions). Any such conditions will be tailored to the individual style and characteristics of the premises and events concerned.

25.7 Conditions should be:

- clear
- enforceable
- evidenced
- proportionate
- be expressed in plain language capable of being understood by those expected to comply with them.

25.8 Conditions must be attached at a hearing; unless the authority, the premises user, and the relevant responsible authority have agreed a hearing is unnecessary.

25.9 Licensing authority cannot impose blanket standard conditions. The Secretary of State's Guidance contains a pool of conditions.

25.10 Conditions can only be carried forward from a premises licence or club premises certificate onto a TEN where relevant objections have been made by the Police or Environmental Health.

25.11 Non Payment of Licence Fee

In accordance with the amendments introduced by the Police Reform and Social Responsibility Act 2011, the council must suspend premises licences and club premises certificates on the non-payment of annual fees.

**25.12 The legislation states that the premises licence holder will be given at least 2 working days' notice that the licence will be suspended before the**

**suspension is to take effect.**

- 25.13 It is the duty of the Licence Holder to pay their annual licence fee when it is due. The Licensing Authority will send a single request for payment to the licence holder giving 28 days from the date of the letter to make the required payment. ~~will~~ If no payment is received the Licensing Authority will take measures to suspend the licence.
- 25.14 Following the action to suspend the licence income recovery procedures will be commenced along with enforcement visits to ensure that the suspension is maintained until payment is received or licence surrendered.

## **26 Review Process**

### **26.1 Working in partnership:**

The promotion of the licensing objectives and achieving common aims relies on a partnership between licence holders, authorised persons, other persons, (as defined by the Secretary of State Guidance), responsible authorities and the Licensing Authority. The licensing authority will try to give licence holders early warning of any concerns about problems identified at any licensed premises and identify the need for improvement

### **26.2 Purpose of reviews:**

The review process is integral to the operation of the Government's intention is a light touch regulatory regime with regard to the granting of new licences and variations. Only when there have been representations will the Licensing Authority have the discretion not to grant licences. If problems arise in connection with a premises licence, it is for the Responsible Authorities and the other persons to apply for a review of the licence. Without such representations, the Licensing Authority cannot review a licence.

### **26.3 Proceedings:**

There are proceedings for reviewing a premises licence. These are provided as protection for the community, where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.

### **26.4 Initiating Reviews:**

At any stage, following the grant of a premises licence, any of the Responsible Authorities or any other persons, such as a resident living in the vicinity of the premises and Councillors, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

- 26.5 The Police and Environmental Health Officers have various additional powers of -

closure. The Licensing Authority cannot initiate its own reviews of premises licences, however, officers of the Council who are specified as Responsible Authorities under the Act may request reviews.

- 26.6 In every review case an evidential basis for the allegations made will need to be submitted to the Licensing Authority. When a request for a review is initiated from another person, the Licensing Authority is required to first consider whether the representation made is irrelevant to the licensing objectives, or is vexatious or frivolous.
- 26.7 Where the Licensing Authority receives a request for a review in accordance with the closure procedures described in Part 8 of the Act (for example, closure orders) it will arrange a hearing in accordance with the regulations set out by the Government.
- 26.8 Powers following determination of review - The Licensing Authority in determining a review may exercise the range of powers given to them to promote the licensing objectives. Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- a. Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition);
  - b. Exclude a licensable activity from the scope of the licence;
  - c. Remove the designated supervisor;
  - d. Suspend the licence for a period not exceeding three months;
  - e. Revoke the licence.
- 26.9 Where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, the revocation of the licence will be seriously considered. However, revocation also remains an option if other licensing objectives are being undermined.

## 27 Responsibility of Licence Holders and Designated Premises Supervisors (DPS)

- 27.1 When licence holders or designated premises supervisors move, leave premises or dispose of their premises they remain responsible in law until they have informed the licensing authority and surrendered the licence or arranged a transfer, which may involve notification to the Police as well. Any licensees or designated premises supervisors who are not sure what to do should contact the licensing authority. Please note that should the DPS cease to work/be employed by the

premises the Licensing Authority will consider that there is no DPS for those premises. This consideration shall apply regardless of whether that person is still named on the Premises Licence, or whether they have asked for their name to be removed from it. This consideration shall apply until such time that an application is received to nominate a new premises supervisor. In such cases, the Licensing Authority shall expect no sales of alcohol to take place until an application to vary the DPS has been submitted to the Licensing Authority

- 27.2 Every premises licence that authorises the sale of alcohol must specify a designated premises supervisor (DPS). This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act. The DPS to be a person with day to day managerial control of the premises who will take reasonable steps to ensure the licensing objectives are promoted and licence conditions are adhered to.
- 27.3 Though there is no requirement for a designated premises supervisor (DPS) to be on the premises at all times that alcohol is being sold, the Licensing Authority expects where they are likely to be absent for a prolonged period, perhaps due to ill health, maternity leave or extended holiday, that a new DPS to be appointed to cover the period of absence. If there are concerns that a DPS is repeatedly absent, the Police may apply for a review of the Premises Licence if this gives rise to concerns about the operation of the premises and its impact on the licensing objectives.
- 27.4 Where the DPS is not present at the premises the Licensing Authority, following guidance by the Secretary of State, recommends that personal licence holders give specific written authorisations to individuals that they are authorising to retail alcohol. The letter of authorisation should state the following:-
- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
  - the authorisation should have specified the acts which may be carried out by the person who is authorised to supply alcohol;
  - there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
  - there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.

It should be noted that the responsibility remains with the Premises Licence Holder and the Designated Premises Supervisor.

## 28 Prohibition signs

- 28.1 When its discretion is engaged and a relevant representation is made relating to the exclusion or discouragement of any minority adult group the Licensing Authority will add a condition which forbids such as practice.
- 28.2 The Licensing Authority is especially concerned that such practices adversely affect social cohesion and are likely to hinder the promotion of the licensing objective relating to law and order. The Licensing Authority will also refer such practices to other authorities, where appropriate.

## 29 Promotion of Racial Equality

- 29.1 Legislation requires the local authority to have due regard to the elimination of unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The Licensing Authority expects all licence applications to be consistent with this duty.
- 29.2 The Council as an organisation has a race equality scheme and monitoring licensing forms a part of that overall scheme.

## 30 Duplication

- 30.1 As far as possible the Licensing Authority will seek to avoid duplication with other regulatory regimes. The Licensing Authority will however impose tailored conditions where it judges it necessary to meet the licensing objectives.

## 31 Administration, Exercise and Delegation of Functions

- 31.1 The Licensing Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.
- 31.2 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with them.
- 31.3 The following Table sets out the agreed delegation of decisions and functions to Licensing Committee / Sub-Committees and Officers

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		Police objection including unspent convictions	If no objection made

Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representations are made
Application for provisional statement		If a relevant representation made	If no relevant representations are made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representations are made
Application to vary designated premises supervisor		If police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If police objection	All other cases
Application for interim authorities		If police objection	All other
Application to review premises licence / club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.;			All cases
Decision to object when local authority is consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
Decision on whether a minor variation application is valid, the need to go out to consultation and determination.			All cases
Determination of minor variation application			All cases

Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All cases
Power to suspend a premises licence (S.55A (1) LA2003) or club premises certificate (S.92A (1) LA2003) for non-payment of annual			All cases
Power to specify the date on which suspension takes effect. This must be at least 2 working days after the day the Authority gives notice			All cases
Power to impose existing conditions on a premises licence, club premises certificate and Temporary Event Notice where all parties agree that a Hearing is unnecessary – see S.106A LA2003.			All cases
Power to make representations as responsible authority			All cases

31.4 Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made, has been delegated to Council Officers.

31.5 This form of delegations is without prejudice to Officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate in the circumstances of any particular case.

31.6 The officers to exercise the discretion are officers who are responsible for the Licensing function and who are given the appropriate written delegated authority.

31.7 Application forms, fees, and details regarding each type of application, including

the minor variations process can be obtained from the Councils website or by contacting the Licensing and Safety Team on 0207 364 5008 or [Licensing@towerhamlets.gov.uk](mailto:Licensing@towerhamlets.gov.uk).

- 31.8 The Licensing Authority encourages informal discussion before the application process in order to resolve potential problems and avoid unnecessary hearings and appeals.

## **Appendix 1: (Please note this is subject to updates where below contact details change, and will be updated regularly as needed)**

### **List of Responsible Authorities**

There are a number of “Responsible Authorities”. These have been designated by the Government. Any variation application should be discussed with the relevant authorities first. All new (including time limited) and variation applications have to be sent to the responsible authority. If you are not sure you will need to check which organisation is responsible for health and safety before you send off your forms.

- (a) **The Chief Officer of Police** for any Police area in which the premises are situated –

Metropolitan Police Service  
Licensing Unit  
Toby Club  
Vawdrey Close  
London  
E1 4UA

Tel: 0208 721 2324 and 07825850906  
Email: [HT-LicensingOffice@met.police.uk](mailto:HT-LicensingOffice@met.police.uk)

- (b) **The Fire and Rescue Authority** for any in which the premises are situated –

**London Fire Brigade**  
Fire Safety Regulation  
NE 2 Area  
London Fire Brigade  
169 Union Street  
London  
SE1 0LL

Tel: 020 8555 1200  
Email: [FSRNorth@london-fire.gov.uk](mailto:FSRNorth@london-fire.gov.uk)

- (c) The enforcing Authority within the meaning given by Section 18 of the Health and Safety at work etc. Act 1974 and the local Weights and Measures Authority (within the meaning for section 69 of the Weights and Measures Act 1985) for any area in which the premises are situated –

- i.) **Licensing and Safety Team**  
London Borough of Tower Hamlets  
Environment Health and Trading Standards  
John Onslow House  
1 Ewart Place  
London E3 5EQ

Tel: 020 7364 5008  
Email: [Healthand.Safety@towerhamlets.gov.uk](mailto:Healthand.Safety@towerhamlets.gov.uk)

OR

- ii.) Health and Safety Executive  
Rose Court  
2 Southwark Bridge  
London SE1 9HS

Fax: 020 7556 2201

OR

- iii.) Maritime Coastguard Agency  
Marine Office  
Central Court  
1B Knoll Rise  
Orpington, Kent  
BR6 0JA

Tel: 0168 9890400

**AND**

- iv.) **Local Weights and Measures Authority**  
Trading Standards  
Administration Section  
John Onslow House  
1 Ewart Place  
London E3 5EQ

Tel: 020 7364 5008

Email: [TradingStandards@towerhamlets.gov.uk](mailto:TradingStandards@towerhamlets.gov.uk)

**\* Each licensee should know which Authority is responsible for their Health and Safety – a copy of the application should be sent to the relevant Authority.**

- (d) The local **Planning Authority** within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated

Planning Department  
London Borough of Tower Hamlets  
Mulberry Place  
5 Clove Crescent  
London E14 2BG

Tel: 020 7364 5009

Email: [Planning@towerhamlets.gov.uk](mailto:Planning@towerhamlets.gov.uk)

- (e) The local Authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of **Pollution** of the environment or of harm to human health –

**Environmental Protection**

London Borough of Tower Hamlets  
Administration Section  
John Onslow House  
1 Ewart Place  
London E3 5EQ

Tel: 020 7364 5007

Email: [Environmental.Health@towerhamlets.gov.uk](mailto:Environmental.Health@towerhamlets.gov.uk)

- (f) A body which:
- i.) Represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the **protection of children** from harm; and
  - ii.) Is recognised by the Licensing Authority for that area for the purposes of this section as being competent to advise it on such matters

**Child Protection**

Multi Agency Safeguarding Hub (MASH)  
4th Floor  
Mulberry Place  
5 Clove Crescent  
London E14 2BG

Tel: 020 7364 3444

Email: [mash@towerhamlets.gov.uk](mailto:mash@towerhamlets.gov.uk)

- (g) **Public Health**  
Dr Somen Banerjee  
Interim Director of Public Health Tower Hamlets  
4th floor  
Clove Crescent  
London  
E14 2BG

Tel: 020 7364 7014

Email: [Somen.banerjee@towerhamlets.gov.uk](mailto:Somen.banerjee@towerhamlets.gov.uk)

- (h) **The Home Office's Secretary of State (Home Office Immigration Enforcement)**  
Alcohol Licensing Team  
Lunar House  
40 Wellesley Road

Croydon  
CR9 2BY

Email: [Alcohol@homeoffice.gsi.gov.uk](mailto:Alcohol@homeoffice.gsi.gov.uk)

## Appendix 2

### **Mandatory Conditions Made under the Licensing Act 2003 and associated Orders**

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

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

#### **For “ON and OFF SALES” and “ON SALES ONLY”: Add conditions 1-5**

1.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises;
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability)

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
3.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
4. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.
5.
  1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
  2. For the purposes of the condition set out in paragraph 1—
    - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
    - (b) “permitted price” is the price found by applying the formula —
$$P = D + (D \times V)$$
—  
where —
      - (i) **P** is the permitted price
      - (ii) **D** is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
      - (iii) **V** is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence
    - (i) the holder of the premises licence
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence
  - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day

**For “OFF SALES ONLY” Add the following conditions...**

- 3.
- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
5. 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

- (b) “permitted price” is the price found by applying the formula —  
$$P = D + (D \times V)$$
—

where

- (i) **P** is the permitted price
  - (ii) **D** is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) **V** is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence
- (i) the holder of the premises licence
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member prevent the supply in question; and
- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## Appendix 3:

### Licensing Contact Details

A printed version of the policy can be obtained from:

Licensing and Safety Team  
Environment Health and Trading Standards  
John Onslow House  
1 Ewart Place

London E3 5EQ

Telephone: 020 7364 5008

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

It is also available for inspection at the above office.

## **Appendix 4:**

# **London Borough of Tower Hamlets**

### **Tower Hamlets Council**

#### **Sex Establishment Licensing Policy**

##### **Introduction**

This policy sets out Tower Hamlets Council's proposed approach to regulating sex establishments and the procedure that it will adopt in relation to applications for sex establishment licences.

The policy of the Council is to refuse applications for sexual entertainment venues. This policy is intended to be strictly applied and will only be overridden in genuinely exceptional circumstances. Such circumstances will not be taken to include the quality of the management, its compliance with licence conditions, and the size of the premises or its operating hours.

The policy is intended as a guide to applicants, licence holders, people who want to object to applications and members of the Licensing Committee who are responsible for determining contested applications. It also aims to guide and reassure the public and other public authorities, ensuring transparency and consistency in decision making.

When the decision making powers of the Council are engaged each application will be dealt with on its own merits but this policy gives prospective applicants an early indication of whether their application is likely to be granted or not. It also provides prospective applicants details of what is expected of them should an application be made.

The legal controls for sex establishment premises are contained in the Local Governmental (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

There are 3 types of sex establishments which fall into the licensing regime:-

Sex shops

Sex cinemas

Sexual entertainment venues

The role of the Council in its position as Licensing Authority is to administer the licensing regime in accordance with the law and not in accordance with moral standing. The Council recognises that Parliament has made it lawful to operate a sex establishment and such businesses are a legitimate part of the retail and leisure industries.

### **Policy Rationale**

The policy has been developed that sets out how the legislation will be administered and applied. The policy identifies how the Council would exercise the licensing regime in relation to sexual entertainment venues.

The policy has been developed to reflect and complement existing Council plans and strategic approach, namely:-

- Tower Hamlets Community Plan.
- Tower Hamlets Crime & Drug Reduction Partnership Plan.
- Tower Hamlets Enforcement Policy.
- Tower Hamlets Core Strategy.
- Tower Hamlets Town Centre Spatial Strategy.
- Tower Hamlets Statement of Licensing Policy (Licensing Act 2003).
- Tower Hamlets Statement of Licensing Policy (Gambling Act 2005).

The policy has also been prepared with regard to:

- Consultation responses
- Human Rights Act 1998
- Equalities Act 2010

The policy seeks to contribute to the “One Tower Hamlets” principle by fostering community cohesion, reducing inequalities and empowering communities.

The public consultation that was undertaken concerning the adoption of a nil policy did not have overwhelming support. Therefore careful consideration has been given to the policy response, given the balance that the consultation returns did not give overwhelming support.

## Policy Considerations Existing

### Licensed Premises

The Council has had the ability to licence sex shops and sex cinemas under the Local Government (Miscellaneous Provisions) Act 1982 for many years.

There are no licensed sex shops in Tower Hamlets.

The businesses that hold premises licences under the Licensing Act 2003 with permissions that will be affected by the adoption of the sexual entertainment venue licensing regime are as follows:-

NAME	ADDRESS
THE BEEHIVE	104-106 Empson Street, London, E3 3LT
EONE CLUB	168 Mile End Road, London, E1 4LJ
NAGS HEAD PUBLIC HOUSE	17-19 Whitechapel Road, London, E1 1DU
THE PLEASURE LOUNGE	234 Cambridge Heath Road, London, E2 9NN
WHITE SWAN	556 Commercial Road, London, E14 7JD
ASTON'S CHAMPAGNE AND WINE BAR BASEMENT & 1ST FLOOR	187 Marsh Wall, London, E14 9SH
CLUB PAISA	28 Hancock Road, London, E3 3DA
OOPS	30 Alie Street, London, E1 8DA
WHITE'S GENTLEMANS CLUB	32-38 Leman Street, London, E1 8EW
SECRETS	43-45 East Smithfield, London, E1W 1AP
IMAGES	483 Hackney Road, London, E2 9ED

Tower Hamlets Council has adopted schedule 3 Local Government (Miscellaneous Provisions) Act 1982 with effect from 1<sup>st</sup> June 2014 so that it can:

- set a limit on the number of sexual entertainment venues
- determine premises that are appropriate for the borough and
- licence sexual entertainment venues

Sexual entertainment venues are those that regularly provide lap dancing and other forms of live performance or live display of nudity.

Establishments that hold events involving full or partial nudity less than once a month may be exempt from the requirements to obtain a sex establishment licence and applicants are advised to contact the Licensing Team for advice.

### **Limits on the number of licensed premises**

The Council has determined that there are a sufficient number of sex shops, sex cinemas and sexual entertainment venues currently operating in the borough and it does not want to see an increase in the numbers of premises that are currently providing these activities.

The Council intends to adopt a policy to limit the number of sexual entertainment venues in the borough to nil however it recognises that there are a number of businesses that have been providing sexual entertainment in Tower Hamlets for several years. The Council will not apply this limitation when considering applications for premises that were already trading with express permission for the type of entertainment which is now defined as sexual entertainment on the date that the licensing provisions were adopted by the authority if they can demonstrate in their application:

- High standards of management
- A management structure and capacity to operate the venue
- The ability to adhere to the standard conditions for sex establishments

The Council will consider each application on its merit although new applicants will have to demonstrate why the Council should depart from its policy. Furthermore if any of the existing premises cease trading there is no presumption that the Council will consider any new applications more favourably.

## **Location of premises**

The Council's policy is that there is no locality within Tower Hamlets in which it would be appropriate to license a sex establishment. Accordingly, the appropriate number of sex establishments for each and every locality within Tower Hamlets is zero.

As previously stated in the policy the Council will treat each application on its own merits however applicants should be aware that the Council will take into consideration the location of the proposed premises and its proximity to:

- residential accommodation,
- schools,
- premises used by children and vulnerable persons
- youth, community & leisure centres,
- religious centres and public places of worship
- access routes to and from premises listed above
- existing licensed premises in the vicinity

## **Impact**

In considering applications for the grant of new or variation applications the Council will assess the likelihood of a grant causing impacts, particularly on the local community.

The Council will take the following matters into account:

- the type of activity
- the duration of the proposed licence
- the proposed hours of operation
- the layout and condition of the premises
- the use of other premises in the vicinity
- the character and locality of the area
- the applicant's previous knowledge and experience
- the applicant's ability to minimise the impact of their business on local residents and businesses
- any evidence of the operation of existing /previous licences held by the applicant

- any reports about the applicant and management of the premises received from residents, Council officers or the police
- the ability of the proposed management structure to deliver compliance with licensing requirements, policies on staff training and the welfare of performers
- crime and disorder issues
- cumulative impact of licensed premises, including hours of operation
- the nature and concerns of local residents
- any evidence of complaints about noise or disturbance caused by premises
- planning permission and planning policy considerations

In considering applications for renewal the Council will take into account

- the applicant's ability to minimise the impact of their business on local residents and businesses
- any reports about the licensee and management of the premises received from residents, Council officers or the police
- whether appropriate measures have been agreed and put into place to mitigate any adverse impacts
- any evidence of complaints about noise or disturbance caused by premises

In considering applications for transfer the Council will take into account:

- the applicants previous knowledge and experience
- the applicants ability to minimise the impact of their business on local residents and businesses
- any evidence of the operation of existing /previous licences held by the applicant
- any reports about the applicant and management of the premises received from residents, Council officers or the police

- the ability of the proposed management structure to deliver compliance with licensing requirements, policies on staff training and the welfare of performers

## **Applicants**

Where appropriate the Council expects applicants to:

- demonstrate that they are qualified by experience
- have an understanding of general conditions
- propose a management structure which will deliver compliance with operating conditions for example through
- Management competence
- Presence
- Credible management structure
- enforcement of rules internally – training & monitoring
- a viable business plan covering door staff, CCTV
- policies for welfare of performers
- demonstrate that they can be relied upon to act in best interests of performers through remuneration, facilities, protection, physical and psychological welfare
- have a transparent charging scheme with freedom from solicitation
- a track record of management compliant premises or employ individuals with such a track record

New applicants may be invited for interview by the Licensing Officer and /or Police Officer prior to the application being referred to the Licensing Committee for determination.

Applications from anyone who intends to manage the premises on behalf of third party will be refused.

## **Premises appearance and layout**

The Council expects premises to:-

- have an external appearance which is in keeping with the locality
- prevent the display outside the premises of photographs or other images which may be construed as offensive to public decency

- adequate lighting to allow monitoring of all public areas
- surveillance by CCTV
- surveillance by CCTV of all private booths

### **Conditions**

The council will prescribe, and from time to time revise, standard conditions which will apply generally to licences that the council will grant or renew.

Through standard conditions the council seeks to ensure that sexual entertainment venues are well managed and supervised, restrict the sexual entertainment activities and the manner in which they are permitted to be provided, protect performers, and control the impact of the venue and its customers in relation to its locality.

Specifically, standard conditions could include measures which are found in the appendix of this policy.

### **The Application Process**

#### **Making a new, renewal, transfer or variation application**

The Act requires the Council to refuse all application if the applicant:

- Is under the age of 18 or
- Has had their licence revoked in the last 12 months or
- Is not resident in the UK, or has not been a UK resident for the last 6months  
or
- Has been refused an application in the last 12 months or
- Is a corporate body which in not incorporated in the UK

Applications forms and details of current fee levels are available:

- on the Council's website ([www.towerhamlets.gov.uk](http://www.towerhamlets.gov.uk))
- from the Licensing Team on 020 7364 5008
- by email to [licensing@towerhamlets.gov.uk](mailto:licensing@towerhamlets.gov.uk)

The Council prefers to receive electronic applications and offers a choice off payment options the details of which are contained in the application pack.

The Council expects the premises to have planning consent for the intended use and hours of operation, or otherwise have lawful planning status before making an application for a new licence.

In order for the application to be valid the applicant must:

- Submit the completed application form
- Pay the application fee
- Submit a floor plan, drawn to scale showing the layout of the premises( new applications only)
- Submit a location plan (1;1250) showing the location of the premises(NB. plans will not be required for transfers nor renewal applications)
- 2 passport size photos of the applicant where the applicant is an individual rather than a limited company
- 2 passport size photos of the manager if applicant is a limited company(NB: photos will only be required if there has been a change of applicant or manager since the last application)
- Display an A4 notice at the proposed premises for 21 days following the date that the completed application is submitted setting out the application details. The notice must be in a prominent position so that it can be easily read by passers-by. A notice template will be provided with the application form.
- publish a notice on at least one occasion in a local newspaper, during the period of ten working days starting on the day the application was given Council. The advert can be any size or colour but must be readable.

Applicants who wish to advertise the application in another local newspaper are advised to contact the Licensing Team beforehand, to confirm that it is acceptable.

On receipt of a valid application the Council will consult:

- The Police
- The Fire Brigade
- Building Control
- Health and Safety
- Ward Councillors

For new and variation applications the Council will also consult:

- Development Control Team
- Local residents living within 50m of the premises

Authorised Officers from the Council, Fire Brigade and Police may choose to inspect the premises and require works to be carried out to bring the premises up to the required standard before the premises can be used for licensable activities.

The Council will not determine an application for a licence unless the applicant allows an authorised officer reasonable opportunity to enter the premises to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

### **Representations**

Anyone wishing to object to the application must submit a representation, in writing, within 28 days of the date that the valid application was received by the Council.

Representations can either be submitted via

- Our website: [www.towerhamlets.gov.uk](http://www.towerhamlets.gov.uk)
- Email to: [licensing@towerhamlets.gov.uk](mailto:licensing@towerhamlets.gov.uk)
- Post to: Consumer and Business Regulations, Licensing Team, 6<sup>th</sup> Floor, Mulberry Place, 5 Clove Crescent, E14 2BG.

A person making a representation must clearly state their name, address, and the grounds for objecting to the application and indicate whether they consent to have their name and address revealed to the applicant. Copies of representations will be made available to the applicant 14 days before the committee hearing.

The Council will not consider objections that are frivolous or vexatious or which relate to moral grounds (as these are outside the scope of the Act).

The Council prefers to receive electronic representations.

Late representations may be admissible at the discretion of the Council if there's sufficient reason to indicate that applicants will not be significantly prejudiced by the decision to allow a late objection to be considered. In making such a decision the Council will take into account:

- The length of the delay
- The amount of time that the applicant has to consider the representation before the hearing date
- If other representations have been received before the deadline

### **Determining an application**

Applications with no representations will be approved under delegated authority to officers.

Applications with representations recommending that conditions be attached to the licence and which are acceptable to both the applicant and person making the representation can be approved under delegated authority to officers.

All other contested applications will be referred to the Licensing Committee for determination. The applicant, anyone making a representation and the ward Councillors will be notified the date, time and venue of the hearing and invited to attend to address the committee in person.

Applications can take up to 14 weeks to be determined. If an application is likely to take longer than 14 weeks to determine the Council will notify the applicant in writing before this deadline. Applications for sex establishment licenses are exempt from the tacit consent provisions of the EU Services Directive on the grounds of public interest and the legitimate interests of third parties.

The applicant will be notified in writing about the outcome of their application within 5 working days of the decision being made.

Sex Establishment licences are usually issued for 12 months, but can be issued for a shorter period if deemed appropriate.

In order to continue operating as a sex establishment the licence holder must make a renewal application prior to the expiry of the existing licence.

### **Appeals**

Any applicant who is aggrieved by a decision to refuse an application or by the imposition of any conditions can appeal to the Magistrates Court within 21 days of receiving the decision in writing.

### **Grounds for refusing an application**

The applicant is unsuitable to hold a licence by reason of having been convicted of any offence or for any other reason.

That if the license were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a license if he made the application himself.

That the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality.

That the grant or renewal of the license would be inappropriate, having regard:-

- a. to the character of the relevant locality
- b. to the use to which any premises in the vicinity are put; or
- c. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

## **Transitional Arrangements**

Broadly speaking, those existing sexual entertainment venues (lap dancing clubs etc) with a premises licence under the Licensing Act 2003, under which it is lawful to provide such entertainment, will continue to be able to operate for one year after the Council adopts the 2009 Act provisions or, if later, the determination of any application submitted during that year.

The 'transitional period' will last for 12-months beginning with the date that the Council resolves that Schedule 3 as amended by the 2009 Act will come into force in their area ('the 1st appointed day'). Six months following the 1st appointed day will be known as the '2nd appointed day' and the day on which the transitional period ends will be known as the '3rd appointed day'

## **Existing Operators**

To allow time to comply with the new regime, existing operators, who, immediately before the 1st appointed day, have a 2003 Act licence and lawfully use premises as a sexual entertainment venue under that licence or are undertaking preparatory work to use the venue in that way will be allowed to continue to provide relevant entertainment until the 3rd appointed day or the determination of any application they have submitted before that time (including any appeal against the refusal to grant a licence), whichever is later.

For the purposes of the Transition a "2003 Act Licence" means a premises licence or club premises certificate under the Licensing Act 2003 under which it is lawful to provide relevant entertainment.

"Preparatory work" refers to work carried out by an operator, such as a refurbishment or refit, in order that they can use the premises as a sexual entertainment venue in the future. The operator will have been granted a 2003 Act licence before the 1st appointed day but will not have used the premises as a sexual entertainment venue

by that date. It is likely that such operators will be known to the Council. However, where a dispute arises between the Council and a licence-holder over whether the licence-holder qualifies as an existing operator by virtue of this provision the Council will need to seek evidence from the licence-holder to demonstrate that they clearly intended to operate a sexual entertainment venue in the future and work had been done to achieve this end.

For the purposes of the Transition a “2003 Act Licence” means a premises licence or club premises certificate under the Licensing Act 2003 under which it is lawful to provide relevant entertainment.

### **Appointed Days**

#### **1st Appointed Day**

The day on which the Sexual Entertainment Venue regime comes into force in the Borough and the beginning of the transitional period (1st June 2014)

#### **2nd Appointed Day**

The day 6 months after the 1st appointed day (1st December 2014)

#### **3rd Appointed Day**

The day 6 months after the 2nd appointed day and the end of the transitional period (1st June 2015)

### **New Applications**

New applicants are people who wish to use premises as a sexual entertainment venue after the 1st appointed day but do not already have a premises licence or club premises certificate to operate as such under the 2003 Act or do have such a licence but have not taken any steps towards operating as such. After the 1st appointed day new applicants will not be able to operate as a sexual entertainment venue until they have been granted a sexual entertainment venue licence.

### **Determining Applications Received On or Before the 2nd Appointed Day**

Applicants will be able to submit their application for a sexual entertainment venue from the 1st appointed day onwards.

As the Council is able to refuse applications having regard to the number of sex establishments they consider appropriate for a particular locality, all applications made on or after the 1st appointed day but on or before the 2nd appointed day shall be considered together. This will ensure that applicants are given sufficient time to submit their application and all applications received on or before the 2nd appointed day are considered on their individual merit and not on a first come first serve basis.

No applications shall be determined before the 2nd appointed day. After the 2nd appointed day the appropriate authority shall decide what if any licences should be granted. If a new applicant is granted a licence it will take effect immediately. If an existing operator is granted a licence, it will not take effect until the 3rd appointed day, up to which point they will be allowed to continue to operate under their existing premises licence or club premises certificate.

### **Determining Applications Received After the 2nd Appointed Day**

Applications made after the 2nd appointed day shall be considered when they are made but only once all applications made on or before that date have been determined. However, reference to determination here does not include references to the determination of any appeal against the refusal of a licence.

As with applications received on or before the 2nd appointed day, licences granted to new applicants shall take effect immediately and licences granted to existing operators shall take effect from the 3rd appointed day or, if later, the date the application is determined.

## **Outstanding Applications**

The Council will attempt where possible to determine outstanding applications made under the 2003 Act, which include an application for the provision of relevant entertainment, before the date that Schedule 3 as amended by the 2009 Act comes into force in their area.

Where it has not been possible to determine application before the 1st appointed day, applicants will need to submit an application for a sex establishment licence as set out in Schedule 3 if they wish to provide relevant entertainment. From the 1st appointed day onwards outstanding applicants shall be dealt with as though they are new applicants

## **Additional information and advice**

Please contact:

Consumer and Business Regulations  
Licensing Team  
6<sup>th</sup> Floor,  
Mulberry Place,  
5 Clove Crescent, E14 2BG.  
[licensing@towerhamlets.gov.uk](mailto:licensing@towerhamlets.gov.uk) 020 7364 5008