

APPENDIX TWO

Licensing Policy 2013-2018 Consultation

Proposed Changes

Reference	Area of change	Proposal
Background and Context page 2	Remove: A Safe and Supportive Community. A Healthy and Supportive Community	A Safe and Cohesive Community A Healthy and Supportive Community
Policy page 3	Policy review period	Policy is to be reviewed every five years
Consultation page 3	Publishing date of Policy – remove 2011	Policy will be published in 2013
Consultation page 3	Removal of Crime and Reduction Partnership	Community Safety Partnership
Main Principles of the Licensing Policy: Section 4.6 page 4	Delete due to change in the law	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.
Main Principles of Licensing Policy page 4	Expansion of items covered under objectives	<p>Addition:</p> <ul style="list-style-type: none"> • <i>The prevention of crime and disorder</i>

		<p>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.</p> <ul style="list-style-type: none"> • <i>Public safety</i> <p>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.</p> <ul style="list-style-type: none"> • <i>The prevention of public nuisance</i> <p>Consideration the prevention of irresponsible promotions, methods of preventing and managing noise and light pollution; and ways of managing litter.</p> <ul style="list-style-type: none"> • <i>The protection of children from harm</i> <p>Consideration of age verification schemes; test purchasing policies; and restrictions on the hours when children may be present.</p>
Health as a responsible authority	Addition due to change in law	Addition: the Directors of Public Health is also now a responsible authority. It is expected that the PCT/DPH will be particularly useful in providing

		evidence of alcohol-related health harms when the licensing authority revises its policy, (perhaps in relation to cumulative impact policies or early morning restriction orders). PCTs/DPHs may also be useful in providing evidence such as alcohol-related A & E admissions or ambulance service data that might be directly relevant to an application under the Act.
Main Principles of the Licensing Policy; Section 4.15	Delete Licensing Service Manager	Add; Trading Standards and Licensing Manager
Cumulative Effect: page 8	Currently consulting on a Cumulative Impact Zone in the west of the Borough Delete 6.7	Addition at 6.7 After public consultation which concludes on the 22 nd March 2013, the western part of the Borough may be declared as a Cumulative impact zone. If this is adopted it will be included as part of the Licensing Policy, when the Licensing Policy is presented to full Council. The effect of adopting such a policy is to create a rebuttable presumption that a licence application which is likely to add to the existing cumulative impact will normally be refused following relevant representations. The cumulative impact zone will have an effect on alcohol on sales, alcohol off sales and late night refreshment licence applications.
Cumulative Effect para 6.8 page 9	Review period for a cumulative impact zones	Change from 3 years to 5 years to fit in with the licensing policy.
Cumulative Effect para 6.12 and 6.13	Effects of a cumulative impact zone	Deletion of para 6.12 and 6.13 – this has been covered with the introduction of the cumulative impact zone (currently out for consultation).
Strategies page16	Late Night Levy consideration	Addition: The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions

		<p>came into force on 31st October 2012.</p> <p>Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions.</p> <p>Guidance has also been introduced in relation to:</p> <ul style="list-style-type: none">• implementing the levy and the consultation process• the design of the levy• exemptions from the levy• reductions in levy charges• how revenue raised from the levy may be spent• the levy charges• the levy collection process <p>With regard to exemptions, the licensing authority will have discretion whether to exempt certain premises or not.</p> <p>Licensing Authorities also have discretion whether to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes.</p> <p>Any revenue from the levy must be split between the licensing authority and the Police, with at least 70% of the 'net' levy (after expenses) paid to the Police. The Late Night Levy Guidance, at paragraph 1.40 suggests that licensing authorities may wish to use existing partnership arrangements with the Police to ensure that the police intentions for the share of the levy revenue paid to them are genuine.</p>
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		<p>These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. It is a 'local' power that licensing authorities can choose whether or not to exercise.</p> <p>This is a new provision open to the Council and it may wish to consider consulting on this issue at a later date. Initial views are sought from stakeholders during this consultation.</p>
<p>Early Morning Restriction Orders</p>	<p>Addition due to change in legislation</p>	<p>Addition: 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.</p> <p>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.</p> <p>Guidance has been introduced in relation to:</p> <ul style="list-style-type: none"> • the EMRO process • the evidence base • introducing an EMRO • advertising an EMRO • dealing with representations • hearings • implementation

		<ul style="list-style-type: none">• limitations• enforcement <p>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. 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.</p> <p>The only exemptions relating to EMROs are New Years Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.</p> <p>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.</p> <p>The function of making, varying or revoking an EMRO is specifically excluded from the statutory delegation of functions to the Licensing Committee.</p> <p>This is a new provision open to the Council and it may wish to consider consulting on this issue at a later date. Initial views are sought from</p>
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		stakeholders during this consultation.
Duplication page 17	Duplication of legislation	Addition at 14.9: 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.
Striptease page17	Change of heading	The Licensing Policy does not deal with Sexual Entertainment Venues. These can be dealt with by a separate legislative regime if the Council adopts amendments to the Local Government (Miscellaneous Provision) Act 1982 schedule 3 which requires the development of a separate policy as required by that statute.
Striptease page 17	Deletion of old consultations	Delete para 15.10 and 15.11
Enforcement page 19	Enforcement update	Addition at 16.4 ' 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 Councils 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.
Conditions	Addition on the clarification on the use of conditions	Add: 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

		<p>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.</p> <p>Conditions should be:</p> <ul style="list-style-type: none"> • clear • enforceable • evidenced • proportionate • relevant • be expressed in plain language capable of being understood by those expected to comply with them. <p>Conditions must be attached at a hearing; unless the authority, the premises user, and the relevant responsible authority have agreed a hearing is unnecessary.</p> <p>Licensing authority cannot impose blanket standard conditions. A pool of conditions is included in the appendix.</p> <p>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.</p>
Live Music	Deletion of open spaces report	Delete para 17.4 and 17.5
Live Music Act 2012	Addition of new legislation	Addition: The Live Music Act came into force on 1 st October 2012 and is designed to encourage more performances of 'live' music. The Act :

		<ul style="list-style-type: none"> • Removes the licensing requirement for unamplified live music taking place between 8am and 11pm in all venues, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence relating to premises authorised to supply alcohol for consumption on the premises. • 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, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence. • 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). • 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. •
Risk assessments	Update of Police details page 20	Delete 'email site at (please insert hyperlink)
Temporary Event	Addition about late Tens	Addition. Late TENS are limited in number and can be prevented by a

Notices Process	page 22	<p>single objection from a responsible authority. The maximum time period of a TEN is 168 hours.</p> <p>A Cumulative Impact policy is designed to reduce crime, Disorder and nuisance from a concentration of licensed premises. If a Cumulative Impact Policy is adopted it is possible that objections will be made by the police or Environmental Health on the grounds that the giving of a TEN would undermine the licensing objectives in the designated zone.</p>
Licence Suspensions	New legislation	<p>Addition: This is a power brought as part of the amendments brought about 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.</p> <p>The regulations state that the premises licence holder will be given notice of a suspension that is at least 2 working days before the suspension is to take place.</p> <p>A single request for payment will be sent and the licensing Authority will then take measures to suspend the licence if payment is not received within 28 days.</p> <p>Income recovery procedures will be commenced along with enforcement visits to ensure that the suspension is maintained until payment or licence surrendered</p>
Table of delegation	Update for new powers	<ul style="list-style-type: none"> • Officers in 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 fees • power to specify the date on which suspension takes effect. This

		<p>must be at least 2 working days</p> <ul style="list-style-type: none"> 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 <p>power to make representations as responsible authority</p>
Advice and Guidance	Additional guidance	<p>Add: 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 Team on 0207 364 5008 or licensing@towerhamlets.gov.uk.</p> <p>The Licensing Authority encourages informal discussion before the application process in order to resolve potential problems and avoid unnecessary hearings and appeals.</p>
Appendix One	Update on health as a responsible authority	<p>Add;</p> <p>Director of Public Health London Borough of Tower Hamlets Mulberry Place Clove Crescent London E14 1BY</p>