

**LICENSING COMMITTEE**  
**Tuesday 16 November 2021 at 7.30pm**  
**Council Chamber - Civic Centre**

**AGENDA**

1. Apologies for Absence
2. Declarations of Interest  
  
Councillors' declarations of interest (if any) in relation to any matters on the agenda.
3. Minutes (Pages 2 - 4)
4. Matters Arising
5. Written Questions and Petitions
6. Committee Work Plan (Page 5)
7. Harlow Council Food Safety Enforcement Plan 2021/2022 (Pages 6 - 38)
8. Update report following Street Trading Policy Consultation (consultation ends 24 August 2021) (Pages 39 - 104)
9. Review Gambling Licensing Policy Statement (Pages 105 - 147)
10. References from Other Committees  
  
Any references arising from meetings held after the publication of this agenda will be circulated separately.
11. Matters of Urgent Business  
  
Such other business which, in the opinion of the Chair, should be received as a matter of urgency by reason of special circumstances to be specified in the minutes.

**MINUTES OF THE LICENSING COMMITTEE  
HELD ON**

7 September 2021

7.30 - 8.24 pm

**PRESENT**

**Committee Members**

Councillor Nick Churchill (Chair)  
Councillor Clive Souter (Vice-Chair)  
Councillor David Carter  
Councillor Joel Charles  
Councillor Maggie Hulcoop  
Councillor Jodi Dunne  
Councillor Andrew Johnson  
Councillor John Steer  
Councillor Gareth Williams

**Officers**

Michael Pitt, Environment and Licensing Manager  
Adam Rees, Senior Governance Support Officer  
Adam Sherwood, Senior Licensing Officer  
Denise Westwood, Assistant FCilex

11. **APOLOGIES FOR ABSENCE**

None.

12. **DECLARATIONS OF INTEREST**

None.

13. **MINUTES**

**RESOLVED** that the minutes of the meeting on 6 July 2021 are agreed and signed as a correct by the Chair.

14. **MATTERS ARISING**

None.

15. **WRITTEN QUESTIONS AND PETITIONS**

None.

16. **COMMITTEE WORK PLAN**

**RESOLVED** that the work plan was noted.

*The Committee agreed to consider item 8 on the agenda before item 7.*

17. **DFT STANDARDS - NEW REQUIREMENTS FOR PRIVATE HIRE VEHICLE PROPRIETORS / OPERATORS AND STAFF**

The Committee received a report which recommended requiring vehicle proprietors, Private Hire Vehicle Operator licence holders and operator staff involved with taking bookings, dispatching vehicles or access to related information to provide basic DBS (Disclosure and Barring Service) check.

**RESOLVED** that the Licensing Committee recommended to Full Council that:

- A** A new mandate is introduced to require all vehicle proprietors to provide a basic disclosure certificate from the DBS (Disclosure and Barring Service) and that a new check is undertaken annually.
- B** A new mandate is introduced to require all Private Hire Vehicle Operator licence holders, to hold a basic disclosure certificate from the DBS and that a new check is undertaken annually.
- C** A new mandate is introduced to require operator staff who take bookings, dispatch vehicles or any other staff who have access to booking information or have contact with members of the public to hold a Basic disclosure certificate from the DBS and that a new check is undertaken annually.
- D** Subject to A, B and C the requirements be introduced as set out in the Proposals section of this report.

18. **OPTIONS TO ADDRESS STREET DRINKING FROM WITHIN THE LICENSING SYSTEM**

The Committee considered potential new licensing controls to reduce the amount of street drinking within Harlow.

**RESOLVED** that:

- A** The Licensing Committee noted and approved short term measures to address concerns about street drinking set out under Proposals at paragraphs 22 and 23 of the report.
- B** Example licence conditions to address issues discussed in this report to be adapted to individual premises by future Licensing Sub Committees be drafted by the Licensing Team in consultation with the Chair of the Committee.

- C Following consultation with Responsible Authorities, the Council's Community Safety team and relevant agencies a report to a future licensing Committee be presented on options for a more extensive voluntary scheme to mitigate the harms of street drinking through a responsible approach to alcohol sales.

19. **REFERENCES FROM OTHER COMMITTEES**

None.

20. **MATTERS OF URGENT BUSINESS**

None.

CHAIR OF THE COMMITTEE

## Licensing Committee Work Plan 2021/22

Tuesday 6 July 2021	Tuesday 7 September 2021	Tuesday 16 November 2021	Tuesday 18 January 2022	Tuesday 8 March 2022
Licensing Sub Committee Decisions 2020/21	Options to address street drinking from within the Licensing System	Harlow Council Food Safety Enforcement Plan 2021/2022	DFT Standards; Policy required on stretched limousines	DFT Standards; over-arching taxi and private hire policy; recommend consultation
Licensing Team Enforcement Activity & Service update 2020/21	DFT Standards; New requirements for private hire vehicle proprietors / operators and staff	Update report following Street Trading Policy Consultation (consultation ends 24 August 2021)	DFT Standards; Review of taxi / private hire driver licence duration	
	Fees and Charges Review (as required)	Review Gambling Licensing Policy Statement	DFT Standards; Introduction of Language Proficiency Testing for taxi and private hire drivers	
			The relationship between Licensing and Community safety policy areas	

Revision 4; amended 7/7/21

**REPORT TO:** LICENSING COMMITTEE

**DATE:** 16 NOVEMBER 2021

**TITLE:** FOOD SAFETY ACT 1990 SERVICE PLAN 2021/22

**LEAD OFFICER:** MICHAEL PITT, ENVIRONMENT AND LICENSING  
MANAGER

**CONTRIBUTING OFFICER:** SALLY HAGGERSTONE, PRINCIPAL  
ENVIRONMENTAL HEALTH OFFICER (01279)  
446165

CHRIS BENNETT, PRINCIPAL ENVIRONMENTAL  
HEALTH OFFICER (01279) 446113

**RECOMMENDED that:**

- A** The Committee approves the Food Safety Act Service Plan attached as Appendix A to the report.

**BACKGROUND**

1. The Council has a statutory duty to enforce the Food Safety Act and in doing so to have regard to the Framework Agreement on local authority food law enforcement which constitutes statutory guidance issued by the Food Standards Agency (FSA). The Service Plan is produced in compliance with the Framework Agreement, and represents a team plan within the Council's own performance management framework

**ISSUES/PROPOSALS**

2. The Plan sets out:
  - a) Food safety objectives detailing the Council's responsibilities as set out in legislation, associated statutory codes of practice and national guidelines;
  - b) The current work programme within the service; and
  - c) The Council's policy on food safety, sampling, provision of information to business, investigation of complaints and allegations of Food Poisoning, response to Food Safety Alerts and infectious disease control.
3. The current Framework Agreement reflects an ongoing emphasis by the FSA on focusing interventions on high risk situations. This has meant the number of inspections required for a compliant programme has reduced in comparison with historical approaches. The Council has allocated its resources to reflect this.
4. Whilst there is discretion to increase activity above the requirements set by the Framework Agreement, the desirability of doing so is balanced by financial considerations and sensitivity to the additional burden on business which additional regulation might represent.
5. The plan as currently drafted is considered to represent the minimum practicable level of activity to fulfil the requirements of the Framework.

6. The FSA has modified the expectations of Food Safety Authorities in recognition of the burdens imposed by the COVID-19 pandemic.

## **IMPLICATIONS**

### **Environment and Planning**

As contained within the report.

**Author: Andrew Bramidge, Director of Strategic Growth and Regeneration**

### **Finance (Includes ICT)**

The service budget is set to meet the minimum required statutory service under the Framework Agreement. If any increase in the service provision was to be recommended this could only be implemented if the associated required increases in service budgets were incorporated in to the Councils annual budget setting process.

**Author: Simon Freeman, Deputy to the Chief Executive and Director of Finance**

### **Housing**

None specific.

**Author: Andrew Murray, Director of Housing**

### **Community Wellbeing (Includes Equalities and Social Inclusion)**

None specific.

**Author: Jane Greer, Director of Communities and Environment**

### **Governance (Includes HR)**

The report and Plan effectively set out the Authority's response to its statutory duties.

**Author: Simon Hill, Director of Governance and Corporate Support**

## **Appendices**

Appendix A – Harlow Council Environmental Health Food Service Plan 2021/2022

## **Background Papers**

The Framework Agreement on official feed and food law controls by local authorities – <https://www.food.gov.uk/about-us/local-authorities>

## **Glossary of terms/abbreviations used**

FSA – Food Standards Agency

**Harlow Council**  
**Environmental Health**  
**Food Service Plan**  
**2021/2022**

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<p>0.0 Introduction</p>	<p>The Council is designated as a Food Authority under the Food Safety Act 1990 and as such has a statutory duty to enforce the Act.</p> <p>The Food Service Plan is dedicated solely to the food safety enforcement function. It covers all elements of food safety and hygiene for which Harlow Council has enforcement responsibility.</p> <p>2020-2021 was an unprecedented year due to the Coronavirus SARS-CoV-2 pandemic. The food safety team were involved in the COVID-19 pandemic response. The closure of many businesses and the adaptation of businesses to work in different ways significantly impacted the food safety interventions carried out. The guidance produced by the Food Standards Agency in prioritising interventions during this time was implemented as appropriate. Restrictions and associated guidance changed on a frequent basis. The food safety team provided information to businesses about these changes and provided guidance where a business changed their type of operation (e.g. to takeaway). They were also required to carry out enforcement where businesses did not comply with the relevant regulations. The food safety team also carried out investigations into workplace and community cases of COVID 19, supported the national contact tracing team, and participated in outbreak management teams, health protection board meetings, and other multi agency meetings at the height of the pandemic.</p> <p>This Service Plan has been produced in response to a requirement by the Food Standards Agency (FSA) in its <i>Framework Agreement on Official Feed and Food Controls by Local Authorities</i>. The FSA was established in April 2000 as an independent monitoring and advisory body in response to widespread public concern over a number of food safety issues. One aim of the FSA is to make food law enforcement more effective, efficient and accountable.</p>
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hygiene are practised and maintained.

**Primary Objectives:**

- To ensure the health and well-being of the public by promoting and enforcing safe standards of hygiene and food safety in the preparation, manufacture, storage, distribution, handling and sale of food in all relevant food premises in Harlow in accordance with the requirements of the Food Safety Act 1990, and all regulations, orders, byelaws or other subsidiary legislation made there under including retain EU regulations.
- To undertake an effective and planned programme of quality risk based food safety inspections of food premises (by qualified and suitably trained officers), to ensure compliance with food law and to minimise risks to health and safety;
- To take appropriate enforcement action proportional to the risks involved and in accordance with the Council's Food Safety Enforcement Policy with due regard being given to the Primary Authority Scheme and guidance from relevant external bodies;
- To monitor foodstuffs manufactured, imported, stored or on display for sale in Harlow, through a planned yearly sampling programme which includes imported foods. To carry out reactive sampling for microbiological examination;
- To promote effective communication with consumers and businesses on food safety matters within Harlow;

<p>1.2 Links to Corporate Objectives and Plans</p>	<ul style="list-style-type: none"> <li>• To encourage, assist, and support food businesses/residents of Harlow by providing information, education, training and advice including allergen advice in accordance with the Food Information Regulations 2014;</li> <li>• To investigate all relevant complaints regarding premises, practices and food items in accordance with service customer care standards;</li> <li>• To investigate and control outbreaks of food poisoning and other food borne disease within Harlow and take appropriate action to prevent any recurrence;</li> <li>• To complete and submit timely, accurate statistical returns to the Food Standards Agency requirements;</li> <li>• To actively support Essex Food Liaison Group and its sub groups;</li> <li>• To carry out the activities in this Service Plan with an educative approach where possible, dependant on available resources.</li> </ul> <p>The Food Service along with all other Council services is included within the corporate planning process. This includes Corporate Plan 2021, the Environment and Planning Service Plan and Individual Personal Performance Plans.</p> <p>For the purposes of the Food Standards Agency this document is referred to as the 'Food Service Plan'. Within the organisation of Harlow Council this plan would be referred to as a 'Team Plan'. The corporate hierarchy places this Team Plan between the Environment and Planning Service Plan and Personal Plans.</p>
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Team Plans are used to develop the Council's Personal Performance Plans to assist in identifying key objectives for staff in the forthcoming year.

All Service Heads as part of this process are required to produce an Annual Service Plan, which is presented to the Corporate Management Team. Performance indicator returns (both national and local) are reviewed annually.

The Council has an agreed Corporate Plan that sets out how the Council is going to tackle local people's priorities and improve services.

The Corporate Plan Priorities 2021 are:

- Resilience and Recovery
- More and better housing;
- Regeneration and a thriving economy;
- Wellbeing and social inclusion;
- A clean and green environment;
- Successful children and young people.

The Food Service contributes directly to the Corporate aims in the following ways:

- Food is a prerequisite of health. The safety, quality, and wholesomeness of food plays a key role together with nutritional issues, in maintaining and improving health;
- The Service focuses on protecting the public and promotes good quality food production in

	<p>Harlow;</p> <ul style="list-style-type: none"> <li>• By helping to create economic prosperity and sustainability ensuring a prosperous economic future for local business that can compete on a level playing field;</li> <li>• By working in partnership with other agencies and services aimed at improving the quality of life, health, safety and well being of the citizens of Harlow;</li> <li>• Providing life-long learning through, where resources are available, advice to business and dissemination of information to consumers, enabling everyone to make informed choices about the products they choose to buy;</li> <li>• Reducing crime through the investigation of service requests and proactive inspection;</li> <li>• The Service proactively aims to deliver health information and education to the community where resource permits;</li> <li>• Food Business Operators are consulted and involved concerning inspection of their properties. The Service continually strives to keep businesses and industry updated on the issues that act as interfaces between the Council and themselves, through statutory promotions and specific mail shots.</li> <li>• A risk based approach to enforcement results in a lean service which thus ensures value for money in meeting statutory requirements.</li> </ul>
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<p>2.3 The Scope of the Food Service</p> <p>2.3.1</p> <p>2.3.2</p> <p>2.3.3</p> <p>2.3.4</p> <p>2.3.5</p> <p>2.3.6</p> <p>2.3.7</p> <p>2.3.8</p> <p>2.3.9</p> <p>2.3.10</p>	<p>enforcement activities and food sampling. The TSO provides technical and administrative support to the Team. A significant proportion of each officer's time is allocated to other functions such as health and safety enforcement, investigation of accidents, statutory nuisances and licensing issues. Further details on staff resource are available in section 4 of this Service Plan.</p> <p>The Service will:</p> <p>Maintain an up to date register of all food premises in Harlow;</p> <p>Inspect all registered food premises on a risk based, rolling programme in accordance with Food Safety Act 1990, Statutory Code of Practice (issued March 2021) and take enforcement action as necessary;</p> <p>Carry out visits to, and food safety inspections of food premises as necessary within the plan period, including re-visits and investigative visits. (Note–Food Standards and Feedstuffs are the responsibility of the Essex County Council, Trading Standards Service);</p> <p>Investigate food complaints and complaints about food premises (service requests);</p> <p>Provide, where resources permit, advice and assistance to businesses and consumers on food related issues;</p> <p>Receive and act on all Food Alerts / withdrawals and recalls issued by the Food Standards Agency;</p> <p>Investigate all food within the district that might be contaminated and take necessary action. Seize, detain and arrange disposal, as necessary, unfit food;</p> <p>Monitor the movement of unfit food into and out of Harlow;</p> <p>Take action to close food premises found to present an imminent risk to health;</p> <p>Identify and inspect premises processing, handling and storing meat products and preparations, and</p>
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	prepare them for approval under the regulations;
2.3.11	Identify and inspect premises processing, handling and storing dairy, fish and / or egg products and prepare them for approval under the regulations;
2.3.12	Undertake a food sampling programme that takes account of current food issues. Participate in national and regional coordinated sampling programmes including imported foods;
2.3.13	Comment, where resources permit, on proposed food legislation, codes of practice and other official documents as necessary;
2.3.14	Provide appropriate export certification as requested by food companies in the District;
2.3.15	Investigate all statutory infectious disease notifications and allegations of foodborne disease to establish any links with local food businesses or foodstuffs;
2.3.16	Maintain an up to date and effective outbreak control plan;
2.3.17	Provide advice, where resources permit, to the general public and local businesses on all aspects of food safety law and good practice, as required;
2.3.18	The Food Service is also responsible in the majority of food premises for the enforcement of health and safety law, animal welfare and special treatment legislation. This is subject to a separate National intervention priority programme.
2.4 Demands on the Food Service	As at 1 April 2021 the Environmental Health Service's database identifies that it is responsible for enforcing Food Safety in <b>755</b> food premises within Harlow. According to the Code of Practice risk categories, these premises are broken down as follows;

<u>Risk Category</u>	<u>Number of premises</u>	<u>Inspection Frequency</u>
A	1	6 Months
B	8	12 Months
C	99	18 Months
D	248	2 Years
E	351	AES / 3 Years
New Premises not yet rated: <b>48</b>		
As at 1 April 2021, food premises categories were:		
Number identified as Catering premises are	:	<b>576</b>
Number identified as Retail premises are	:	<b>146</b>
Number identified as Warehousing/Distribution are	:	<b>24</b>
Number identified as Manufacturing / packers/importers premises are	:	<b>9</b>
<b>TOTAL</b>	<b>:</b>	<b>755</b>
As at 1 April 2021 the number of approved premises are: <b>12</b>		
Meat Products Premises - <b>1</b>		
Minced Meat & Meat Preparations Premises – <b>3</b>		
Cold Stores – <b>7</b>		
Dairy ~Products- <b>1</b>		
There are a number of mobile food businesses operating in the town, which comprise mainly ice cream and burger vans. In addition there are a number of food traders operating on Harlow Market and a Car Boot Sale which usually occurs on Sundays during the summer period.		
The Environmental Health Service is based on the 3 <sup>rd</sup> Floor, Civic Centre, The Water Gardens, Harlow, Essex, CM20 1WG. The service can be accessed via:		

- The internet
- Telephone via Contact Harlow (9am to 4.45pm Monday to Friday)
- E-Mail/letters/correspondence.

The Service has an out of hours answer phone that directs callers to the Council's 24hour Central Control number in the event of emergencies. Control has arrangements for contacting Environmental Health staff 24 hours a day, 52 weeks of the year.

Details of the services provided and how to contact us are also provided on the Council's website.

There are two languages other than English identified as being significant among food handlers and food business operators within the district. These are Bengali and Cantonese. The majority of food business operators are however, able to communicate in English or have somebody present at the premises that can interpret or translate. In any cases where there may be language difficulties the Service has the use of "Applied Language", a telephone translation service to which the Council subscribes.

A number of advice notes and leaflets on food safety are also available in different languages from the Food Service / FSA.

The Environmental Health Service has adopted the Central and Local Government Enforcement Concordat and is compliant with the Regulators Code.

Harlow Council adopted a Food Safety Enforcement Policy in 2002, which has been agreed by Members based on the approved framework to ensure consistency across the UK.

The Service operates according to its documented Enforcement Policy which is available at the Environmental Health Service Offices and on The Environmental Health Services website. Any departure from the policy will be documented.

All food law enforcement is carried out in accordance with relevant Food Safety Codes of Practice and other Official Guidance produced by the FSA and the Department for Business, Energy and Industrial Strategy (BEIS).

Food business operators and the public are given the opportunity of consulting on our policies at any reasonable time.

<p>3.0 Service Delivery</p> <p>3.1 Interventions / Inspection Programme</p>	<p>The Food Service inspects, where resources permit, food premises for compliance with Food regulations according to risk as set out in the FSA approved Code of Practice. There are specified procedures and forms to be used by staff when enforcing legislation. In particular, the Code of Practice specifies a risk assessment scheme to be used to assess the risk associated with each food business and its priority for inspection.</p> <p>The use of the risk assessment scheme ensures that the highest priority is given to food manufacturers, caterers where there is significant non-compliance and premises that cater for vulnerable groups (children’s nurseries, hospitals and residential/nursing homes).</p> <p>The Food service would normally aim to achieve 100% programmed interventions. However, the Food Standards Agency in response to the COVID-19 (SARS-CoV-2) pandemic produced a recovery plan, which highlights the pressures that LAs are under and proposes a way forward to re-start the regulatory delivery system for the highest risk businesses and providing greater flexibility for lower risk businesses wherever possible. This removed the requirement for Local Authorities to provide an annual LAEMS (Local Authority Enforcement Monitoring Survey) return and inspections are only being carried out on a risk rated basis in order of priority including urgent reactive work, and following up on non-compliance.</p> <p>Contractors have been employed to inspect approximately 200 inspections, however the number of food complaints has increased and applications for registration of new food businesses has doubled in the 12 month period to April 2021 compared to the same period in 2020.</p>
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3.1.1 Inspections achieved	<p>The number of interventions / inspections achieved for the period 1 April 2020 to the 31 March 2021 = <b>233</b></p> <p>The number of Food Hygiene Interventions / inspections (risk categories A to E) carried over to 21/22 = <b>81</b></p> <p>The number of unprogrammed inspections (i.e. new premises / new operators) not inspected in the period 1 April 2020 to the 31 March 2021=<b>48</b></p> <p><b>Therefore, a figure of 64.3% of all interventions / inspections due was achieved.</b></p>
3.1.2 Broadly compliant	<p>On the 1 April 2008, the Government introduced a new National Indicator: Food establishments which are broadly compliant with food law. Three of the six factors assessed within the risk assessment process during a food inspection are used to measure whether a business is “broadly compliant”. If an establishment scores 10 points or less in each of the level of compliance with hygiene requirements, structure and confidence in management, it is “broadly compliant”. As at 1 April 2021, the percentage of premises “broadly compliant” is <b>89.0%</b>. Premises with a food hygiene rating of 3 or more are broadly compliant. It should be noted that premises that are yet to receive a rating (i.e. new unrated premises) are automatically counted as non broadly complaint by default.</p>
3.1.3 Inspections programmed	<p>The number of programmed food hygiene inspections for the period 1 April 2021 to 31 March 2022 = <b>330</b></p> <p>Including the carry over (not inspected and new premises) from 2020/2021 the total due for 2021/2022 is <b>411</b>.</p> <p>In addition to the <b>411</b> inspections there will also be unprogrammed inspections (i.e. new premises / new operators). The exact number is difficult to predict but the number of registrations received in the 6 month period from September 2020 to April 2021 had doubled in comparison to the same period in 2020. We estimate this figure to be around <b>120</b> premises. Therefore, total number of inspections to be achieved for 2021/2022 is <b>531</b>.</p>

<p>3.1.4 Enforcement</p>	<p>The Food Service endeavours wherever possible to use informal means to achieve compliance with the law. Where there is imminent risk, flagrant breaches of the law, or persistent failure to maintain standards, the Service does not hesitate to use its full statutory powers in accordance with its Enforcement Policy</p> <p>Officers in the food team have been allocated responsibility for specific functions and responsibilities. Inspections of food premises requiring specialist input or knowledge are specifically allocated to these Officers.</p> <p>There were no premises prosecuted in the period 2020-21, however a hygiene emergency prohibition notice was served on Pink Spice, Commons Road, requiring the business to close immediately due to the imminent health risk conditions found during a routine visit to the premises. The magistrate's court confirmed this action by serving a hygiene emergency prohibition order. This business ceased trading completely in circa November 2020 and the premises has re-opened under completely new ownership.</p> <p>The Food Service investigates complaints regarding premises, practices and food items, in accordance with the relevant BEIS / FSA / Code of Practice / Guidance and the internal approved food complaints procedure.</p> <p>Investigations into food complaints can give an indication of where the food supply chain has broken down. Such breakdowns may be one-offs or can indicate a problem, which, if left unattended, could have serious consequences. Food complaints are normally responded to within 5 working days or on the day of receipt in cases of significant risks to health.</p>
<p>3.2 Complaints</p>	<p>For the period 2020/2021 the food service received <b>121</b> complaints/cases.</p> <p>It is estimated that approximately <b>130</b> complaints/referrals will be investigated during 2021/2022.</p>

<p>3.3 Primary Authority Principle</p>	<p>The Primary Authority principle is supported by the Environmental Health Service, which undertakes its role in this respect in accordance with the guidance issued by the FSA and BEIS. In particular. The Food Service will:</p> <ul style="list-style-type: none"> <li>• Have regard to any inspection plans or advice it has received from any liaison with primary, home and/or originating authorities;</li> <li>• Having initiated liaison with any primary, home and/or originating authority, notify that authority of the outcome.</li> </ul> <p>There are currently no formal Primary Authority Agreements set up for the businesses in Harlow.</p> <p>Primary Authority gives companies the right to form a statutory partnership with a single local authority, which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non-compliance. It is the gateway to simpler, more successful local regulation.</p>
<p>3.4 Advice to Business</p>	<p>Whilst the Environmental Health Service utilises its powers to enforce the food legislation, it recognises that, where food businesses break the law, it may be due to ignorance rather than intent. As a consequence, it is the Food Service's policy to provide, where resources permit, advice to businesses in a number of different ways, including:</p> <ul style="list-style-type: none"> <li>• Advice is provided to existing or proposed food businesses, members of the public and other Council services on a reactive and proactive basis;</li> <li>• Advice is provided routinely during visits / inspections, but may also result from phone enquiries or emails and letters received;</li> <li>• Inspection reports contain a concluding section of advisory matters, which although not</li> </ul>

## 3.5 Food Sampling

relating to specific legal requirements, contain advice on good management practice. Statutory requirements listed in the main body of the report are wherever possible supported with advice on how compliance can best be achieved;

- The Food Service as part of the Environmental Health Service uses the Council's website as a resource for the provision of information to businesses and the general public. Further information can be obtained from the Food Standards Agency website;
- Officers aim to give advice in accordance with recognised guidance and codes of practice.

The Environmental Health Service regards food sampling as an important area of work. Food sampling at point-of-sale can provide useful information about the microbiological fitness of food for sale within Harlow

A food sampling programme has been devised for 2021/2022 but is also based on the Eastern Region / FSA / Essex Food Liaison group requirements. Local priorities have been included in this programme. It is anticipated that this programme may not take place this year, or at a reduced number due to the reallocation of officer time to the COVID response.

Food sampling will be conducted where appropriate and in particular;

- Priority is given to sampling at food manufacturers/high risk premises based in Harlow;
- During the approval process of establishments and intermediaries;
- In response to complaints;
- For identified planned internal, regional and national projects.

The Service has been allocated a sampling budget by Public Health England (PHE) the 2021/2022 period; this includes the full cost of laboratory analysis. Arrangements are in place with the PHE at

<p>26</p> <p>3.6 Infectious Disease</p>	<p>Colindale to carry out the microbiological examination of samples.</p> <p>The number of samples taken for the year 2020/2021 was <b>18</b>. This includes food samples. All samples were classified by the PHE laboratory to be of a satisfactory standard. Food classified as borderline or unsatisfactory are rarely considered to be unsafe to consume. Follow up work and further sampling is undertaken where results are not of a satisfactory standard.</p> <p>One regional study was carried out in the sampling programme; this looked at pre packed salads from retail premises.</p> <p>Food composition and labelling are the remit of Essex County Council's Trading Standards Department.</p> <p>The above two specialist services are represented on the Essex Food Liaison Group.</p> <p>The measures to be taken to control the spread of infectious diseases are contained in various Acts of Parliament and their associated regulations. This legislation includes the control of food poisoning and food and water-borne diseases.</p> <p>During 2020/2021 the Service received <b>3</b> formal notifications of infectious disease, mostly food-borne. Notifications can include Salmonella, Cryptosporidium, Giardia, E coli O157 and Legionella. The source of these infections is often unknown for a variety of reasons. Some are attributed to travel abroad and many may have been acquired in their own home. This number of notifications is unusually low; this could be attributed to lack of foreign travel, improved hand hygiene and social distancing or less people seeking medical attention.</p> <p>In addition to the formally notified infectious disease cases the Service also investigates allegations of food poisoning. It is widely acknowledged that the majority of cases go unreported. However, a single case may lead to the discovery of an outbreak if the person concerned is a food handler.</p> <p>The Food Service, in conjunction with Public Health England has a documented infectious disease</p>
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	<p>Joint Plan that also includes the outbreak plan, which includes a detailed written procedure supported by reference material. The service also maintains a field case, which contain supplies of documents and sampling equipment necessary to investigate an outbreak.</p> <p>The resource requirement for this function for 2021/2022 is impossible to quantify. Outbreaks of this nature are infrequent, individual events. Should the need arise, staff from all disciplines within the Environmental Health Service would be expected to assist with an investigation. Lower priority work would be cancelled or postponed. The overall Service Plan acknowledges the need for the team to be flexible to accommodate the scale of any outbreak encountered.</p>
3.7 Food Safety Alerts / recalls / withdrawals	<p>This function is carried out in accordance with Food Safety Act 1990, Code of Practice and internal procedures to:</p> <ul style="list-style-type: none"> <li>• Identify and report food hazards/incidents;</li> <li>• Respond to Food Safety Incidents/Food Safety Alerts issued by the FSA.</li> </ul> <p>The FSA communicates any alerts via the FSA smart communication platform.</p> <p>Food Safety Alerts 'for action' received are always printed off, actioned immediately by the PEHO and circulated to all food officers, and subsequently filed. Any action taken is recorded.</p> <p>When appropriate a Food Alert for action is given absolute priority. In some cases this will require visiting multiple premises where the relevant food is likely to be stored.</p> <p>The Food Standards Agency hold details of emergency telephone numbers on which responsible officers may be contacted outside the Authority's normal working hours. This is linked to the Environmental Health Service out of hour's scheme.</p>
3.8 Liaison	<p>The Environmental Health Service supports the work of the Chartered Institute of Environmental Health (CIEH). The Food Service undertakes its food safety functions in accordance with FSA guidance and statutory codes of practice in order to promote co-ordination, consistency, and good regulation amongst all local authorities.</p>

3.9 Food Safety Promotion	<p>A number of arrangements have been made to improve consistency of enforcement with neighbouring authorities, health services and other agencies:</p> <ul style="list-style-type: none"> <li>• The Service attends and actively supports the Essex Food Liaison Group, the functions of which include: liaison with Public Health England (PHE) including preparation of the annual coordinated sampling plan; coordination of enforcement approach between authorities; peer review exercises and benchmarking exercises; and liaison with Essex County Council Trading Standards.</li> <li>• Investigation of suspected food poisoning outbreaks is carried out jointly or in close contact with Public Health England (PHE). An EHO also attends the quarterly meetings of the PHE Regional Liaison Group.</li> </ul> <p>The Service also advises and liaises on the following:</p> <ul style="list-style-type: none"> <li>• Public Health England, Essex Trading Standards, OFSTED;</li> <li>• The Service will continue to maintain the arrangements for liaison with other services within the Council, including: Building Control, Licensing, Waste, Planning and Estates;</li> <li>• The service is routinely consulted on planning applications involving food businesses. In addition lists of all planning applications received by the authority are routinely reviewed by the Environmental Health Service. Comments and suggested conditions or informatives are returned wherever appropriate.</li> </ul> <p>The Environmental Health Service's education and promotion activities can have a direct impact on food safety. It is therefore committed to providing advice and information both to business and the public where resource permits, including:</p> <ul style="list-style-type: none"> <li>• <b>Food Standards Agency campaigns</b> – This includes food safety week in June each year and</li> </ul>
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other national campaigns such as promotion of the food hygiene rating scheme.

- **Tuck In pledge** - Harlow Council is participating in an Essex wide campaign in support of takeaway food establishments that take steps to improve the nutritional quality of their food. The campaign is based on the Department of Health responsibility deal initiative and is fully funded by Essex County Council. A total of 110 takeaway premises, all of which will have achieved a food hygiene rating score of 3 or more, have been offered the opportunity to participate in this pledge. As of October 2021 a total of 21 businesses have met the Tuck In and hygiene criteria.

The project has been branded as;



Businesses who sign-up to take the TUCK IN pledge will take steps to reduce the salt, sugar and fat content of the takeaway food served. As part of the TUCK IN pledge the business will receive free online Level 1 or Level 2 Nutrition training. Nutrition training helps staff to fully understand why reducing the salt, sugar and fat content of the food they serve is so important. Good training also encourages staff to go further with the healthy catering practices, which can support the growing demands of customers for alternative, healthier options. The scheme was also altered to recognise businesses making sustainable changes.

Takeaway food businesses who have taken the TUCK IN pledge can display the TUCK IN logo on their premises.

In order to take the pledge a business must commit to making a continuous effort to reduce the salt,

### 3.10 National Food Hygiene Rating Scheme

sugar and fat content of the food it serves. This includes:

- reducing fats in fried food by using the correct frying temperature;
- shaking excess fat from food after frying;
- keeping oil fresh and using healthier oils for frying such as rapeseed or sunflower oil;
- reducing the amount of sugar and salt used in cooking;
- ensuring water and low/no sugar drinks are available;
- offering grilled foods instead of fried;
- increasing the amount of vegetables and fruit available on the menu;
- providing packets of salt instead of free-running salt cellars;
- always making sure smaller portion sizes are on offer.

Businesses that meet the above criteria and sign up to the pledge will receive promotional materials and will be promoted on the Tuck In website.

- **Ongoing Education** – This will take place during the planned food hygiene inspections for the period 2021/2022 and coaching visits, where resources permit, to implement Safer Food Better Business.

In September 2011 the authority joined the Food Standards Agency; 'National Food Hygiene Rating Scheme' (NFHRS). Since the launch of the rating schemes we have seen an increase in the number of businesses who are engaging with the Council for advice on how to improve food hygiene and in turn improve their rating.

Under the NFHRS food businesses are given a rating for their hygiene, ranging from 0 (urgent improvement necessary) to 5 (very good). The table below provides a breakdown of rated premises. Correct on the 1 October 2021;

Rating	%
5 (very good)	83.3

3.11 Food Hygiene Training	4 (good)	10.6	<p>The scheme is a cost effective, well publicised and visible way of promoting food hygiene and empowering consumer choice by making available information to which the Public has a right to access under Freedom of Information Legislation. As well as promoting food hygiene it also gives Harlow Council a best value method for meeting public access obligations.</p> <p>The ratings are available as a link from the Councils website and direct on <a href="http://ratings.food.gov.uk">http://ratings.food.gov.uk</a> and every eligible business is issued with a window sticker displaying their individual rating.</p> <p>The Service promotes the food hygiene courses offered by accredited trainers including Harlow College.</p>
	3 (generally satisfactory)	4.2	
	2 (improvement necessary)	1	
	1 (major improvement necessary)	0.6	
	0 (urgent improvement necessary)	0.3	
4.0 Resources	<p>Food safety resources are currently allocated within the overall Environmental Health budget covering food safety, occupational health &amp; safety, pollution (noise, air, water, and contaminated land), Authorisation of premises under the Environmental Protection Act 1990, private sector housing and grants.</p> <p>A number of inspections were undertaken outside normal working hours due to the Code of Practice which requires local authorities to inspect premises during normal opening hours, which in turn will require evening and weekend inspections.</p> <p>No budget is separately allocated for prosecutions or legal action taken as a result of action under this service. Costs are requested from the court in any successful prosecutions taken, by the Council's Legal Service, who act on our behalf.</p>		

## 4.1 Staffing Allocation

For the plan period 2021/2022 the available staff for this Service Plan includes:

- 0.1 Environmental Health Manager
- 1 FTE Principal Environmental Health Officer
- 1.5 FTE Senior/Environmental Health Officer (S/EHO) - Fully competent for all food safety activities;
- Approx 200 food inspections outsourced to competent contractors;
- 0.5 FTE Technical Support Officer (TSO) - Not formally competent in food safety matters.

**This staffing allocation is not solely for this Service Plan. These officers also carry out duties enforcing health and safety at work, animal welfare and other licensing provisions, and the investigation of statutory nuisances under the Environmental Protection Act 1990.**

It has been estimated that the total officer time spent on the Food Service is **2.40** full time equivalent persons (FTE) on professional staff and **1.0** on administration support.

<u>Officer</u>	<u>FTE</u>
Environmental Health Manager	0.10
Principal EHO	0.50
S/EHO	1.40
Contract Staff	0.40
TSO/Administration (Not formally competent in food safety matters)	1.00
<b>TOTAL</b>	<b>3.40</b>

The PEHO and all Senior EHO's are appropriately qualified in accordance with the Code of Practice.



	<p>How these needs are met may vary, but the typical sources of training include:</p> <ul style="list-style-type: none"> <li>• Day release courses;</li> <li>• On the job training;</li> <li>• In house short courses;</li> <li>• External short courses and seminars.</li> </ul> <p>Training must be approved before it is undertaken and it is evaluated after the event. All training received will be documented as part of the Service’s assessment competency.</p> <p>Personal Performance Plans (PPPs) are completed on a yearly basis by the PEHO with a six month review.</p> <p>It is not possible to determine training costs until the PPP process has been completed.</p>
<p>5.0 Quality Assessment</p>	<p>The Food Service is delivered within a documented quality system with strategies in place covering most areas of food safety. Within these strategies a documented system is in place for management monitoring of the quality, uniformity and consistency of enforcement.</p> <p>Within the framework of these documents the following activities are planned:</p> <ul style="list-style-type: none"> <li>• Internal Audits of:</li> </ul> <p>- Food Safety Inspections</p>

	<p>a) Post Inspection review of case records and documentation (100% of contractors' inspections are currently checked)</p> <p>b) Accompanied inspections</p> <ul style="list-style-type: none"> <li>- Food Complaints (service requests)             <ul style="list-style-type: none"> <li>a) food safety</li> <li>b) foreign bodies</li> <li>c) allegations of food poisoning</li> <li>d) food alerts</li> </ul> </li> </ul> <p>Formal enforcement activities, including;</p> <ul style="list-style-type: none"> <li>- Hygiene Improvement Notices</li> <li>- Hygiene Emergency Prohibition Notices             <ul style="list-style-type: none"> <li>- Prosecution Files.</li> <li>- Detention / Seizure / Voluntary Surrender cases.</li> </ul> </li> </ul> <p>There are management systems which monitor the response times for complaints received (food &amp; hygiene complaints etc.). The target response times are 5 working days.</p>
<p>6.0 Review</p> <p>6.1 Review against the Plan</p>	<ul style="list-style-type: none"> <li>• The process of reviewing and updating the Standard Operating Procedures is underway on a</li> </ul>

priority basis.

- The Authority has participated in the Essex County Council funded 'Tuck In' project to reduce salt, fat and calories in takeaway meals. Visits to relevant businesses commenced in September 2015. Funding for this scheme (from Essex County Council) ended in 20/21.
- The team has participated in FSA national rating consistency exercises.
- The team continues to work collaboratively with the hospital to encourage good hygiene practices and to ensure the implementation of FSA guidance for healthcare and social care organisations to help them reduce the risk of vulnerable people within their care contracting listeriosis through the consumption of chilled ready-to-eat food.
- Continual development of the Uniform, along with Enterprise to ensure it can meet all Service needs and to improve management systems.
- The team has utilised the FSA toolkit for the internal audit of the food hygiene rating scheme against the brand standard.

The Service Plan will be monitored to establish:

- Inspections of premises against target;
- The percentage of premises broadly compliant with food hygiene;
- Number of food samples taken against target.

In addition, the PEHO will evaluate:

- Actual resource allocation versus projected allocation;

<p>6.1.1 Performance Targets</p>	<ul style="list-style-type: none"> <li>• Responses to complaints</li> <li>• Reactive work, formal actions and investigations.</li> </ul> <p>A key aim of The Service is to continually improve the quality, efficiency and effectiveness of its Services.</p> <p>Where the review process identifies areas for improvement or development, these will be adopted in accordance with current in-house documented procedure, the FSA Framework Agreement, Statutory Code of Practice and National guidance.</p> <p>For the period 2020/2021 <b>59.83%</b> of all programmed and unprogrammed inspections were completed. The target is to achieve <b>100%</b>, as prescribed by the Food Standards Agency. For the period 2016/17 <b>96.67%</b>, and for 2017/2018 <b>99.36%</b>, and for 2018/2019 <b>99.32%</b> and for the period 2019/20 <b>79.28%</b>. For the period 2020/21 this was <b>64.3%</b>.</p> <p>The percentage of premises that are broadly compliant with food hygiene was <b>96.23%</b> in 2016/17 to <b>94.67%</b> in 2017/18 <b>95.94%</b> in 2018/19 to <b>95.37%</b> in 2019/20 and <b>89%</b> in 2020/21.</p> <p>The reduction in the broadly complaint score is due to the higher number (48) of unrated new food premises. The new unrated premises are automatically classified as non broadly compliant until inspected. Therefore, this reduction from circa 95% to 89% is not an indication that hygiene compliance in existing food premises has declined.</p>
<p>6.2 Areas for development</p>	<p>The current position as of the 1 November 2021 is that the Food Team is on track with the recovery of the food regulatory service in line with the FSA recovery plan.</p> <p>The following Service developments are planned for the period 2021/22:</p> <ul style="list-style-type: none"> <li>• The team will continue to work in accordance with the Food Standard Agency Recovery Plan.</li> </ul>

	<ul style="list-style-type: none"> <li>• The team will continue carry out enforcement in relation to COVID 19 as required. The team will also continue to carry out investigations into workplace and community cases of COVID 19 in support of the national contact tracing team.</li> <li>• Continue the review and updating of the Standard Operating Procedures and Policies for this Service.</li> <li>• Continue to meet performance targets where possible, however due to the demands placed on the service by the COVID pandemic, aim to meet targets on a risk based priority basis.</li> <li>• Adapt to any changes as a result of the FSA Regulating our Future review and any implications of Brexit.</li> <li>• Follow guidance provided by FSA/APHA/DEFRA to ensure officers are competent to carry out duties such as the predicted increase in export health certificates as a result of Brexit.</li> <li>• Continue with participation in the public health ‘Tuck In’ project.</li> <li>• Review the existing team enforcement policy to ensure it reflects national and local policy and guidance.</li> <li>• Develop the Idox Uniform Enterprise IT application. The Enterprise system is a management tool which helps ensure high quality service delivery.</li> </ul>
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**REPORT TO:** LICENSING COMMITTEE

**DATE:** 16 NOVEMBER 2021

**TITLE:** ADOPTION OF STREET TRADING POLICY

**LEAD OFFICER:** MICHAEL PITT, ENVIRONMENT AND  
LICENSING MANAGER (01279 446114)

**CONTRIBUTING OFFICERS:** NORAH NOLAN ENVIRONMENTAL HEALTH  
MANAGER (01279 446114)

CHRISTINE CHEUNG, SENIOR LICENSING  
OFFICER (01279 446114)

**RECOMMENDED that:**

- A** The Committee consider the proposed street trading policy, as set out at Appendix 2 to this report, representations made on consultation concerning the proposed street trading policy, as set out in Appendix 1 to the report, and determine whether any amendments to the draft policy are required.
- B** Subject to A above, the Committee recommend to Full Council adoption of the proposed Street Trading Policy 2021 – 2026, as set out in Appendix 2 to this report.

**BACKGROUND**

1. At the Licensing Committee meeting of 9 March 2021 consultation on the proposed updated street trading policy presented at that meeting was approved. For ease of reference the report of 9 March 2021 is attached at Appendix 3 to the report.
2. The Council carried out a twelve week consultation process which ended on 24 August 2021. Details of consultation process are set out at Part 5 of Appendix 2 to the report.
3. A total of seven consultation responses were received. These comprise four responses from interested parties and three from existing licensed street traders.
4. The consultation responses are presented at Appendix 1 together with officer comments in relation to the matters raised.
5. The proposed policy incorporating any amendments considered necessary following consultation are intended to secure proper, up to date and equitable application of the legislation pertaining to this matter.

**IMPLICATIONS**

**Environment and Planning (Includes Sustainability)**

As set out in the report.

**Author: Andrew Bramidge, Director of Strategic Growth and Regeneration**

**Finance (Includes ICT, and Property and Facilities)**

The proposed fees and charges will seek to recover Council costs in administering the scheme.

**Author: Simon Freeman, Deputy to the Chief Executive and Director of Finance**

**Housing**

None specific.

**Author: Andrew Murray, Director of Housing**

**Community Wellbeing (Includes Equalities and Social Inclusion)**

Allowing stakeholders to comment during policy formation is likely to lead to more transparent regulatory processes.

**Author: Jane Greer, Director of Communities and Environment**

**Governance (Includes HR)**

As set out in the report.

**Author: Simon Hill, Director of Governance and Corporate Support**

**Appendices**

Appendix 1 - Results of Consultation incorporating officer comments.

Appendix 2 - Proposed Street Trading Policy 2021 – 2026

Appendix 3 - Report of 9 March 2021

Appendix 1 - Responses received

Respondent	Comments	Officer Comment
<p>Portfolio Holder for Environment</p>	<ul style="list-style-type: none"> <li data-bbox="568 331 1413 499">- Why is a DBS considered necessary? Any interaction with vulnerable people would be in a public setting. Does this risk deterring people who are rehabilitating after a custodial sentence and who may have limited other employment opportunities?</li>   <li data-bbox="568 639 1368 807">- Does the extension of the consultation period constitute a delay in how long prospective street traders have to wait before starting trade? I'd be put off if told I had to wait a month, and doubt that two weeks is insufficient time to consider an application.</li>   <li data-bbox="568 1114 1413 1182">- What are the options around setting the minimum food hygiene rating at 4, &amp; how often are street traders assessed?</li> </ul>	<p data-bbox="1444 331 2049 635">The council has a responsibility to ensure the holder of a street traders' licence is a fit and person, the basic DBS check helps to achieve this and is common practice among Local Authorities. The provisions of the Rehabilitation of Offenders Act 1974 require that "spent" convictions are not taken into consideration when determining a licence application.</p> <p data-bbox="1444 671 2049 1007">This would mean a longer minimum period before prospective traders could begin work. Extending the consultation period to 28 days from the current 14 days will enable officers to carefully consider relevant information received and follow up necessary enquires. This would also achieve consistency with other licensing procedures including licensing under the Licensing Act 2003 and Highways Act tables and chairs licensing.</p> <p data-bbox="1444 1145 2049 1377">This is a matter for Council discretion, although where a licence is declined the applicant may appeal, so should be reasonable. Fixed premises may trade legally with a lower rating. Officers have recommended a minimum rating of 3 which means that hygiene standards are "generally</p>

	<ul style="list-style-type: none"> <li>- Will Sunday trading remain prohibited under these proposals?</li> <li>- What is the rationale for 50 metres between traders? Aren't street stalls more effective when they are clustered together?</li> <li>- By a restriction on traders keeping their vans or diesel generators running, I presume this means a ban?</li> </ul>	<p>satisfactory". A rating of 4 means that the premises hygiene standards are "high".</p> <p>Once a business has been rated it cannot normally be re-rated until at least three months later.</p> <p>Sunday trading laws do not apply to street traders because they are not classed as large premises. The conditions which restrict trading around places of worship on Sundays will continue.</p> <p>This is a matter for the discretion of the Council. The intention is primarily to reduce congestion and to address concerns that have historically been raised by traders in fixed premises who face higher costs including business rates.</p> <p>The intention is to stop licensed traders at fixed pitches relying on internal combustion engines running continually for reasons of air quality and carbon reduction</p>
<p>Principal Environmental Health Officer [Commercial Premises] Harlow Council</p>	<p>I wish to make a comment on the consultation for the Street Trading Policy.</p> <ul style="list-style-type: none"> <li>- The policy should be amended on page 20, paragraph 20 to state 'where gas/lpg is used each applicant must provide a copy of their latest gas safety inspection certificate'. It is possible that gas will not be used by the applicant.</li> <li>- I would suggest reference is made to safety testing for electrical installations and appliances, particularly where this is the main power source, for example</li> </ul>	<p>Recommended this amendment be made</p> <p>Recommended this amendment be made</p>

	<p>'All electrical installations and equipment must be maintained in a safe condition and should be tested regularly by someone competent to carry out such a test'</p> <ul style="list-style-type: none"> <li>- I agree that a broadly compliant score of 3 on the food hygiene rating scheme is achieved by the applicant to provide some reassurance of good food hygiene for the public, however this may hold up the application process. Where the applicant stores their mobile vehicle/premises in Harlow, the Environmental Health department at Harlow council will undertake the food hygiene inspection in order to award a food hygiene rating. Where the applicant/food business operator is new, there may be a delay in carrying out that inspection. Current food standards agency guidance asks for Local Authorities to prioritise food hygiene inspections in accordance risk therefore new lower risk businesses may not receive their inspection for a number of months. Applicants may also submit a registration and not be ready for their inspection for a number of months, for example whilst they are awaiting delivery of their vehicle/trailer. Where the applicant keeps their mobile premises/trailer in another Local Authority, the applicant would be registered by that Local Authority, whose policy may be not to award a rating if they haven't seen the applicant trading.</li> </ul>	<p>As is currently the case the council will take all steps to expedite applications as soon as practicable.</p>
<p>Watch Manager Essex Fire &amp; Rescue</p>	<p>I have read the street trading policy and from a fire service perspective there is little to comment on. I would ask that we take into consideration some of the principles we apply to other areas such as;</p> <ul style="list-style-type: none"> <li>- Ensuring that there is sufficient width to allow a fire appliance to pass (3.7m)</li> </ul>	<p>Recommended these principles be incorporated into the policy inspection/approval process.</p>

	<ul style="list-style-type: none"> <li>- Ensuring that access to buildings is not hindered by street traders</li> <li>- Fire hydrants and the indication plates are not obstructed.</li> <li>- Street traders should not obstruct emergency escape routes from buildings</li> </ul> <p>Much of this is in spirit, covered by paragraph 3.13 but perhaps something a little more specific might help reinforce the principles.</p>	
Highways Officer Essex Highways	<p>Thank you for giving me the opportunity to comment.</p> <ul style="list-style-type: none"> <li>- It is not clear enough or has not been emphasised within the documentation that Essex County Council are the care takers of the public highway and that consent/support from them is required.</li> <li>- Page 14 3.6 it states 20 traders permitted operative under one licence, each trader should apply for their own street trading licence unless it is a market (which the relevant council has market status)</li> <li>- No street licences can be issued to adjacent businesses.</li> <li>- Any street licence being given to a trader located within a carriageway must be parked a minimum of 15 metres from a junction.</li> <li>- Any street licence being given to a trader located within a carriageway must not be parked on any parking restrictions.</li> </ul>	<p>Recommended the draft policy be amended to reflect this Comment</p> <p>Essex County Council are listed in the policy as a consultee for individual applications and as such are able to comment on applications on an individual basis. The Council would expect such comments to incorporate the matters outlined in their consultation response.</p>

	<ul style="list-style-type: none"> <li>- Any street licence being given to a trader located within a carriageway must not be parked in front of or opposite a dropped kerb which will cause issues for entering/exiting a business or property.</li> <li>- Any street licence being given to a trader located within a carriageway must not obstruct any forward visibility.</li> <li>- Any street licence being given to a trader located within a carriageway cannot use the footway/verges to place any bins/tables/chairs/signage/umbrellas without written consent</li> </ul>	
<p>Licensed Street trader – multiple mobile units</p>	<p>In response to the notification of the introduction of a new Street Trading Policy: Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 Consultation on the introduction of a Harlow Council Street Trading Policy.</p> <p>We would like to oppose the requirements stipulated in the below point:</p> <ul style="list-style-type: none"> <li>- Restriction on mobile traders stopping within 50 metres of any school (from an hour before the start of the school day until an hour after the end of the school), hospitals, and places of worship (on Sundays and other recognised day of worship).</li> </ul> <p>We have operated in Harlow for 30 years and have a long standing relationship with the local schools, with a number of schools allowing us to park on their grounds (Passmore and Layton Green) The nature of our relationships have resulted in many numerous donations, by us, to the schools. In addition, we are regularly requested, by the schools, to trade at their events; fetes, sports days etc.</p> <p>Given the seasonal nature of our business and the fact that we are</p>	<p>Members are invited to consider this representation. The proposed restriction supports the formally recognised code of practice to on noise from ice cream van [etc.] chimes which when applied can protect traders from action for noise nuisance. A further consideration is congestion in the vicinity of school and promotion of healthy eating goals.</p>

	<p>only present during the term time, we strongly feel that the proposed requirement of a 50 metre distance will have a lasting impact on, not only our business, but on us as a family.</p> <p>The pandemic has hit us hard, with schools closed and events cancelled. It is in recent months that we have been able to work again.</p> <p>We plead with you that this proposed restriction be reviewed.</p>	
Licensed Street trader	<p>I have taken a look at the new suggestions with regards to street trading for our licences for ice cream vans please see some suggestions/responses below,</p> <ul style="list-style-type: none"> <li>- I agree with some of these new things like CRB checks it's a good idea being as we work with the general public.</li> <li>- One major thing which should be re considered is the rule about no ice cream vans near schools.</li> </ul> <p>We get asked by so many schools to attend there school fetes, leaver prom days to treat the children, also when the weather is good schools book us to treat the children to ice cream too.</p> <p>Also the majority of parents want us there so they can give the kids a treat after there long day at school, if we happen to miss a day at the school most parents ask where we was as kids was upset we wasn't there.</p> <p>We don't only serve children/parents but often teachers come out to buy ice cream to. If this was to be put in place it would upset many people as well as having a detriment effect to our business.</p> <p>Over the years it has got harder trading on the streets so for the opportunity to trade at schools to be taken away would have a big</p>	<p>Members are invited to consider this representation. The proposed restriction supports the formally recognised code of practice to on noise from ice cream van [etc.] chimes which when applied can protect traders from action for noise nuisance. A further consideration is congestion in the vicinity of school and promotion of healthy eating goals.</p>

	<p>effect to the trade and it has become part of our living.</p> <p>I know we make a lot of children happy when they see us after school and I hear most parents say to the children they deserve it as been good all day at school.</p> <ul style="list-style-type: none"> <li>- Also I know I have brought this up many times and I understand you don't want engines on in Broadwalk and have asked if we can run from electric, after modifying a van at a large cost to me to be told there is no longer electric is also having an effect on the business.</li> </ul> <p>Myself personally have been in the town with a street trading license for over 25 years with no complaints and to not be given electric to trade after making changes to run from electric and no new electric points been put in for me is very disappointing.</p> <p>I have a van there this month with just scoop ice cream which just isn't the same as people can buy this from the shops they all ask for the whippy machine which needs power and this has had a huge reflection in our takings and I'm not sure we can carry on trading with no power.</p> <p>Please can we investigate further on getting a power supply fitted?</p>	<p>The Council owns Broadwalk and has in recent years taken the view that it does not wish to let pitches to traders using continuously running combustion engines.</p> <p>This is a specific commercial matter for the trader and the Town Centre management to resolve and not a matter of licensing Policy as such.</p>
Pritpal Dhingra	<p>Re: Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982</p> <p>Consultation on the introduction of a Harlow Council Street Trading Policy</p> <p>I want to draw your attention to proposed clause no V. As a full time market trader, I have worked at many council and private run markets over the years.</p>	<p>There would be a cost to applicants in obtaining a basic DBS certificate. The Council has a responsibility to ensure the holder of a street traders' licence is a fit and person, the basic DBS check helps to achieve this and is common practice among Local Authorities. The provisions of the Rehabilitation of Offenders Act 1974 require that "spent" convictions are not taken into consideration</p>

	<p>None of them required me, or other traders, Basic Disclosure and Barring Service (DBS). I think it is extra cost burden and red tape for the traders. I probably would have understood if this was the criteria for a new trader but you have known us (only 3 of us) for years. I therefore ask to you to do not implement this clause. If you insist on doing it, then the council should absorb the cost for every renewal application (£23).</p>	<p>when determining a licence application.</p> <p>The Council has taken a supportive position with regard to pitch fees for traders in the Town Centre.</p>
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# Street Trading Policy 2021 – 2026

**Date policy adopted:**

**Adopted by: Licensing Committee**

**Date of implementation:**

**Next review period: 2026**

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## PART 1 – INTRODUCTION

- 1.1 The powers to control street trading within the Council's area are contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, 'the Act'. Under Schedule 4 of the Act the Council can manage street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'.

Harlow Council on 1 March 2001 adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and has designated all the streets within the boundaries of the district as either Prohibited Streets or Licence Streets for the purpose of regulating street trading.

Street trading is not permitted whatsoever in any of the designated Prohibited Streets. Street trading is not permitted in the remaining streets which are designated Licence Streets, unless a Street Trading Licence has been issued by the Council's Licensing Team.

### 1.2 Scope

"Street trading" is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street, with the following exceptions:

The following shall be considered as prohibited goods for the purpose of the policy (this is not an exhaustive list):

- (a) Second hand electrical goods
- (b) Medicines or treatments
- (c) Sex articles as defined by the Local Government (Miscellaneous Provisions) Act 1982
- (d) Cigarettes/tobacco
- (e) Any form of gambling
- (f) Firearms (including replicas) and ammunition
- (g) Fireworks

#### **Exemptions from the need to obtain a street trading licence:**

- (a) Trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871 (i.e. travelling on foot from place to place selling goods directly).
- (b) Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order.
- (c) Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.
- (d) Trading as a news vendor (selling newspapers or periodicals, Big Issue vendors).
- (e) Trading which—
  - (i) is carried on at premises used as a petrol filling station; or
  - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop.
- (f) Selling things, or offering or exposing them for sale, as a roundsman (a person who follows a set route to attend on specific/identifiable customers for the purposes of either taking orders or for the delivery of goods e.g. milk round, grocery delivery service).
- (g) The use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway.
- (h) The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.
- (j) The doing of anything authorised by regulations made under section 5 of the Police,

Factories, etc. (Miscellaneous Provisions) Act 1916.

With regard to point (f) above it has been established in law that mobile ice cream sales are not normally deemed to be roundsmen and, therefore, are not exempt from street trading.

“Street” includes any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.

The schedule for Streets within Harlow as Prohibited and Licence Streets under the Local Government (Miscellaneous Provisions) Act 1982 is shown in **Appendix 1**.

At the Environment and Community Committee on 22 June 2009, taking on board the High Court judgement, it was agreed to extend the licensing arrangements for street trading by adopting a wider interpretation of Land open to the public to include areas of Harlow that would have been previously considered private land.

Street traders must always seek permission to use the land from the land owner. This includes the Highway Authority where the land is a highway.

### **1.3 Prohibited Street**

“Prohibited Street” means a street in which street trading is prohibited.

If a street is designated as a “prohibited street” then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited. For example, the street may not be wide enough to facilitate a trader or the Council may wish to restrict trading at a particular location. It may be considered that the prohibited status might be the most appropriate designation for the majority of residential streets in a town. There is no right of appeal in respect of a Council decision to designate a street as prohibited; challenge is by way of Judicial Review.

### **1.4 Licence Street**

“Licence Street” means a street in which street trading is prohibited without a licence granted by the Council.

Street trading in a licence street without a licence is a criminal offence. If a street is designated as a “licence street” then applications can be made by persons over 17 for a licence to trade in the articles described in the application on certain days on that street. For so long as the designation of licence street remains in place for that particular street or part of street the council is duty bound to grant or renew a properly made application unless one or more of the statutory grounds for refusal applies. When granting or renewing a licence the Council may attach any reasonable condition, furthermore the Council can at any time vary the conditions attached to a licence. There is a right of appeal against a council decision made in respect of a street trading licence.

The Act creates offences associated with trading in consent or licence streets without the necessary authority; a person guilty of such an offence may be liable, on conviction to a fine up to £1000.

Exemption - sales of articles by residential occupiers within the curtilage of their properties, or on land contiguous with it.

## 1.5 Town Centre

In 2015 under the Act, designated trading pitches on Broad Walk and East Gate (land which the Council owns) are on a licence street and would require a street trading licence, and pay a monthly pitch rental fee.

## 1.6 Special Markets/Events

In 2011 a policy was adopted by the Council which allowed street trading licences to be applied in a different way. This accommodates groups of traders such as specialist markets which trades from time to time in the Water Gardens (on private land). One street trading application could be submitted on behalf of the whole group of traders.

This was reviewed in 2017 where a limit of five such applications in one year, a maximum of 20 stalls to be included in the application and the maximum number of trading days being five consecutive days per application. Except during December when a single licence may be issued for a period of not more than 14 days.

## 1.7 Relevant Case Law

*Kempin (T/A British Bulldog Ice Cream) v Brighton & Hove Council [2001]*

This case determined that a roundsman was someone who delivered pre-ordered goods within a locality; and on this basis an ice cream salesman driving around an area was not a roundsman because he/she would not be delivering pre-ordered goods.

*West Berkshire DC v Paine [2009]*

This case determined that if the trading took place in an area where the public had access without payment (even if the public did not go there) it was a "street" and would require a licence to trade there.

## 1.8 Legislative framework

The primary legislation relating to street trading is Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

The Children and Young Persons Act 1933, as amended by the Children and Young Persons Act 1963, controls the employment of children in street trading. The Act prohibits the employment of children under 17 years of age for the purpose of street trading.

## 1.9 Human Rights

The Licensing Authority deal with applications for Street Trading Licence in a manner consistent with the Human Rights Act 1998. In particular, by giving due consideration to the rights under the following articles of the European Convention on Human Rights and Fundamental Freedoms:

- (i) Article 1 – property right (including the right to apply to hold a licence and operate a business);
- (ii) Article 6 – right to a fair hearing in the case of representations against applicant or licence holder;
- (iii) Article 8 – respect for your private life, your family life, your home and your correspondence (letters, telephone calls and emails, for example).

## 1.10 Duplication

Street Trading has the potential for the overlapping of trading activities covered by different regulatory regimes, for example food hygiene and standards, sale of alcohol or late night refreshment.

In addition, street trading activities may require Planning or Highways permissions depending on the nature of the trading location. So far as is reasonably practicable the Council will avoid duplication with other regulatory regimes that already place obligations on employees and operators.

Street traders are required to ensure all relevant provisions are satisfied with the relevant responsible authority in these respects.

## 1.11 Equality

Licence holders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.

## 1.12 Purpose

The purpose of this street trading policy is to provide a fair, consistent and transparent decision making framework and process for the determination of applications for street trading licences.

To facilitate the creation of a street trading environment that is sensitive to the needs of the public (including local residents) provides diversity and consumer choice, and enhances the character ambience and safety of local environments for people who live, work and visit in Harlow.

Each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

Harlow Council is particularly concerned to ensure:

- public safety;
- the prevention of public nuisance;
- the prevention of crime and disorder; and
- the protection of children, young persons and adults with care and support needs from harm.

The Council recognises that promoting the welfare of children and protecting them from harm is everyone's responsibility. Street Traders who may have dealings with children, young people and adults with care and support needs have a duty to report matters of concern to the relevant authorities.

Further details are set out in **Appendix 2**.

## 1.13 Consultation and Communication

In determining the Policy, the Council has consulted as set out in Part 5. The views of relevant stakeholders have been taken into consideration.

In order to deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communication and consultation with all stakeholders.

#### **1.14 Review of Policy**

This policy will be reviewed every five years. If required, periodic updates may be undertaken following the consultation process

#### **1.15 Conditions**

The Council will adopt any reasonable conditions that it deems necessary and appropriate to ensure that traders comply with relevant legislation and the fundamental purpose of the Policy.

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## **PART 2 - LICENSING PROCESS AND DELEGATION**

**2.1** The licensing of street trading is a Council function that is discharged by the Council's Licensing Committee, who may delegate the matter to a Licensing Sub-Committee or Licensing Manager under delegated authority.

### **2.2 Licensing Committee**

The Licensing Committee is made up of 10 members of the Council. It has the power to determine applications and also to suspend, revoke or refuse to renew licences.

Meetings are open to members of the public, except for when confidential information is being considered.

### **2.3 Licensing Sub-Committee**

The Licensing Committee is made up of 10 members of the Council. A quorum of three members will sit on hearings to consider any matters referred to it by the Licensing Committee or Officers in relation to functions conferred upon the Council as The Licensing Authority.

Members, when determining applications for a licence, renewals or reviews of a licence, will have regard to the Local Government (Miscellaneous Provisions) Act 1982 and other relevant legislation, the Human Rights Act 1998, the Equality Act 2010, any relevant legal case law and other relevant Council policies.

### **2.4 Consideration of a Licence application by the Licensing Sub-Committee**

On receipt of relevant written representations and/or if the applicant has not met the criteria, arrangements will be made for the application to be heard by the Licensing Sub-Committee.

### **2.5 Contentious Applications**

Determination of contentious applications will be undertaken by Harlow Council's Licensing Committee, who would normally delegate the matter to a Licensing Sub Committee, or Environment & Licensing Manager under delegated authority.

The main reasons why an application will be deemed contentious are:

- An objection from consultees have been received which are relevant to grounds for refusal
- An objection has been received as a result of the public notices
- An Authorised Officer decision has been taken to refuse an application and a notice to that effect has been served on the applicant. The applicant then has seven days in which to make a relevant representation and this will be referred to a Licensing Sub Committee. [If the application is still refused then there is a right of appeal to the Magistrates Court.]

The applicant and all parties making representations will be notified in writing of the date, time and place where the application will be heard.

The person or body making a representation will be expected to attend the hearing and be allowed the opportunity to address the Licensing Committee and ask questions relating to the application. The applicant can be represented by a solicitor, or supported by a friend or colleague.

Representations received by the Council will be circulated to members of the

Committee in advance. Where appropriate, the representations will also be sent to the applicant but without any information that would identify the person submitting the representation.

The Licensing Sub-Committee will determine applications with consideration to the points below:

- Each application on its own merits;
- Using this Policy;
- Dealing with the hearing in a balanced and impartial manner;
- Ensuring that the rules of natural justice are applied in any hearings held;
- Giving all parties sufficient opportunity to present their case and ask questions;
- Present information for consideration in support of their application or representation.

## **2.6 Decisions**

The Council, by virtue of an officer with delegated authority, has the power to refuse, grant or renew licences or licences and also to vary or revoke existing licences and licences in accordance with relevant legislative provisions.

Any decision to refuse to grant or renew a licence or licence or to vary or revoke an existing licence or licence will be made in accordance with the Council's scheme of delegation as set out in **Appendix 3** and other relevant procedures.

In particular, applications will be considered favourably where there is clear and robust evidence of effective mitigating measures offered by the applicant in relation to those matters set out in **Appendix 4**.

Following the determination of an application by the Council the applicant will Receive a copy of the decision in writing. This written decision will be delivered as soon as is practicable after the decision has been made.

## **2.7 Right of Appeal**

Under Section 6 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 there is a right of appeal to the Magistrates Court against the refusal of the Local Authority to grant, renew, revoke or vary the principle terms of a Street Trading Licence.

## 2.8 Setting Fees

The cost of dealing with street trading is covered by fees from licences.

The Council does not recover costs for the collection of refuse or the cleansing of streets on the basis that the conditions of each licence requires the licence holder to take responsibility for such matters.

The Licensing Committee reviews the fees annually under delegated authority from the Council.

On 29 March 2018 the Council decided to waive any Street Trading Licence fee in the case groups of traders taking part in a licensable event with a primarily non-commercial nature that has sufficient benefit to the community to warrant Council support.

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## **PART 3 – STREET TRADING ACTIVITIES, APPLICATION PROCESS AND REQUIREMENTS**

### **3.1 Introduction**

This part of the Policy focusses on the licensable activities and the necessary steps required obtaining and holding a licence. These steps will include the standards that applicants must attain and the conditions that apply. Where appropriate, any reference to ‘applicant’ is deemed to include existing and new licence holders.

### **3.2 Static Street Trading**

A static Street Trading licence is issued for a trader who remains in one place during trading and not positioned on a Prohibited Street in the District. Static Street Trading Application Form is downloadable from;  
<https://www.harlow.gov.uk/business/licensing/street-trading-licence>

Licence holders are not permitted to trade within a 50 metre radius of any static traders, mobile traders, or shops, trading in similar goods / articles.

### **3.3 Mobile Street Trading (including ice cream traders)**

Static Street Trading Application Form is downloadable from;  
<https://www.harlow.gov.uk/business/licensing/street-trading-licence>

Mobile licences are issued to those who want to trade from numerous locations for a short period of time around the District.

In order to meet the criteria for mobile licence a trader generally must not remain in one place for more than 15 minutes at a time and not return to the same street within 2 hours. A ‘particular length of street/site’ should normally be interpreted as being a length of street up to 500 metres long.

Mobile traders cannot stop within 50 metres of any school (from an hour before the start of the school day until an hour after the end of the school), hospitals, and places of worship (on Sundays and other recognised day of worship).

Licence holders are not permitted to trade within a 50 metre radius of any static traders, mobile traders, or shops, trading in similar goods / articles.

### **3.4 Ice Cream Van Chimes**

**Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013**  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/245699/pb14030-ice-cream-vans.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/245699/pb14030-ice-cream-vans.pdf)

It is an offence to sound your chimes before 12:00 noon or after 19:00hrs.

Do not sound chimes as loudly in areas of low background noise or narrow streets as elsewhere and:

- for longer than 12 seconds at a time;
- more often than once every 2 minutes;
- more than once when the vehicle is stationary at a selling point;
- except on approach to or at a selling point;

- when in sight of another vehicle which is trading;
- when within 50 metres of schools (during school hours), hospitals, and places of worship (on Sundays and other recognised day of worship);
- more often than once every 2 hours in the same length of street;
- louder than LAmax 80dB at 7.5 metres;

### 3.5 Buskers

Buskers do not normally require a street trading licence and accordingly are not within the scope of this policy. However, a Street trading licence may be required for buskers who wish to sell items associated with their performance for example CD's or merchandise.

### 3.6 Special Markets/Events Street Trading

The Council operates a periodic Makers Market in the Harlow Town Centre Market Square. Market Square has a 'Market Charter' designation and accordingly street trading licences are not required for the Makers Markets. Makers Markets are managed by Harlow Councils Town Centre management team. Please see link below for more information:

<https://www.harlow.gov.uk/community/council-events-and-award-nights/harlow-makers-market>

The Council recognises the need to trade in items of a seasonal nature and wants to support where possible this type of activity within the Street Trading scheme.

For events such as Christmas or Street Markets or Continental Markets, which occur for a limited time, the Council may accept one application (and associated fee) from the person organising the event. The 'Event Street Trading Application' will require full details of each trader attending the event and must be submitted at least six weeks before event. Event Application Forms are downloadable from:

<https://www.harlow.gov.uk/business/licensing/street-trading-licence>

The Council will permit a group licence for single consecutive periods of not more than five days except during December when a single licence may be issued for a period of not more than 14 days.

The licence shall remain subject to the following conditions;

- No more than 20 traders shall be permitted to operate under one licence;
- No more than five licenses per year shall be issued in relation to any land; and
- The fee payable shall be equivalent to the annual street trading licence fee.

The licence will be issued for the duration of the specified event only and will be to a named individual. Where the application is made by an organisation they must nominate a named individual who will be responsible for managing the use of the licence.

The licence holder will be responsible for ensuring compliance with the conditions attached to the licence at all times whilst the licence is being used to facilitate street trading.

The licence holder will be required to keep records of all traders that use the special

event consent including the date, trading location, name and company name, address, vehicle registration, contact telephone numbers and items being offered for sale.

Special Events Licences do not provide exclusive control over trading in the designated area. Individuals are still able to apply direct to the Council for a licence.

Any trading on Council owned land for which permission has been obtained and for which a separate agreement is in place with the Council; proof of which must be provided.

### **3.7 Community & Charity Events**

The Council has provisions to issue a Street Trading licence for a community and or charitable event. On the 29 March 2018 the Council approved proposals to waive any Street Trading licence fee in the case groups of traders taking part in a licensable event with a primarily non-commercial nature that has sufficient benefit to the community to warrant Council support.

In the case of organised events involving a charity, and groups of traders meeting the criteria and can be deemed in the individual circumstances of the case:

- to be of sufficient benefit to the community to warrant Council support;
- not to be of a primarily commercial nature; such as:
  - i. Fetes, carnivals or similar community based and run events of short duration (less than 1 day), e.g., Christmas lights switch-on events;
  - ii. Non-commercial, community or charitable events where the profits are not used for private gain or are wholly passed to a charity, educational organisation or community-based organisation.

This policy further requires that the following criteria must be met in order to qualify for the exemption;

- Traders cannot trade at the location more frequently than once in any four week period.
- Traders must be pre-booked by the organisers.
- Submission of a Returns form within 28 days of the event – detailing monies raised and details of the charity, educational or community based organisation that the monies have been passed to.

This exemption includes community car boot sales.

For 'hybrid' events that are part community or charity based the fee will not be reduced.

Use of this pitch will be subject to the Council's standard street trading conditions.

Street Collection permits will also be required if cash is collected in a public place for charitable purposes. Please contact the Market Team for a street collection permit.

### **3.8 Promotional Stalls/Pitches**

The Council has a very limited number of promotional pitches in the Broad Walk area of Harlow Town Centre. These pitches cannot be used for street trading. Further information can be found on the following link.

<https://www.harlow.gov.uk/business/licensing/other-licences/promotional-pitches>

### **3.9 Pedlars**

Pedlars are currently regulated by the Pedlars Acts 1871 and 1881. A person intending to trade as a pedlar (anywhere in the UK) must apply for a pedlar's certificate from the Police and must meet statutory criteria.

A Pedlars Certificate allows a Pedlar to trade anywhere nationally.

Pedlars are not permitted to remain in a fixed location and must be continually on the move, stopping only to make a sale.

If pedlars are suspected for selling illegal or poor quality goods then enforcement becomes the responsibility of Trading Standards.

Pedlars are not 'street traders' and do not fall within the scope of this Policy.

### **3.10 Permitted Trading Hours**

Hours of street trading will be assessed in terms of public order, public nuisance, public safety, crime and disorder and avoidance of nuisance and the needs of the area.

The Council retains the right to specify permitted hours of trading if local circumstances require.

### **3.11 Late Night Refreshment**

Should a street trader wish to sell alcohol or provide late night refreshment additional authorisation is needed under the terms of the Licensing Act 2003.

Late Night Refreshment is the supply of hot food or drink between the hours of 11pm and 5am on any day of the week. Licensing Officers will be able to provide further information on the requirements of the Licensing Act 2003.

### **3.12 Planning Permission**

It is the responsibility of the applicant to identify the location(s) in which they wish to trade.

Private land is regarded as a 'street' if the public have access without payment. Written permission should be obtained from the land owner for the business to operate from that location. Units which are moved on and off a site on a regular basis will require a Street Trading licence.

Units which are permanently based on a site (even if they are capable of being moved) may need planning permission. If planning permission is granted for a permanent unit then it may not require a Street Trading licence.

### 3.13 Suitability of the site

The following will be considered when determining suitability of the site for a Street trading licence;

- any effect on road safety, either arising from the location of the pitch, or from customers visiting or leaving the site;
- the likelihood of nuisance from noise, light, smells, litter or fumes to households and businesses in the vicinity of the proposed street trading site;
- is there already adequate provision in the immediate vicinity of the proposed street trading site;
- any conflict with existing Traffic Orders such as waiting restrictions;
- any potential obstruction of pedestrian or vehicular access;
- any obstruction to the safe passage of users of the footway or carriageway;
- the safe access and egress of customers and staff from the pitch and immediate vicinity;
- if the pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities;
- the site does not allow the licence holder, staff and customers to park in a safe manner;
- if the street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff;
- Number of existing street traders in any one street.

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity can be inspected by an Authorised of the Council at any time.

### 3.14 Needs of the Area

It is important that street trading complements the area. Each application will be considered on its merits, however a licence will not normally be granted on sites that are within:

Residential areas or where there is likely to be an unacceptable impact on residential amenity.

- Residential areas or where there is likely to be an unacceptable impact on residential amenity.
- 50 metres of the boundary of any hospital, nursing or residential care home.
- 50 metres of the boundary of any school.
- any Council owned pay and display car parks.

Other key considerations will be:

- The speed limit of the road unless the area is segregated from live traffic lanes, or there is evidence that the mean traffic speed is significantly below the posted speed limit.

### 3.15 Trading Near to a School

As part of the Every Child Matters: Change for Children Agenda, Central Government made a commitment in the national Children's Plan to publish a child health strategy jointly between the Department of Health and the Department for

Children, Schools and Families. Published on 12 February 2009, the “Healthy lives, brighter futures: the strategy for children and young people’s health” strategy presents the Government’s vision for children and young people’s health and wellbeing.

Harlow District Council recognises that a healthy start in life is vital for all children and young people to realise their full potential. Harlow Health and Wellbeing Partnership Strategy 2018 – 2028 includes the following aim: ‘reducing smoking, drinking and child/adult obesity, plus increasing the levels of physical activity’. In terms of child obesity there are benefits of not having certain traders such as ice cream vehicles and burger vans outside a school.

This Policy seeks to support the Council’s commitment to reducing obesity and improving dental health and accordingly the Council has attached a condition to a street trading licence that states there is a 50 metre exclusion zone around the curtilage of the school, as measured from the main site entrance, in which street traders are not allowed to trade.

This restriction applies during term time and then between the hours of 12 noon to 2.00pm and 3.00pm to 5.00pm on any school day. The restrictions apply to all street trading consents, regardless of whom the licence holders are targeting and whether or not the application is new or for a renewal of an existing licence.

### **3.16 Application Process**

#### **Advice for New Applicants**

New applicants are advised to contact the Council at their earliest opportunity, preferably before an application is made. This allows Officers to provide advice as well as clarifying any areas of uncertainty. No trading may take place until the new Licence is issued.

It is the responsibility of the applicant, in the first instance, to identify the location(s) they wish to trade as there is no designated list of street trading ‘pitches’ that can be traded from.

The Council can also provide advice in relation to other legal requirements of a new Licence Holder, for example, planning permission or food safety requirements.

#### **Applications forms:**

- May be downloaded from the Council’s website <https://www.harlow.gov.uk/business/licensing/street-trading-licence>
- Electronic applications can be made via email [licensing@harlow.gov.uk](mailto:licensing@harlow.gov.uk)

The following are applicable to all licence types:

- Where an applicant has failed to declare relevant information or provided false information the application is likely to be refused; where this relates to an existing licence, the licence is likely to be revoked. Applicants are reminded that any applicant who makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.
- All fees are payable at the time of application. Where a licence is not granted, i.e.

the applicant withdraws their application or it is refused then no refund will be made.

- The application process must be completed within 6 months unless prevented from doing so by matters that are outside the applicant's control, otherwise the application process will cease to progress further until such time as the applicant provides all the required information;
- Where a licence has been surrendered or revoked a new application must be submitted in accordance with the relevant new licence procedure before the Council will consider the application;
- When a licence expires, the Council will not permit any 'periods of grace' for the submission of a renewal application unless there is satisfactory evidence of exceptional circumstances that are accepted by the Council.

Applicants must submit the following to the Licensing Authority:

- A completed and signed relevant Street Trading Licence application form.
- The appropriate application fee.
- Two passport size photographs, countersigned in accordance with passport rules.
- Evidence of right to work in the UK in accordance with the Home Office requirements (if applicable).
- Proof of identity, address and date of birth documentation: e.g. passport, photo driving licence, national proof of age standards photo card, birth certificate, current utility bill/bank statement not more than 3 months old.
- Provide a basic criminal record disclosure from the Disclosure and Barring Service (see note below and **Appendix 5**). Any unspent convictions or proven criminal behaviour shall be taken into account assessing the suitability of the applicant. This will include offences of dishonesty, violence, sexual and indecency related offences, drugs, theft and deception.
- Persons who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. In the event that an applicant is not able to obtain a certificate of good conduct, they may submit a statutory declaration with regard to their conduct, which must be completed in the presence of a practising solicitor. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided. Proof of a right to work in the United Kingdom will also be required. Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at <https://www.gov.uk/government/world>. The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk) or by post at the FCO, King Charles Street, London, SW1A 2AH.
- Where the proposed street activity is from a fixed position, a copy of map of at least 1:1250 scale clearly outlining the proposed trading location in red should be provided. An additional map to scale clearly identifying the precise trading position and its proximity to other similar retail outlets (shops etc.).

- Colour photographs of any stall, van, barrow, cart, etc. that will be used for the street trading activity showing the front, rear and side of the unit. The photographs must also show any proposed branding and/or advertisements that will be displayed.
- A sketch or diagram of the stall, van, barrow, cart, etc. identifying the external dimensions.
- Copy of insurance that covers the street trading activity for third party and public liability risks of £5,000,000. (This may be provided following confirmation that the application has been granted but the licence will not be issued until the certificate has been provided).
- Details of employees that will work in connection with this business.
- Any permissions or licence already granted with regard to the proposed operation, e.g. including but not limited to planning consent, licence for the sale of alcohol, late night refreshment premises licence.
- Copy of waste transfer agreement.
- A copy of evidence that appropriate permission has been obtained from the landowner of the proposed trading location.
- If the land is in the ownership of Harlow District Council, written permission from the Property and Facilities Team will be required.
- MOT and Insurance certificate (for mobile vehicle licences)
- Each applicant must provide a copy of their last Gas Safety inspection certificate (Current within the last 12 months). This certificate can only be produced by an authorised engineer who is Gas Safe Registered for LPG - Commercial Catering -Mobile Catering.  
Please see link below for further information on LPG Gas Safety;  
<https://www.hse.gov.uk/gas/lpg/about.htm>

### 3.17 Criminal Record Disclosure

Criminal record disclosure is relevant to those persons who wish to apply for a Street Trading licence because the Council has a responsibility to ensure the suitability of the applicant for this particular licence.

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, 'the Act'. Sub Section 3 (6) Subject to sub-paragraph (8) below, the council may refuse an application on any of the following grounds;

(d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;  
<https://www.legislation.gov.uk/ukpga/1982/30/schedule/4>

The Council may grant a licence if it thinks fit, suitability of applicants is set out in **Appendix 5** and **Appendix 6** for further details in this respect.

The basic criminal record disclosure from the Disclosure and Barring Service must be a new certificate requested as part of this application process. It should be no more than three months old at the time the application was submitted.

A satisfactory enhanced Disclosure and Barring Service (DBS) report will be accepted as an alternative to the basic criminal record disclosure from the Disclosure and Barring Service.

The DBS certificate must be in the name and address of the applicant as detailed on the application form. The original certificate must accompany the application form.

**NB** For partnerships or companies, the above requirements apply to all partners and directors/company secretaries. In addition, where necessary the Council will undertake further checks with Essex Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from.

### **3.18 Trading in food or drink:**

Harlow Council requires evidence that the food business has a food hygiene score rating of 3 or above at the time of licence application. This applies to new and renewal applications.

In relation to mobile food vendors, if an Authorised Officer identifies conditions that result in a lower food hygiene rating being issued i.e. 2 or lower, then the Council reserves the right to suspend a street trading licence with immediate effect until a time that the issues have been addressed.

### **3.19 Waste**

The licence holder shall take reasonable steps to ensure that litter arising from their own trade is minimised as far as possible, for example by making a bin available for customers to use.

The Environmental Protection Act 1990 places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier; details of carrier must be given at the time of application. Further details about trade waste and your responsibilities can be requested from [licensing@harlow.gov.uk](mailto:licensing@harlow.gov.uk)

### **3.20 Nuisance / air quality**

The holder must not use or permit to be used any ancillary equipment e.g. generators, televisions, radio receivers etc. in such a manner as to cause a disturbance or nuisance. The licence holder must take sufficient steps at the request of an authorised officer to prevent any impact on amenity.

The use of generators is not permitted in the Town Centre. In addition, petrol and diesel engines must not be left idling in the town centre whilst trading.

### **3.21 Temporary Vehicles**

The licence holder shall only trade from a vehicle, stall, trailer or other unit specified in the licence. A holder may only use an alternative vehicle or trailer in an emergency situation, and then only having notified the Council in advance and after receiving authorisation to do so. If a vehicle, stall, trailer or other device specified in the licence is to be permanently replaced part way through the licence period, the holder must notify the Council and apply for a variation. Approval must be received before trading takes place.

### **3.22 Employees**

You are required to check the residency status and right to work of anyone who you employ to trade under your street trading licence before including their names on an application form. For more information on the Immigration Act, and the duties of employers to check the rights of their employees to work, please review the Home Office guidance.

Licence holders may have up to three people registered to work on a particular licence.

The Licence holder must apply to the licensing service to register people to work on a licensed pitch or vehicle either by the original application or by way of a variation.

At the time of original application the licence holder must produce the following for each employee to be registered on the licence:

- Name Address and Date of Birth
- Passport Photograph
- Basic Disclosure (DBS) Certificate which cannot be more than 30 days old
- DVLA driving licence (if the person will be driving a vehicle in their duties as an assistant)
- Evidence of employment

Up to date DBS Certificates will be required upon application or by way of variation for new workers.

### **3.23 Consultation**

Upon submission of a valid street trading licence application, applicants will be required to display a site notice on or immediately outside the proposed trading location, for a period of 28 days to allow for any representations to the application to be made.

The consultation period commences on the next working day following the receipt of the full application. Before a licence is granted, the Council will consult with and seek written observations from;

- Copy of the Public Notice published on Council website (new applications only).
- The Landowner
- Harlow Council Environmental Health – Commercial Team
- Harlow Council Properties and Facilities Management – Parking Services
- Harlow Council Properties and Facilities Management – Property Officer
- Harlow Council Regeneration – Town Centre Manager (where applicable)
- Harlow Council Community Safety Team
- Councillor(s) for the Ward(s) concerned (excluding mobile applications)
- Essex Police
- Essex Fire and Rescue Service (where applicable)
- Essex County Council Highways
- Essex County Council Trading Standards
- Planning and Development Services
- Any other person(s) or bodies the Council deems relevant

Relevant objections will be considered where it is one made by a person, business or body that is likely to be directly affected by the proposal. In addition, the objection must not be vexatious or frivolous and should concern itself only with matters relevant to the objectives arising from the application. The relevant delegated officer will determine whether an objection is relevant and not vexatious or frivolous.

### 3.24 Determining an Application

If no representations are received following the 28 days consultation the Licensing Team may grant the application in the terms applied for, and standard conditions will be attached to the licence (subject to all other requirements in this policy).

Where objections are received and not resolved relating to the grant or renewal of a licence the application will be referred to the Licensing Sub- Committee for determination.

The main reasons why an application will be deemed contentious are:

- An objection from consultees have been received which are relevant to grounds for refusal.
- An objection has been received as a result of the public notices.

Where an application is referred to the Licensing Sub-Committee as a result of a valid representation being made, it will determine each application on its own merits. Applicants and the person/agency making the representation will be invited to attend. Members of the Licensing Sub-Committee will consider the information submitted as part of the application and give due consideration to persons making a representation.

Following the determination of an application, the Licensing Section will notify the applicant of the decision in writing within ten working days of the decision.

All street trading licences are subject to the Council's standard conditions. Individual applications may be approved subject to additional conditions. Additional conditions form part of the street trading licence and must be complied with at all times.

The Local Government (Miscellaneous Provisions) Act 1982 makes provision, as below, for a Council to refuse an application on any of the following grounds;

- a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;
- b) that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;
- c) that the applicant desires to trade on fewer days than the minimum number specified in a resolution under paragraph 2(11) of the Act;
- d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- e) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it or charges due to them under paragraph 9(6) of the Act;
- f) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it;
- g) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.

- h) If the council consider that grounds for refusal exist under sub-paragraph (6)(a), (b) or (g) above, they may grant the applicant a licence which permits him—
- i) to trade on fewer days or during a shorter period in each day than specified in the application; or
- j) to trade only in one or more of the descriptions of goods specified in the application

Parties aggrieved by a decision of the Council, with respect to a refusal to grant or renew a licence or vary or revoke an existing licence, have a right of appeal to the Magistrates' Court. This must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice in such circumstances.

### **3.25 Granting of Applications**

The Licensing sub-committee or Officers with delegated authority will grant applications meeting the criteria contained within this Policy.

On granting the application the Council will issue a Street Trading Licence for a period of twelve months or shorter period as specified in the licence and shall also specify the following principle terms:

- the street(s) and where relevant a particular place in that street(s);
- the day(s);
- the trading times; and,
- the description of articles/goods that may be sold.

In addition, the Council will attach standard conditions in Appendix 7 and where necessary any additional specific conditions.

### **3.26 Renewal of Street Trading Licence**

An application to renew an existing street trading licence should be made at least six weeks before it is due to expire. Once the renewal application has been received, the Council may consult further to determine if the licence holder is a cause for concern or has been subject to any complaints, or if the application to renew differs from the expiring licence in any way.

Where an application is made to renew a licence to trade on land in private ownership, the application must include written approval from the landowner.

If a renewal application is not made before the expiry date of the current licence, a new application will be required. The effect of this will be that no street trading will be permitted until the new application has been determined and consulted upon.

If a renewal application has been received prior to the expiry of the current licence, the licence holder will be able to continue to trade whilst the application is being determined. The Licensing Team will aim to post the licence at least 72 hours before expiry of the current licence.

In order to ensure the Council is in a position to make as accurate an assessment of the applicant's suitability to hold a licence as is reasonably practicable, all applicants on initial application and renewal must provide a satisfactory basic criminal record disclosure from the Disclosure and Barring Service (applicants can apply to the Disclosure and Barring Service by telephone on

03000 200 190, online at [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) or by email at [customerservices@dbs.gsi.gov.uk](mailto:customerservices@dbs.gsi.gov.uk)

When assessing the suitability of an applicant to hold a licence, the Council will consider the applicant's criminal history as a whole and in accordance with the principles set out in **Appendix 5 and Appendix 6**.

In relation to the determination of the renewal application, if there have been no justifiable complaints or enforcement issues and the fee has been paid, the licence will be renewed.

### **3.27 Variation of a Street Trading Licence**

Any variation to the details of the licence holder must be notified to the Council in writing. The Council will issue an amended licence on payment of the relevant variation fee (fee to be set in line with annual fees and charges review). The original licence must be returned to the Council.

Any variation to the range of goods for sale days and/or hours of trading must be notified to the Council in writing and will need to be done via a variation application:

- Removing or altering the appearance of a vehicle/stall/trailer attached to the licence
- Reduction in trading hours or days
- Adding a new vehicle/stall/trailer to the licence
- Changes to the goods to be sold.
- Adding or removing street trading employee
- Updated list of streets or trading location's

### **3.28 Transfer of a Licence**

A street trading licence cannot be transferred or sold to another person except that the licence may be transferred to a member of the licence holder's immediate family in the event of the licence holder's death or incapacity.

The sub-letting of a pitch is prohibited.

Other business commitments, holidays and family or social engagements will not be considered. In these circumstances the licence holder may employ up to three registered workers to operate the stall subject to approval by the licensing authority and the terms of this policy.

Applications to take over existing licences will be treated as new applications. These will be treated on a 'first come first served basis' basis following the expiry of existing licence. Any application will be treated on its relevant merits in accordance with the policy requirements for a new application.

### **3.29 Revocation of a Street Trading Licence**

In line with Part 4 of this Policy, if there are any concerns about the licence holder through justified complaints or evidence of breach of conditions, the Licensing Department may refer the licence holder to the Licensing Sub- committee for consideration.

The licence holder will be provided with the opportunity to present oral and/or written evidence to Members for consideration.

Where licence is revoked, there will be no refund of the application fee.

## **PART 4 – INSPECTION, COMPLIANCE, ENFORCEMENT AND COMPLAINTS**

### **4.1 Summary**

This part of the Policy sets out the manner in which the Council approaches inspection, compliance and enforcement, including the way in which complaints will be dealt with, as it relates to Street Trading Licences.

All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Licensing Team Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's compliance Code.

Unless covered specifically within the enforcement policy, where immediate action is required to secure public safety this is delegated to the Environment and Licensing Manager in consultation with the Chair or Vice Chair of the Licensing Committee.

### **4.2 Inspection, Compliance and enforcement**

The Council will generally use the least intrusive regulatory tool to achieve compliance and will ensure that any regulatory action is proportionate to the importance of the matters to which it relates. Council officers may undertake inspection, compliance and enforcement activities for the purpose of assessing compliance with licences, and to determine whether an offence is being committed.

In doing so, the Council's officers will work closely with other enforcement authorities to achieve compliance with the relevant legislation, licence requirements and specific conditions of each licence.

The Council will undertake all inspection, compliance and enforcement work. In relation to the prevention, investigation and prosecution of offences under the Act, the Council will give priority, based on the level of risk posed, to crimes in which there is a greater risk of harm or exploitation to children and vulnerable persons, including adults with care and support needs.

The Council will default, in the first instance, to its regulatory rather than criminal powers when considering a breach of licence conditions. These regulatory powers include revocation, suspension and adding/removing/amending conditions.

### **4.3 Offences**

The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:-

- engaging in street trading in a prohibited street;
- engaging in street trading in a consent street without a licence;
- contravention of a condition in relation to trading licence; and
- contravention of a condition in relation as to the times between which or periods for which a licence holder can trade.

### **4.4 Complaints**

Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

### **4.5 Deciding the Level of Action to Take/Decision Making Process**

If a complaint is found to be justified then the following actions may be taken:-

- Verbal Warning and Advice
- Written Warning and Advice
- Simple Caution
- Revocation of Licence
- Prosecution
- referral of the Licence Holder to a Licensing Sub-Committee.

#### **4.6 Verbal Warnings and Advice**

In some circumstances we verbally advise the offender, clearly identifying the contraventions, giving advice on how to put them right including a deadline by which this must be done. Failure to comply could result in formal enforcement action being taken, including a prosecution. The time allowed must be reasonable, but must also take into account the implications of the contravention. A verbal warning can be issued by an authorised officer of Harlow Council or a Licensing Sub Committee as part of a hearing decision.

#### **4.7 Written Warning and Advice**

For some contraventions we will send the offender a firm warning letter clearly identifying the contraventions. This may contain advice on how to put them right, and include a deadline by which this must be done. Failure to comply could result in further enforcement action being taken in the future, including a prosecution. Any time allowed must be reasonable, but must also take into account the implications of the contravention. A written warning can be issued by an authorised officer of Harlow Council or a Licensing Sub Committee as part of a hearing decision.

#### **4.8 Simple Caution**

This procedure is used as a final warning and can only be issued by an authorised officer of Harlow Council.

For a simple caution to be issued a number of criteria must be satisfied.

- Sufficient evidence must be available to prove the case.
- The offender must admit the offence.
- The offender must agree to be cautioned.
- The offender must not have committed the same offence before.

#### **4.9 Revocation of Licence**

In order to warrant revocation of a licence, the individual or organisation must have met one of the following criteria.

- Owing to circumstances which have arisen since the grant or renewal of the licence, there is not enough space in the street for the licence holder to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons using the street.
- That the licence holder is unsuitable to hold the licence by reason of having been convicted of an offence, or for any other reason.
- That since the grant or renewal of the licence, the licence holder has persistently refused or neglected to pay fees due to the Council.
- That since the grant or renewal of the licence, the licence holder has without reasonable excuse failed to use the licence for a reasonable period.

#### **4.10 Prosecution**

The circumstances where prosecution is available will normally include one of the following.

- Engages in street trading in a prohibited street
- Engages in street trading in a licensed street without being authorised to do so
- Contravenes any of the principal terms of a street trading licence
- Contravenes a condition imposed on the licence

The final decision to prosecute will be taken by the Environment and Licensing Manager in consultation with Legal Services.

#### **4.11 Existing licence holders**

If an existing licence Holder is referred to a Licensing Sub-Committee, the Committee may take any one of the following steps as are deemed desirable to meet the objectives of the Policy.

- take no further action
- give a warning to the licence holder
- amend the days on which trading can take place
- amend the times during which trading can take place
- amend the location(s) where trading can take place
- amend the articles that can be traded
- amend the conditions attached to the licence
- amend the duration of the licence or
- revoke the licence.

#### **4.12 Appeals**

Parties aggrieved by a decision of the Council, with respect to a refusal to grant or renew a licence or vary or revoke an existing licence, have a right of appeal to the Magistrates' Court. This must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice in such circumstances.

A person aggrieved by a decision of the Council may make an application to the High Court for Judicial Review of the decision. For further information on potential grounds for Judicial Review applicants should seek advice from an independent solicitor as soon as they receive notice of decision.

## PART 5 – CONSULTATION

Formal consultation was undertaken for a period from **DATE to DATE**.

The representations received during the consultation process, together with the Council's responses, is available on the Council's website as part of the report that was presented to the Licensing Committee on **DATE**.

During the process of assessing the representations of those who were consulted, the Council had regard to guidance issued under the Act and gave appropriate weight to the views of those it consulted.

In determining the weight to give particular representations the following factors were taken into account:

- Who made the representations (their expertise or interest)
- Relevance of the factors to the licensing objectives
- How many people expressed the same or similar views
- How far the representations related to matters that the Council should be including in this Policy

Members of the public were invited to put forward their comments to the proposed policy document during the consultation periods. In addition consultation was undertaken with the following stakeholders and partners:

- Essex Highways
- Essex Fire and Rescue
- Essex Trading Standards
- Ward Councillors
- Current Street Traders

We have also consulted various other teams within the Council, these include:

- Harlow Council Property and Facilities (Property)
- Harlow Council Property and Facilities (Parking Services)
- Harlow Council Community Safety Team
- Harlow Council Environmental Health Commercial Team
- Harlow Council Regeneration (for locations within the Town Centre)
- Harlow Planning Services
- Harlow Council Legal Services
- Harlow Council Street Scene
- Harlow Council Designated Safe Guarding Officer - Christine Howard
- Harlow Chamber of Commerce
- Chair and members of the Licensing Committee.

We have considered and taken into account the views of all the appropriate bodies and organisations.

## PART 6 – LICENSING CONTACT DETAILS

For information, advice and guidance relating to Street Trading Licences:

**Licensing Team  
Harlow Council  
Civic Centre  
The Water Gardens  
Harlow  
Essex  
CM20 1WG**

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

**Website: [www.harlow.gov.uk](http://www.harlow.gov.uk)**

### **Licence Fee Payments:**

Payment can be made at Contact Harlow on 01279 446655 quoting reference: **19241 2772**. Please provide your payment reference number with your application submission.

## Local Government (Miscellaneous Provisions) Act 1982

### Street Trading Prohibited and Licence Streets (schedule A)

In accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, Harlow Council has designated all the streets within the Harlow district as either "PROHIBITED" or "LICENCE" streets for the purposes of street trading.

It is an offence for any person to engage in street trading:

- i) in a PROHIBITED street
- ii) in a LICENCE street, unless he is authorised to trade in that street by a Street Trading Licence granted by the Council.

The list of streets is set out below:-

#### Prohibited Streets

(a) Town Centre

Street Trading is not permitted in the streets and pedestrianised areas of the Town centre, namely:-

Linkway	Birdcage Walk
Post Office Road	Post Office Walk
Crown Gate	Cross Street
South Gate	The Rows
East Walk	

A limited number of designated trading pitches are licenced in Broad Walk, Harvey Centre Approach and East Gate. Details of availability can be provided on request.

(b) Regional Primary Routes

The A414 (for its entire length between the Town boundary)

(c) Principal Urban Distributor Roads

Elizabeth Way  
Velizy Avenue  
Third Avenue  
Second Avenue  
Katherines Way  
Water Lane (Town Boundary to Katherines Way)  
Fifth Avenue (A414 to Second Avenue/Allende Avenue)  
A1184 (A414 to Town boundary)

(d) Secondary Distributor Roads

Gilden Way (London Road to Town boundary)  
First Avenue/Mandela Avenue  
Fourth Avenue  
Southern Way  
Howard Way  
Tillwicks Road  
Abercrombie Way

(e) Local Distributor or Other Roads

Roydon Road (Elizabeth Way to Town boundary)  
Burnt Mill Lane  
Harlow Town Station Approach Road  
Harlow Mill Station Approach Road  
Station Road  
London Road  
Haydens Road  
Wayre Street  
Service Road to south of Old Harlow Shopping Precinct  
Church Langley Way  
Kiln Lane  
Flex Meadow

Licence Streets

Every street or part of a street which is not to be a PROHIBITED street will be a LICENCE street.

8 March 2006

## Appendix 2

### Safeguarding Children and Adults with Care and Support Needs

#### Introduction

This information for street traders is to help them report matters of concern to the relevant authorities that could relate to the safety of children and adults with care and support needs, particularly as it relates to child sexual exploitation and trafficking as set out below.

#### General Information

Harlow Council believes that all children and adults with care and support needs have the right to be safe, happy and healthy and that they deserve protection from abuse and exploitation. The Council is committed to safeguarding from harm all children and adults with care and support needs in receipt of its services and/or when involved in any of its activities and to treat them with respect during their dealings with the Council.

*Harlow Council Child and Adult Safeguarding Policy 2018/19 – 2020/21,*

<https://www.harlow.gov.uk/sites/default/files/documents/Child%20and%20adult%20safeguarding%20policy%202018%20-%202021.pdf>

#### Safeguarding Children

##### **The definition of child sexual exploitation is as follows:**

*Child sexual exploitation is a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact; it can also occur through the use of technology.*

*Department for Education February 2017,*

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/591903/CSE\\_Guidance\\_Core\\_Document\\_13.02.2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/591903/CSE_Guidance_Core_Document_13.02.2017.pdf)

One of the key factors found in most cases of child sexual exploitation is the presence of some form of exchange (sexual activity in return for something); for the victim and/or perpetrator or facilitator.

Where it is the victim who is offered, promised or given something they need or want, the exchange can include both tangible (such as money, drugs or alcohol) and intangible rewards (such as status, protection or perceived receipt of love or affection). It is critical to remember the unequal power dynamic within which this exchange occurs and to remember that the receipt of something by a child/young person does not make them any less of a victim. It is also important to note that the prevention of something negative can also fulfil the requirement for exchange, for example a child who engages in sexual activity to stop someone carrying out a threat to harm his/her family.

#### Harnessing the wider community

Educating those who work in local services and businesses about what to look for, and how to report concerns, can significantly enhance local disruption and protective capabilities.

**In particular, street traders should consider the following questions when trading:**

- Does your customer appear to be under 18 years old?

- Are they with a much older person and appear to be in a relationship?
- Do you think that they are under the influence of alcohol or drugs?
- Are you aware of any conversations that suggest children or young people are being or have been taken to a hotel, party or secluded location? If so, ask yourself why?
- Are you aware of children/young people being taken regularly to the same localities? If so, ask yourself why?

## Safeguarding Adults

An adult safeguarding concern is when there is a suspicion that an adult at risk is experiencing or has experienced, abuse or neglect, or there is a concern that the adult at risk is neglecting to look after their home, personal care, health or social requirements and it is having a negative effect on their quality of life and or safety.

Therefore, an adult safeguarding concern should include an adult at risk, known or suspected abuse or neglect and a person alleged to have caused the abuse or neglect, alternatively the concern could be that an adult at risk is neglecting to take care of themselves, their home or hoarding. An adult at risk is someone who:

- 1) has or appears to have care and support needs
- 2) that they may be subject to, or may be at risk of, abuse and neglect and
- 3) may be unable to protect themselves against this.

Southend, Essex & Thurrock (SET) Safeguarding Adults Guidelines,

<https://www.essexsab.org.uk/media/2798/set-safeguarding-adult-guidelines-final-050820-pdf.pdf>

## Report a concern

- If you are concerned about the immediate safety of a child or vulnerable adult you should call 999.
- If you are concerned about an adult you can call Adult Social Care on 0345 603 7630.
- If you are concerned about a child you can use the [Children and Families Hub website \(https://www.essex.gov.uk/report-a-concern-about-a-child\)](https://www.essex.gov.uk/report-a-concern-about-a-child) or call them on 0345 603 7627
- You can also report concerns about a child to the NSPCC on 0808 800 5000.
- If you are a child or young person, you can talk to someone in confidence by calling [ChildLine](https://www.childline.gov.uk) on 0800 1111.

For more information on safeguarding you can visit the [Essex Safeguarding Adults Board \(https://www.essexsab.org.uk/\)](https://www.essexsab.org.uk/)

or [Essex Safeguarding Children Board website \(https://www.escb.co.uk/\)](https://www.escb.co.uk/)

**Appendix 3**

**Harlow Council Delegation of Functions for the provision of Street Trading**

**Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982**

<b>Matter to be determined</b>	<b>Full Council</b>	<b>Licensing Committee</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Environment &amp; Licensing Manager (under delegated authority)</b>
<b>Final approval of the relevant Local Authority Policy Statement</b>	X			
<b>Fee setting</b>	X			
<b>Exemptions from fees</b>			X	X
<b>Application for a licence (new or renewal)</b>			X where representations received and not withdrawn	X where no representations received or representations have been withdrawn
<b>Specify principle and Subsidiary terms of the licence</b>			X where representations received and not withdrawn	X where no representations received or representations have been withdrawn
<b>Revocation of a licence</b>			X where representations received and not withdrawn	X where no representations received or representations have been withdrawn

## Appendix 4

### Matters to be considered when determining an application

In considering applications for the grant or renewal of a Street Trading Licence or the decision to revoke a current licence the following factors will be considered (This is not an exhaustive list and each application will be judged on its own individual merits);

#### 1.1 Suitability of Applicant

Whether the applicant or operator of the stall is under the age of 17 years;

Whether a control order under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force on the proposed trading location;

Whether the applicant has been convicted of an offence that the Council considers makes them unsuitable to hold such licence/licence, (guidance relating to the relevance of convictions is set out in Appendix 6);

Whether the applicant has at anytime persistently refused or neglected to pay fees or charges due in relation to a licence;

Whether the applicant has without reasonable excuse failed to trade on the street and on the days and times agreed in relation to a licence;

Whether the applicant of the licence has failed to comply with the conditions relating to a licence;

Whether any earlier licence to the applicant has been surrendered, refused or revoked (whether it be by this Council or another);

The levels of complaints received about the operation of the street trading activity, taking into account whether and how such matters were resolved;

The attitude of the applicant and/or their staff in dealing with concerns and queries raised by any person, Officer or organisation; and

Any other relevant information relating to the suitability of the applicant to hold such a licence.

#### 1.2 Public Safety / Highway

Whether the street trading activity represents or is likely to represent a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site;

Whether there is sufficient space in the street for the applicant to engage in the trade in which he/she is proposing without causing undue interference or inconvenience to other persons using the street;

Whether the street trading activity may damage the structure or surface of the street;

Whether the location and operating times will be such that the highway can be maintained and that there are no dangers to those who have a right to use the highway and no obstruction for emergency services.

### **1.3 Public Order**

Whether the street trading activity represents, or is likely to represent a risk to public order.

### **1.4 Avoidance of Public Nuisance**

Whether the street trading activity represents, or is likely to represent a risk of nuisance or annoyance, particularly in residential areas.

Whether the granting of the application is likely to give rise to nuisances or loss of amenity caused by noise, odour, litter, disturbance or anti-social behaviour;

Whether the street trading activity is in an area which is residential and where trading would not normally take place.

### **1.5 Street Trading stall [This will include a van, barrow, cart, individual item for sale (e.g. motor vehicles), etc.]**

Whether the unit satisfies all relevant Health and Safety requirements.

Whether the unit satisfies all relevant hygiene standards.

Whether the unit is of a smart appearance.

Whether the appearance of the trading unit or structure and the associated branding and advertising is compatible with the character of the area in which it is proposed to be situated.

### **1.6 Environmental Impact**

Whether the proposed operation will or is likely to have a negative impact on the local environment (e.g. street surfaces and materials, verges, power supply, carbon footprint, supply chain, packaging, surface water or foul drainage system, waste minimisation, waste disposal and waste created by customers).

### **1.7 Goods to be Sold**

If trading in food, whether the food business has achieved a food hygiene rating score of 3 or more;

Whether the sale of the articles would conflict with those provided by nearby business premises providing similar goods or services;

Whether the trading in a particular location will conflict with concessions granted to other existing street traders;

Whether the quality of the goods to be sold and the hours and days for which it is intended to trade are suitable.

### **1.8 Number of Street Trading Licence/Licences**

Whether there are enough traders trading in the street from shops or otherwise in the goods in which the applicant decides to trade.

### **1.9 Objections**

Any objections made about the application or licence/licence holder from interested parties.

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## Appendix 5

### Suitability of an applicant to hold a Licence

- 1.0 The Council has a responsibility for determining the suitability of applicants to hold a licence. The principles set out below will be taken into account.
- 1.1 The Council will not grant a licence to anyone unless it is satisfied that they are a suitable applicant. The Council will consider the following criteria when assessing the suitability of an applicant:
- the integrity of the applicant;  
the competence of the applicant to undertake street trading in a manner consistent with this Policy; and  
any previous criminal history and/or pattern of behaviour.
- 1.2 In order to ensure the Council is in a position to make as accurate an assessment of the applicant's suitability to hold a licence as is reasonably practicable, all applicants (including sole traders, partnerships and companies) on initial application and renewal must:
- provide a satisfactory basic criminal record disclosure from the Disclosure and Barring Service (applicants can apply to the Disclosure and Barring Service by telephone on 03000 200 190, online at [www.gov.uk/request-copy-criminal-record](http://www.gov.uk/request-copy-criminal-record) or by email at [customerservices@dbs.gsi.gov.uk](mailto:customerservices@dbs.gsi.gov.uk)<sup>3</sup>;
- NB** For partnerships or companies, the above requirements apply to all partners and directors/company secretaries. In addition, where necessary the Council will undertake further checks with Essex Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from.
- 1.3 Persons who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. In the event that an applicant is not able to obtain a certificate of good conduct, they may submit a statutory declaration with regard to their conduct, which must be completed in the presence of a practising solicitor. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided. Proof of a right to work in the United Kingdom will also be required. Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at

<sup>3</sup> The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (April 2009) and abides by the handling of DBS certificate information requirements on the secure storage, handling, use, retention and disposal of disclosure certificates and certificate information. Further information about the DBS can be found on the GOV.UK website at: <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>. Where practical, the Council encourages the use of the DBS Update Service for all applicants.

<https://www.gov.uk/government/world>. The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk) or by post at the FCO, King Charles Street, London, SW1A 2AH.

- 1.4 When assessing the suitability of an applicant to hold a licence, the Council will consider the applicant's criminal history as a whole, together with all other relevant evidence, information and intelligence including their history (e.g. complaints and positive comments from the public, level of previous compliance, and willingness to co-operate with Council officers) whilst holding a licence/licence from the Council or any other authority. Particular attention will be given to patterns of behaviour, the time-scale over which they have occurred, both in terms of proven criminal offences and other behaviour/conduct that may call into question the integrity and competence of the applicant to undertake street trading activities.
- 1.5 In addition, the Council considers that an important element associated with the suitability to continue to hold a licence is the appearance and behaviour of the applicant. Consequently, the Council requires all licence holders to maintain a reasonable standard of appearance and behaviour when in contact and dealing with customers, the general public, other license holders, other traders, Council officers and elected members at all times.
- 1.6 Applicants and licence holders must also co-operate with any reasonable request made by an authorised officer of the Council, any relevant authorised Highways officer, or any officer from the emergency services.
- 1.7 The Council will also consider all criminal history, behaviour and conduct irrespective of whether the specific history, behaviour or conduct occurred whilst licence holders were directly engaged in permitted work at the time or whether they occurred during the licence holder's own personal time.

### **Criminal Record Disclosure**

- 1.8 The Rehabilitation of Offenders Act 1974 applies to persons who wish to apply for a licence. This means that convictions (not all) and cautions become spent in accordance with the provisions of the 1974 Act.
- 1.9 Although cautions are generally not as serious as convictions, they do require an admission of guilt before they can be issued and are therefore a valuable indication as to an applicant's character and whether they are a suitable person to be granted or hold a licence.
- 1.10 The Council does not deem that a criminal record automatically bars an applicant from holding a licence; however, it will be a significant factor when determining whether a licence ought to be granted or not. Where an applicant has previous criminal convictions, these will be considered in line with the guidance set out under 'Relevance of Criminal Convictions. However, the over-riding consideration will always be to ensure the safety and welfare of the licence holder's existing and potential customers. Decision making will be proportionate and focuses on the risks posed and whether these can be managed. This approach balances the rights of individuals to engage in work whilst protecting the public from risk.
- 1.11 Where an applicant is the subject of an outstanding charge or summons, their application may continue to be processed; however, depending on the circumstances, it is unlikely that a decision on the application will be made until the conclusion of the criminal proceedings.

- 1.12 Where the outstanding charge or summons involves a serious offence and/or the individual's offending history and behaviour/conduct indicates a pattern of unlawful or unacceptable behaviour/character traits, then the application is likely to be refused.
- 1.13 Where there is evidence/information that an applicant has been arrested or charged but not convicted of offences but the nature of this evidence/information suggests the applicant may not be a suitable person, the Council will give serious consideration to refusing an application or revoking an existing licence/licence.

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## Appendix 6

### Relevance of Criminal Convictions and Cautions

#### Introduction

- 1.0 The purpose of this section is to provide additional guidance to determine whether or not an applicant or an existing licence holder is a suitable person to hold a street trading licence as it relates specifically to convictions and cautions.
- 1.1 The guidance has been produced to assist the Council in its decision-making and to maintain the consistency of the decisions made. It has also been formulated to provide clearer information to current and potential applicants, with a view to minimising the cost and time spent on the licensing process by both the Council and the applicant.
- 1.2 The aim of the guidance is not to punish the applicant twice for a conviction or caution but to ensure that public safety is not compromised. The Council cannot review the merits of any conviction.
- 1.3 Each case is to be decided on its own individual merits and, where the circumstances demand, the decision making body may depart from the guidance in which case the reasons for this will be made clear.

#### Legislation

- 1.4 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 sets out that the Council may refuse or revoke an application on the basis that the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason.

#### Defining 'suitability of an applicant'

- 1.5 There is no legal definition as to what definitively constitutes a 'suitable applicant'. However, because of the potential vulnerability of the customers that licence/licence holders may come into contact with, it is incumbent on the Council to take a very robust stance when deciding whether or not a person is suitable to hold a licence granted by the Council.
- 1.6 In essence, a suitable applicant will be:
  - Honest and trustworthy
  - Not abusive, violent or threatening
  - Knowledgeable and competent in the area of street trading able to communicate effectively with customers

#### The Council's approach when considering convictions

- 1.7 The disclosure of any convictions or cautions will not necessarily mean an applicant is an unsuitable applicant and, therefore, automatically prevented from being issued a licence. However, the Council will have regard to unspent convictions and

cautions and they will be assessed accordingly. Consideration will be given, but not restricted to, the following:

How relevant the offence(s) are to the licence being applied for. How serious the offences (s) were.

- When the offence(s) were committed.
- The date of conviction.
- The extent of any mitigating factors.
- Sentence imposed by the court.
- Whether the offence(s) form part of a pattern of offending or indicate a pattern of unacceptable behaviour.
- The applicant's explanation around the offence
- Any other character check considered reasonable, e.g. personal references. Any other factor that may be relevant.

- 1.8 If the Council has any doubts as to the suitability of an applicant/existing licence holder, then an application must be refused or licence revoked until those doubts can be effectively allayed through the provision of further adequate evidence.
- 1.9 If the applicant or holder of a licence has notified the Council of a conviction but is appealing against it to a higher court the matter will be referred to the Licensing Sub-committee for a decision as to whether the permit ought to be revoked.

### **Patterns of behaviour**

- 1.10 A series of offences or a pattern of behaviour/conduct over a period of time is more likely to give cause for concern than an isolated conviction/incident. However, that is not to say that an isolated conviction/incident cannot give cause for concern in its own right, particularly where it relates to a serious matter. In such circumstances, the Council will give significant consideration to refusing to grant a licence/licence or to revoking an existing licence.
- 1.11 A serious view will always be taken where an applicant shows any tendency towards criminal and/or unacceptable/inappropriate behaviour patterns. In such instances, the Council is unlikely to consider such an applicant/existing licence holder is a suitable person to hold a licence and will give significant consideration to refusing to grant a licence or to revoking an existing licence.

### **Rehabilitation periods**

- 1.12 Detailed guidance (effective March 2014) on the Rehabilitation of Offenders Act 1974 is available on the GOV.UK website at <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>
- 1.13 A person with a conviction for an offence need not be automatically barred from obtaining a licence. However, they would be expected to remain free of conviction for an appropriate period of time (as set out in Tables A and B below) and demonstrate adequate evidence that they are a suitable person to hold a licence. The onus is on the person to produce such evidence.

**NB** Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is suitable.

**Table A**

Sentence/disposal	Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).	Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the end Date of the sentence (including the licence period).
Custodial sentence* of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentence of over 30 months (2 ½ years) and up to and including 48 months (4 years)	7 years	3½ years
Custodial sentence of over 6 months and up to and including 30 months (2 ½ years)	4 years	2 years
Custodial sentence of 6 months or less	2 years	18 months
Community order or youth rehabilitation order **	1 year	6 months

\*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.

\*\*In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

**Table B**

Sentence/disposal	Rehabilitation period for adults(18 and over at the time of conviction or the time the disposal is administered).	Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).
Fine	1 year	6 months
Conditional discharge,	Period of the order	Period of the order
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months
Simple caution, youth caution	Spent immediately	Spent immediately
Compensation order*	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Binding over order	Period of the order	Period of the order
Attendance centre order	Period of the order	Period of the order
Hospital order (with or without a restriction order)	Period of the order	Period of the order
Referral order	Not available for adults	Period of the order
Reparation order	Not available for adults	None

- 1.14 Where a person does not satisfy the rehabilitation periods referred to in the tables above, then the Council will refuse to grant a new licence or revoke an existing licence until the applicant is in a position to satisfy them.
- 1.15 The specific periods of rehabilitation are not intended to be taken as definitive time periods by which an applicant/licence holder is automatically granted a licence simply on the basis that the rehabilitation period has elapsed. Rather they are intended to give parameters for consideration when taken with the overall history of an applicant/licence holder in order to assist the Council to determine whether an applicant/existing licence holder is a suitable person or not. The rehabilitation periods will not be considered in isolation.
- 1.16 The Council will not grant a licence to an applicant who has been convicted of a specified sexual or violent offence unless significant and exceptional circumstances apply.

### **Street Trading offences**

- 1.17 In addition to the consideration of rehabilitation periods, where an existing licence holder is found guilty of street trading related offences or multiple breaches of licence requirements, licence holders will be referred to the Licensing Sub-Committee or relevant officer with delegated authority in line with the Councils scheme of delegation with a view to determining whether the licence should be revoked.

### **Right of appeal**

- 1.18 Any applicant refused a licence on the grounds that they are not a suitable person, or who has had their licence revoked has a right of appeal to the Magistrates' Court within 21 days of the notice of decision.

### **Conclusion**

- 1.19 Any applicant having a previous or current conviction should not, in principle, debar them from obtaining a licence. However, previous convictions are a significant factor in the decision making process and it will inevitably be more difficult for such applicants to obtain a licence. It is this Council's policy to consider the protection of the public above all else by ensuring all holders of a licence are honest and trustworthy, will not be a threat to the public, and are competent in their role and able to communicate effectively. In doing so, the Council will focus on the background of an applicant as a whole and will not consider individual offences and their rehabilitation periods identified above in isolation from other factors, in particular patterns of unacceptable or inappropriate behaviour and conduct that may not necessarily be linked to proven convictions.

## Appendix 7

### Standard Licence Conditions

In this Licence the term "licence holder" means the person to whom the Licence is issued and includes any person employed by or working for him in the course of the trading which is licensed to be carried on.

- 1.1 This Licence is valid for a maximum of 12 months or shorter if specified in the licence from the date of issue and allows the holder to trade in Harlow in designated Licence Streets specified in **Appendix 1** only, and on the days and between the hours specified, and is subject to the following conditions:
- 1.2 Nothing contained in these conditions shall relieve or excuse the licence holder or their employee or agent from any legal duty or liability and the licence holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from their Street Trading.
- 1.3 Nothing herein contained shall prejudice the rights, powers, duties and obligations of the Council or any other enforcing authority under any public or private statutes, orders, regulations or byelaws.
- 1.4 The licence holder or their employee must move the Street Trading unit or vacate the site immediately upon the instruction of a Police Officer or Authorised Officer of the Council.
- 1.5 The licence holder must be 17 years of age or over and shall be responsible at all times for control of the Street Trading Unit. Any persons assisting on the unit shall be 17 years of age or over
- 1.6 The licence holder must apply to the licensing service to register people to work on a licensed pitch or vehicle either by the original application or by way of a variation.
- 1.7 This Licence is personal to the trader to whom it is issued and is not transferable. Any change of vehicle must be notified to the Licensing Team, an application to vary the licence maybe required.
- 1.8 If the street trading site is located on private land, including forecourts, satisfactory written evidence must be provided to the Council that permission of the land owner or lessee has been obtained to carry out the street trading activity.
- 1.9 The trader must not, in exercising the rights granted under this Licence, cause, allow or permit any
  - (i) obstruction of the street or danger to persons using it, or
  - (ii) nuisance or annoyance (whether to persons using the street or otherwise).
- 1.10 This Licence, or a photocopy of it, must be displayed on the vehicle or stall whilst trading is in progress and must be shown on request to a Licensing Officer or other authorised officer of the Council, or to a Police Officer.
- 1.11 The Licence holder must comply with any relevant statutory requirements as relevant to their type of business.

## Conduct of Licence Holder

- 1.12 The licence holder must ensure that all employees are made aware of the responsibility to promote the welfare of children, young people, adults with care and support needs and vulnerable persons and to protect them from harm. To this end a licence holder must ensure that all employees are made fully aware of the information contained in the policy in particular **Appendix 2** relating to child sexual exploitation and adult safeguarding.
- 1.13 Throughout the duration of the licence, the licence holder must continue to be a suitable person to hold the licence. In this respect, the licence holder must have due regard to the relevant provisions of the Council's policy, be aware of the checks that will be undertaken by the Council and act in accordance with the responsibilities that being a suitable person would reasonably place on a license holder.
- 1.14 In particular, during the duration of a licence, the licence holder must notify the Council, in writing, within 48 hours, if:
- They receive any warnings, cautions or fixed penalties; Are arrested (whether or not charged with an offence); Are charged with any criminal offence;
  - Are convicted of any criminal offence; or
  - Allegations are made of their involvement in criminal activity.

The licence holder must notify the Council in writing, of any change of address and contact details which may occur during the duration of their licence.

- 1.15 The licence holder **MUST** at all times when undertaking the street trading activity:
- comply with all reasonable requests made by an authorised officer of the Council, emergency services, or any relevant authorised officer of the appropriate Highways Authority.
  - at all times maintain a valid third party public liability insurance to the satisfaction of the Council and shall produce a valid certificate of such insurance when requested by an authorised officer of the Council.
  - Be clean and respectable in their dress and person and maintain a high standard of personal hygiene.
  - Behave in a civil and orderly manner towards all persons including, but not limited to, pedestrians, customers, the general public, other street users, police officers, officers and elected members of the Council.
  - Be courteous to customers.
- 1.16 The licence holder **MUST NOT**, at any time when undertaking the street trading activity:
- Use offensive, racist, abusive, profane or insulting language or behaviour.
  - smoke (this includes electronic cigarettes).
  - leave their stall, van, barrow, cart, etc. unattended at any time.
  - not trade outside the street and the days and times permitted by the licence.
  - not trade using a street trading licence where there are other licence, licence, approval or registration requirements under any other statutory provisions.
  - not assigned or transfer the licence to any other person.

- 1.17 Where the licence holder is not in sole control of the stall, van, barrow, cart, etc. they must ensure that those persons left in charge of the stall, van, barrow, cart, etc. or assisting are adequately trained to undertake the street trading activity.

### **Public Safety / Highway**

- 1.18 The street trading activity must not obstruct any of the street in which trading takes place other than as granted by the licence. No street trading to be on a roundabout, nor park within 15 metres of a junction, across a dropped kerb, on any form of parking restrictions, in parking bays which require permits, we would also expect the opening to be on a footway and not have customers queueing or being served in a carriageway. Not to park opposite a vehicular access and cause difficulty for vehicles turning in/out of the premises. Not to place any form of furniture on the public highway in relation to the vehicle (i.e., bins (this can be placed on/attached to the trailer) or tables or chairs or umbrellas)
- 1.19 The licence holder must undertake regular checks to ensure enough space is maintained in the street to prevent undue interference or inconvenience to other stall holders and persons using the street.
- 1.20 The street trading activity must not endanger any persons using the street.
- 1.21 The street trading activity must not damage the structure or surface of the street.
- 1.22 The licence holder shall at all times maintain a valid Third Party Public Liability Insurance policy to the satisfaction of the Council and shall produce evidence of such insurance any time upon request

### **Public Order**

- 1.23 The licence holder must take appropriate steps to manage and control customers waiting to be served to ensure that public order is maintained.

### **Avoidance of Public Nuisance**

- 1.24 Cause or permit sound emitted from any radio/sound reproducing instrument or equipment to be an annoyance/nuisance to any person.
- 1.25 The street trading activity must not cause annoyance, nuisance or loss of amenity to occupiers in the vicinity by virtue of noise, odour, litter and disturbance or anti-social behaviour.
- 1.26 The licence holder must not operate a generator or other plant or equipment if it gives or is, in the opinion of an authorised officer of the Council, likely to give rise to nuisance to other persons and shall immediately comply with any direction of an authorised officer of the Council to mitigate or abate such nuisance.

### **Environmental Impact**

- 1.27 A waste transfer agreement must be made available on request for all waste connected from the operation of this licence.
- 1.28 At the end of the trading period the licence holder shall remove all waste resulting from the street trading activity and ensure that the surrounding area is left clean and tidy.

- 1.29 The licence holder must not dispose of waste in public waste bins.
- 1.30 The licence holder must provide adequate waste bins and ensure that throughout the period of trading the bins do not overflow.
- 1.31 Ensure any litter that is not adequately disposed of by customers is removed and the surrounding area is kept clean and tidy at all times.
- 1.32 The licence holder must not deposit on any street surface, verges or into surface water drains any solid or liquid refuse, waste water or oil or other matter.
- 1.33 The licence holder must ensure that fuel, oil and any other waste does not leak onto the street, highway or verge or pollute any surface water or foul drainage system.
- 1.34 The licence holder must remove the Street Trading Stall from the approved site immediately upon the expiry of the licence.

### **Goods to be Sold**

- 1.35 The licence holder must not offer, display, sell or supply any article other than as specified in the licence.
- 1.36 The licence holder must ensure articles stored, offered, displayed, sold or supplied in such a manner to ensure that they meet all relevant hygiene standards. If trading in food, whether the food business has achieved a food hygiene rating score of 3 or more;
- 1.37 Licence holders are not permitted to trade within a 50 metre radius of any static traders, mobile traders, or shops, trading in similar goods / articles. Traders in the Broad Walk, East Gate and Harvey centre Approach areas are exempt from this condition.

## **2. Additional Conditions applicable to Mobile Street Trading**

**(This will include a van, ice cream van, barrow, cart, caravan, and individual item for sale (e.g. motor vehicles))**

- 2.1 The licence holder must ensure that the stall, van, barrow, cart, etc. satisfies all relevant Health and Safety requirements.
- 2.2 The licence holder must ensure that the stall, van, barrow, cart, etc. satisfies all relevant hygiene standards. If trading in food, whether the food business has achieved a food hygiene rating score of 3 or more;
- 2.3 Whilst trading the licence holder must at all times display in a conspicuous position the licence issued ensuring the licence holders name and licence number are fully visible to the public.
- 2.4 The size and type of stall or container must accord with the photographs/diagram, including the branding and advertisements, submitted as part of the licence application. Any alterations to the stall/container and branding or advertising must be notified to the Council and approval agreed prior to use.

- 2.5 The storage and use of fuel e.g. liquefied petroleum gas, petrol, calor gas etc. must comply with relevant safety requirements including, but not limited to, the number and method of securing full and empty gas cylinders. (The licence holder is responsible for ensuring that a competent person carries out the necessary installation and maintenance checks to ensure this condition is satisfied).
- 2.6 Suitable and sufficient fire extinguishers shall be held and maintained on the stall, van, barrow, cart, etc.
- 2.7 All electrical installations shall comply with any relevant safety requirement. (The licence holder is responsible for ensuring that a competent person carries out the necessary installation and maintenance checks to ensure this condition is satisfied).
- 2.8 The licence holder must, if requested by an authorised officer of the Council, arrange a test of any electrical or gas installation by a competent person and must submit a certificate of test to the Council.
- 2.9 Mobile licence holders must not remain in one place for more than 15 minutes at a time and not return to the same street within 2 hours. A 'particular length of street/site' should normally be interpreted as being a length of street up to 500 metres long.
- 2.10 Mobile traders cannot stop within 50 metres of any school (from an hour before the start of the school day until an hour after the end of the school), hospitals, and places of worship (on Sundays and other recognised day of worship).
- 2.11 Licence holders are not permitted to trade within a 50 metre radius of any static traders, other mobile traders, or shops, trading in similar goods / articles. Traders in the Broad Walk, East Gate and Harvey centre Approach areas are exempt from this condition.
- 2.12 For mobile licence holders no street trading may be carried on at any location on any bus route for any continuous period of more than 10 minutes.
- 2.13 Mobile traders must ensure that any stopping position does not infringe any parking or traffic requirements or cause obstruction of the highway, and does not present any dangers to other road users or pedestrians.
- 2.14 Mobile units may sound chimes but NOT before 12 noon or after 19hrs, on any day.
- 2.15 The licence holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate
- 2.16 Any stall, container, vehicle or other article used for street trading shall be removed from the trading location no later than one hour after the end of trading period and shall not be return until trading commences the next day unless otherwise authorised by the Council.
- 2.17 Any licensed stall, vehicle or trailer must be capable of being immediately removed at the request of emergency services or an authorised officer of the Council.

If any of the conditions attached to this licence are not complied with or strictly observed, the Council may refuse to renew or revoke the licence. Failure to trade in compliance with the

Principal Terms of the licence i.e. in Licence Streets only, and in articles stated on the Licence, may result in prosecution, leading to a fine of up to £1000.

This licence does not in any way protect the licence holder from prosecution for obstruction of the highway (NB. "highways" includes lay-bys) or from civil action for trespass onto private land.

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**REPORT TO:** LICENSING COMMITTEE

**DATE:** 9 MARCH 2021

**TITLE:** STREET TRADING POLICY

**LEAD OFFICER:** MICHAEL PITT, ENVIRONMENT AND LICENSING MANAGER  
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**RECOMMENDED that:**

- A** The Committee approves, with any necessary amendments, the proposed Street Trading Policy 2021 – 2026, as set out in Appendix 5 to the report, and instructs the Environment and Licensing Manager to commence a 12 week public consultation.
- B** Subject to A, authority to approve the details of consultation, including when consultation starts, is delegated to the Environment and Licensing Manager, in consultation with the Chair of the Licensing Committee.
- C** Subject to A and B above, the response from the consultation process to be brought back to committee within the 21/22 Workplan and a final Policy to be agreed.

**BACKGROUND**

1. Street Trading is a function of the Council. Harlow Council is the Licensing Authority responsible for considering applications for a range of activities that require a street trading licence under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (referred to subsequently in this report as the 'Act').
2. Street trading is defined as the selling or exposing or offering for sale any article (including a living thing) in a street. A Street is defined in the Act as: "street" includes any road, footway, beach or other area to which the public have access without payment.
3. Councils usually control street trading so that they can decide where to allow this and to properly manage the environmental and safety implications that street trading creates. It allows the impact to be managed in terms of the local economy and impact on and benefit to the community. The control of street trading can also have benefit for traders as it provides security over their trading activities and location.

4. On 31 May 2001 by agreement at Committee the schedule for Streets within Harlow as Prohibited and Licensed streets under the Act came into effect. The control of Street Trading is currently based on a regime that exists within various different procedures, advice and published application forms which is supported by a series of Licensing Committee decisions set out below;
  - i) Street Trading Licence Procedure - Amended 23 May 2016 (as set out in Appendix 1 to the report)
  - ii) Street Trading Prohibited and Licence Streets - 8 March 2006 (as set out in Appendix 2 to the report)
  - iii) Street Trading Subsidiary Terms – Amended 22 July 2014 (as set out in Appendix 3 to the report)
  - iv) Street Trading Ice Cream Van Chimes Updated - 1 April 2014 (as set out in Appendix 4 to the report)
5. The current regime has historically worked well with some streets having been determined 'prohibited' streets and the remaining streets designated as 'licence' streets.
6. This means that anyone who wishes to trade on a street (which includes a road, footway or other area to which the public have access without payment) must hold a street trading licence.
7. The administration of Street Trading includes the determination of Prohibited, Licensed and Consent Streets, the setting of fees, the administration of licences and consents, and enforcement in the event of non-compliance. There is no appeal against the refusal to issue consent, but there is an appeal in the event there is a refusal to issue a licence. If the local authority does not apply a designation for street trading the only other legislative controls are minimal and generally only cover pedlars and charity issues.
8. Work has been undertaken to consolidate, update and formalise Street Trading controls across the administrative area of the Council. This has led to a draft Street Trading Policy that members are now being asked to consider and approve for public consultation taking into account relevant case law and best practice.
9. The preparation and publishing of the Policy is not a legal requirement. However, the aim is that a published Policy will provide a useful tool for Officers and Councillors to ensure that the Council can properly regulate those who trade in the street and not from within a business premises. It will create transparency for all stakeholders providing the manner in which the Council intends to regulate Street Trading.

## **PROPOSALS**

10. The main purpose of this report is to seek approval for a formal consultation. It is proposed to undertake the consultation through the Council's website and directly with relevant stakeholders including existing Street Traders, Essex Highways, Trading Standards and Ward Councillors to generate feedback in relation to the wider approach that the Council is considering, particularly around the introduction of Basic Disclosure and Barring Service (DBS) checks for applicants and employees.
11. Should the consultation process identify any changes to the designation of prohibited streets then there is a prescribed process in the Act. This process requires public consultation and a resolution from the Committee.

12. A draft policy which is now being proposed is set out at Appendix 5 to the report. The proposed changes reflect case law and best practice established over the near 40 years since the Act's introduction. It is intended that the new Policy will cover a five year period but could be reviewed earlier if required.

13. The revised policy includes the following key changes;

- i) Publication of a new over-arching cohesive policy which has previously been documented in various Council guidance and procedure documents.
- ii) Introduction of clear guidelines on what can be taken into account when considering a street trading licence application.
- iii) Introduction of acceptable standards of behaviour for street traders- supported by conditions.
- iv) An increase in the range of consultees when considering applications.
- v) Basic Disclosure and Barring Service (DBS) required for applicants and employees. A basic DBS check currently costs £23 per check. A new basic DBS will be required for every new and renewal application.
- vi) Inclusions of safeguarding measures to protect children and vulnerable adults- supported by conditions.
- vii) Consultation period extended to 28 days from the current 14 days in respect of an application, by extending this period this will support officers to carefully consider relevant information received and follow up necessary enquires during this period without delay.
- viii) Remove the need for the Council to publish notice of application in local paper, during this current age the requirement of publication can be satisfied by way of publication on the Councils website and where necessary by public notice at the relevant site. The Act does not prescribe that an application must be published in a newspaper.
- ix) Specification of the level of food hygiene requirement for a minimum rating of 3 under the national Food Hygiene Rating Scheme (within the range of 0-5). A rating of 3 is considered to be 'generally satisfactory' in terms of food hygiene- supported by way of condition.
- x) Restriction on mobile traders stopping within 50 metres of any school (from an hour before the start of the school day until an hour after the end of the school), hospitals, and places of worship (on Sundays and other recognised day of worship)- supported by way of condition.
- xi) Proposal to remove existing Town Centre trading day restrictions with the proposal of no restrictions on trading days, each application should be considered on its own merit. Currently no trading is permitted on a Wednesday, Thursday and Sunday.

- xii) Number of licence conditions increasing from current total of 12 licence conditions to 36; including conduct, highway safety, nuisance, environmental impact and trading restrictions.
- xiii) Introduction of no trading within 50m of other traders (with an exemption for street trading in Broad Walk, East Gate and Harvey centre Approach)- supported by way of condition.
- xiv) Introduction of a charge (to be calculated) for licence variations such as changing a vehicle or adding new employees, this is an additional cost to the service not currently covered by the application fee. The Act allows local authorities to:
  - a) Charge fees as they consider 'reasonable' for granting or renewal of a street trading licence or a street trading consent
  - b) Determine different fees for different types of licence/consent according to duration of licence/consent the street in which it authorises trading description of articles in which the holder is authorised to trade.

It is appropriate when setting a fee to consider charging on a full cost recovery basis, incorporating costs for processing applications/renewals and any further costs of enforcement and officer training.

Introduction of acceptable standards of appearance for any street trading vehicle or stall- supported by way of condition.

- xv) Restriction on street trading in the Town Centre for those traders who require their vehicle engines to be running while trading or the use of a petrol or diesel generator in the Town Centre- supported by way of condition.

## **CONSULTATION**

14. Subject to recommendation A, the intention is to publish the notice of public consultation to review the existing regime. The example consultation notice is attached as Appendix 6 to the report. Further information regarding the consultation process, including stakeholder details can be found in the proposed policy (please see Appendix 5 - Part 5).
15. The Licensing Committee must consider any representations made as soon as possible after the consultation ends. After consideration, if they consider it appropriate, the Licensing Committee would need to agree the Street Trading Policy 2021 for publication. It is proposed that the Policy will be formalised during the 2021/2022 financial year.

## **IMPLICATIONS**

### **Environment and Planning (Includes Sustainability)**

As set out in the report.

**Author: Michael Pitt, Environment and Licensing Manager on behalf of Andrew Bramidge, Head of Environment and Planning**

### **Finance (Includes ICT, and Property and Facilities)**

The proposed fees and charges will seek to recover Council costs in administering the scheme.

**Author: Richard Criddle, Senior Services Accountant on behalf of Simon Freeman, Head of Finance and Deputy to the Chief Executive**

**Housing**

None specific.

**Author: Andrew Murray, Head of Housing**

**Community Wellbeing (Includes Equalities and Social Inclusion)**

Allowing stakeholders to comment during policy formation is likely to lead to more transparent regulatory processes.

**Author: Julie Houston, Strategy and Economic Development Manager on behalf of Jane Greer, Head of Community Wellbeing**

**Governance (Includes HR)**

As set out in the report.

**Author: Simon Hill, Head of Governance**

**Appendices**

Appendix 1 - Street Trading Licence Procedure - Amended 23 May 2016

Appendix 2 - Street Trading Prohibited and Licence Streets - 8 March 2006

Appendix 3 - Street Trading Subsidiary Terms – Amended 22 July 2014

Appendix 4 - Street Trading Ice Cream Van Chimes Updated - 1 April 2014

Appendix 5 – Proposed Street Trading Policy 2021 - 2026

Appendix 6 – Notice of Public Consultation

**Glossary of terms/abbreviations used**

DBS - Disclosure and Barring Service

**REPORT TO:** LICENSING COMMITTEE

**DATE:** 16 NOVEMBER 2021

**TITLE:** REVIEW OF GAMBLING ACT POLICY

**LEAD OFFICER:** MICHAEL PITT,  
ENVIRONMENT AND LICENSING MANAGER  
(env.health@harlow.gov.uk)

**CONTRIBUTING OFFICER:** ROWLAND W WILSON,  
SENIOR LICENSING OFFICER  
(licensing@harlow.gov.uk)

**RECOMMENDED that:**

- A** The Licensing Committee approve the issue of the proposed replacement Gambling Act Licensing Policy, as set out in Appendix 1 to the report, for consultation.
- B** A further report to be presented which shall set out any representations received following the proposed ten week consultation.

**BACKGROUND**

1. Harlow Council is the local 'Licensing Authority' for the purposes of the Gambling Act 2005 (the Act). Under Section 349 of The Gambling Act 2005 The Licensing Authority is required to publish a Statement of Gambling Act Policy and review the Policy at three-yearly intervals. The Council's current policy was adopted by full Council on 18 December 2018 and took effect from 21 March 2019.
2. Under section 25 of the Act the Gambling Commission provides guidance to licensing authorities on how they should discharge their functions and duties. The current edition of the Commission's guidance (GLA) was issued in April 2021.
3. The adoption of the Gambling Act Policy is reserved to Full Council; however it is appropriate that it is considered by the Licensing Committee with a view to a recommendation to Council. The Council is required to consult on the proposed Gambling Act Policy.

**ISSUES/PROPOSALS**

4. Given the Committee meeting schedule, for the Licensing Committee to consider the proposed replacement policy before its issue for consultation, and to consider any responses before making a recommendation to Council in time for adoption in the statutory timescale, it is necessary that the process is commenced now.
5. It is envisaged that the proposed replacement policy is issued for consultation, with a view to consideration of any representations by a future meeting of the Licensing Committee and adoption by Full Council subject to any amendments considered necessary in time for adoption in March 2022.

6. The proposed replacement policy is attached as Appendix 1 to this report.
7. The revised policy has minor amendments which have been made to reflect changes in statutory guidance in regard to child protection, but the original policies have not been altered.
8. The Government conducted a 16 week consultation between 8 December 2020 and 31 March 2021 on a review of The Gambling Act 2005.
9. The objectives of the review was to ensure the regulatory framework can protect children and vulnerable people, prevent gambling related crime, and keep gambling fair and open in the digital age. Through the Review, the government's objectives are to:
  - a) Examine whether changes are needed to the system of gambling regulation in Great Britain to reflect changes to the gambling landscape since 2005, particularly due to technological advance.
  - b) Ensure there is an appropriate balance between consumer freedoms and choice on the one hand, and prevention of harm to vulnerable groups and wider communities on the other.
  - c) Make sure customers are suitably protected whenever and wherever they are gambling, and that there is an equitable approach to the regulation of the online and the land based industries.
10. In considering all of these issues, particular attention will be paid to children, young people, young adults, and others who may be particularly vulnerable to the risks posed by gambling.
11. During the consultation over 16,000 submissions were received. The Act has been debated in Parliament on 22 July 2021, and a 'White Paper' is to be presented to Parliament possibly before the end of 2021 with its conclusions and recommendations, which could result in this proposed policy once again being updated next year to reflect any changes. Nonetheless the Council should review its policy in accord with existing requirements to underpin any decision that it is required to make.

## **IMPLICATIONS**

### **Environment and Planning (Includes Sustainability)**

As contained within the report.

**Author: Andrew Bramidge, Director of Strategic Growth and Regeneration**

### **Finance (Includes ICT, and Property and Facilities)**

None specific.

**Author: Simon Freeman, Deputy to the Chief Executive and Director of Finance**

## **Housing**

None specific.

**Author: Andrew Murray, Director of Housing**

## **Community Wellbeing (Includes Equalities and Social Inclusion)**

None specific.

**Author: Jane Greer, Director of Communities and Environment**

## **Governance (Includes HR)**

The Council must have a Gambling Act Policy in place which complies with the revised Guidance. Part of the process is to conduct consultation on the draft Policy. The Council must take into account those representations received when amending for revising the Policy. By conducting a compliant consultation, including ensuring that the consultation response forms will be compliant with the Council's duty under GDPR and Data Protection Act 2018, the Council will reduce the likelihood of legal challenges to the implementation of the updated Policy. The Council will need to have due regard to its Public Sector Equality Duty under the Equalities Act 2010 when implementing the changes to policy and recommendations for policies to be adopted.

**Author: Simon Hill, Director of Communities and Environment**

## **Background Papers**

The Gambling Commission Guidance to licensing authorities published on 1<sup>st</sup> April 2021 and last updated on 13<sup>th</sup> May 2021.

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

The Gambling Commission 'Review of The Gambling Act 2005 Terms of Reference and Call for Evidence'. Published 8<sup>th</sup> December 2020.

<https://www.gov.uk/government/publications/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence#how-to-respond>

## **Glossary of terms/abbreviations used**

GLA - The Gambling Commission Guidance to licensing authorities.

The Act - The Gambling Act 2005

## **Appendices**

Appendix 1 - Proposed Draft Gambling Licensing Policy Statement 2022-2025 V1



# GAMBLING LICENSING POLICY STATEMENT 2022–2025

Gambling Policy Document –  
Adopted by Full Council **31<sup>st</sup> March 2022**  
To take effect from **31<sup>st</sup> March 2022**

## Version History

Version No:	Period to which policy applies:	Review date:
1	2007-10	
2	2010- 2013	
3	2013-16	
4	2016-19	
5	2019-22	2021
6	2022 - 2025	2024

DRAFT

<p><b>HARLOW DISTRICT COUNCIL</b></p> <p><b>GAMBLING LICENSING POLICY STATEMENT</b></p>
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# PART A

## 1.0 INTRODUCTION

1.1 This Statement of Licensing Policy sets out the principles by which Harlow Council, as the Licensing Authority under the Gambling Act 2005 (referred to in this document as 'the Act'), intends to apply in discharging its functions to license premises for gambling under the Act as well as:-

- designating the body responsible for advising the Authority on the protection of children from harm
- determining whether or not a person is an "Interested Party"
- exchanging information with the Gambling Commission and others and
- inspection of premises and institution of court proceedings for offences committed under the Act.

1.2 In exercising their functions under Section 153 of the Act the Authority shall aim to permit the use of premises for gambling in so far as it thinks it is

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives
- in accordance with the Authority's statement of licencing principles.

## 2.0 THE LICENSING OBJECTIVES

2.1 In exercising most of its functions under the Act, Licensing Authorities must have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:-

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

## 3.0 DESCRIPTION OF THE DISTRICT

3.1 The County of Essex comprises 12 District and 2 Unitary Authorities. Harlow District Council is one of the 12 district authorities. Harlow is located on the south-western boundary of Essex bordering East Hertfordshire and Epping Forest Councils. Harlow is strategically located in the London-Cambridge corridor and is served by London Liverpool Street station to Cambridge railway line and has nearby connections to the M11, M25 and A10. A map of the area is attached to this Policy document at Annex 'D'

3.2 Harlow Council's functions are administered by the Licensing Team, part of **Environment and Planning** Services located at the Civic Centre, 3<sup>rd</sup> Floor, The Water Gardens, Harlow, Essex. CM20 1WG. The Licensing Team may be contacted on 01279 446655, via [www.harlow.gov.uk](http://www.harlow.gov.uk) or by email [licensing@harlow.gov.uk](mailto:licensing@harlow.gov.uk)

## 4.0 RESPONSIBILITIES UNDER THE ACT

4.1 The Act introduced a licensing regime for gambling, to be conducted by the Gambling Commission and by Licensing Authorities, depending on the matter to be licensed.

- 4.2** Harlow Council is the Licensing Authority for the area shown on the attached map, whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003.
- 4.3** The Gambling Commission is responsible for issuing Operating and Personal Licences to persons and organisations who:-
- operate a casino
  - provide facilities for playing bingo or for pool betting
  - provide betting or act as intermediaries for betting.
  - make gaming machines available for use in Adult Gaming Centres and Family Entertainment Centres
  - manufacture, supply, install, adapt, maintain or repair gaming machines
  - manufacture, supply, install or adapt gambling machine software, or
  - promote a lottery
- 4.4** The Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are included, other than spread betting and the National Lottery. It is also responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. The Licensing Authority has additional responsibility for the registration of certain types of exempt Small Society Lotteries. The Council is mindful of its responsibilities under the act including the need to ensure that children and vulnerable people are protected from harm, and so all licence applications are scrupulously and robustly considered against the appropriate criteria.
- 4.5** The Licensing Authority cannot become involved in the moral issues of gambling and must aim to permit the use of premises for gambling in so far as it thinks it :-
- a) in accordance with any relevant Code of Practice under Section 24 of the Act;
  - b) in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
  - c) reasonably consistent with the Licensing Objectives (Subject to paragraphs a) and b)) and
  - d) in accordance with the Licensing Authority's Statement of Licensing Policy (subject to paragraphs a) and c)).

Before the Licensing Authority can determine an application for a Premises Licence, an Operating and Personal Licence, or both, must have been obtained by the applicant from the Gambling Commission.

## **5.0 STATEMENT OF LICENSING POLICY**

- 5.1** The Licensing Authority is required by the Act to publish a Statement of Licensing Policy which contains the principles it proposes to apply when exercising its functions under the Act.
- 5.2** This Policy must be reviewed and published every three years. The Policy must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Policy must then be published.
- 5.3.** This Policy takes effect on **31<sup>st</sup> March 2022**, and replaces the policy previously in force.

## **6.0 CONSULTATION**

- 6.1** In producing this Policy, the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees (listed below), the Council chose to

consult with additional local groups and individuals. A full list of all groups and persons consulted is provided at Annex 'A'.

**6.2** The Act requires that the following parties be consulted by the Licensing Authority:-

- Responsible authorities

**6.3** Other proposed consultees include:

- Local interested persons, community groups, local and regional organisations, groups and persons representing children, legal advice services, religious institutions, mental health centres and practitioners, gambling charities and other local and regional groups
- One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area.

**6.4** Consultation took place between 19<sup>th</sup> November 2021 and 28<sup>th</sup> January 2022.

## **7.0 APPROVAL OF POLICY**

**7.1** This Policy was approved at a meeting of the full Council on 31<sup>st</sup> March 2022 and was published via its website on 31<sup>st</sup> March 2022. Copies are available on request.

**7.2** It should be noted that this Policy does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence, as each case will be considered on its own merit and according to the requirements of the Act.

## **8.0 DECLARATION**

**8.1** The Licensing Authority declares that it has had regard to the Licensing Objectives, formal Guidance issued to Licensing Authorities and any responses from those consulted during the consultation process, and will adopt the Principles of Better Regulation.

**8.2** The Council recognises its responsibilities under equality legislation and will monitor the impact of these statutory duties through its various Equality Policies.

## **9.0 RESPONSIBLE AUTHORITIES**

**9.1** A full list of the Responsible Authorities designated under the Act and their contact details are given in Annex 'B'. It should be noted that under the Act, the Licensing Authority itself is designated as a Responsible Authority.

**9.2** The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:-

- the competency of the body to advise the Licensing Authority
- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area and
- the need for the body to be answerable to democratically elected persons rather than any particular interest group etc.

**9.3** In accordance with the Gambling Commission's Guidance to Local Authorities, the Licensing Authority designates Essex Safeguarding Children Service as the competent authority to advise on the protection of children.

## 10.0 INTERESTED PARTIES

10.1 Interested Parties can make representations about licensing applications or apply for a review of an existing licence. An Interested Party is defined in the Act as follows:

*'... a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person;*

- a) *lives sufficiently close to the premises to be likely to be affected by the authorised activities*
- b) *has business interests that might be affected by the authorised activities, or*
- c) *represents persons who satisfy paragraphs (a) or (b).*

10.2 Interested parties can be people who are democratically elected such as councillors and Members of Parliament. Where appropriate this will include county, parish and town councillors.

Interested parties can also be trade associations, trade unions, residents' associations and tenants' associations. Providing that these people represent those living or having business interests in the area which might be affected, no specific evidence of authorisation is required.

Otherwise, the licensing authority will generally require a third party to produce some form of authorisation to speak on behalf of an interested party.

10.3 Whether a person is an interested party will be determined on a case by case basis. The types of organisations which may be considered to have business interests will be given a wide interpretation.

10.4 In determining if a person lives or has business interests sufficiently close to the premises that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:-

- The size of the premises
- The nature of the premises
- The distance of the premises from the location of the person making the representation
- The potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment)
- The circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises
- The catchment area of the premises (i.e. how far people travel to visit) and
- Whether the person making the representation has business interests in that catchment area that might be affected.

10.5 The Licensing Authority will decide if a representation made in respect of an application is valid based on the following factors:

- It is not frivolous or vexatious
- It raises issues that relate to Guidance issued by the Gambling Commission
- It raises issues that relate to this policy
- It relates to the Licensing Objectives

## 11.0 EXCHANGE OF INFORMATION

11.1 In its exchange of information with parties listed in Schedule 6 of the Act, the Licensing Authority will have regard to:-

- the provisions of the Act, which include the provision that the Data Protection Act 2018 will not be contravened
- the Guidance issued by the Gambling Commission
- relevant Legislation and Regulations

**11.2** In accordance with Section 350 of the Gambling Act 2005, the Licensing Authority may exchange information with the following statutory bodies or individuals:

- A constable or police force
- An enforcement officer
- A licensing authority
- Her Majesty's Revenue and Customs
- The Gambling Appeal Tribunal
- The Secretary of State
- Scottish Ministers
- Any other person or body designated by the Secretary of State in accordance with the Act.

**11.3** The Licensing Authority may also exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime, but we will only share any personal details for this purpose when required to do so by law.

## **12.0 PUBLIC REGISTER**

**12.1** The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

## **13.0 COMPLIANCE AND ENFORCEMENT**

**13.1** In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Licensing Authority will follow best practice. This requires that actions should be

- Proportionate – intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised
- Accountable – the Authority must be able to justify decisions and be subject to public scrutiny
- Consistent – rules and standards must be joined up and implemented fairly
- Transparent – enforcement should be open and regulations kept simple and user friendly
- Targeted – enforcement should be focused on the problems and minimise side effects.

**13.2** The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and adopt a risk based inspection programme. All enforcement action is taken having regard to [Environment and Planning Services: General Enforcement Policy](#).

**13.3** The main enforcement and compliance role of the Licensing Authority in terms of the Act, is to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission is the enforcement body for Operating and Personal Licences. Concerns about the manufacture, supply or repair of gaming machines are not dealt with by the Licensing Authority but will be notified to the Gambling Commission.

**13.4** The Licensing Authority will keep itself informed of developments as regard to the Department for Business, Energy & Industrial Strategy in its consideration of the regulatory functions of Local Authorities, and will have regard to best practice.

**13.5** Where appropriate, complaints will be investigated in accordance with the stepped approach outlined in the General Enforcement Policy. A copy of this document is available

on the Council website. In the first instance we encourage complaints to be raised directly with the licensee or business concerned.

**13.6** As part of its inspection regime, the Licensing Authority may carry out test purchasing to ascertain if a licensee has robust policies in place to prevent underage gambling. Licence holders will always be advised of the outcome of the test. Where operators carry out their own test purchasing, The Licensing Authority expect to be advised of the results. Should the results show a failure then the Licensing Authority will, in the first instance, work with the operator to review and improve their policies and procedures.

**13.7** Where a Primary Authority Scheme is in place, the Licensing Authority will seek guidance from the Primary Authority before taking any enforcement action on matters covered by that scheme. At the time of the publication of this policy there were four Primary Authority arrangements with host local authorities:

- Coral - Ladbroke's Coral Group plc and London Fire Brigade (t/as Ladbroke's Betting & Gaming and Coral Racing)
- Ladbroke's - Ladbroke's Coral Group plc and Milton Keynes Council (t/a's Ladbroke's Betting & Gaming and Coral Racing)
- Paddy Power - Reading Borough Council and Power Leisure Bookmakers Ltd (t/as Paddy Power)
- William Hill - Reading Borough Council and William Hill PLC (t/as William Hill)

## **PART B PREMISES LICENCES**

### **14.0 GENERAL PRINCIPLES**

**14.1** Premises Licences are subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions detailed in Regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions and also attach others, where it is thought appropriate.

**14.2** In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:

- casino premises
- bingo premises
- betting premises, including tracks and premises used by betting intermediaries
- adult gaming centre premises (for category B3, B4, C and D machines)
- family entertainment centre premises (for category C and D machines) (note that, separate to this category, the licensing authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only)

**14.3** Each case will be decided on its merits, and will depend upon the type of gambling that is proposed, as well as taking into account how the applicant proposes that the Licensing Objective concerns can be overcome.

**14.4** The Licensing Authority is required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks it is:-

- a) in accordance with any relevant Code of Practice under Section 24 of the Act
- b) in accordance with any relevant Guidance issued by the Gambling Commission under Section 25
- c) reasonably consistent with the Licensing Objectives (Subject to paragraphs a) and b)) and
- d) in accordance with the Licensing Authority's Statement of Licensing Policy (subject to paragraphs a) and c)).

### **14.5 Definition of Premises**

In the Act 'premises' is defined as including 'any place'. It is for the Licensing Authority (having due regard for the Gambling Commission Guidance) to determine on the merits of each application whether different parts of a building can be regarded properly as separate premises.

The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

### **14.6 Demand**

Demand is a commercial consideration and is not an issue for the Licensing Authority.

### **14.7 Location**

Location will only be a material consideration in the context of the Licensing Objectives.

**14.8** The Act is clear that demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of premises but that

considerations in terms of the licensing objectives can. The Licensing Authority will pay particular attention to the objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

- 14.9** In order for location to be considered, the Licensing Authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. From 6<sup>th</sup> April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, that licensees assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.
- 14.10** The LCCP also states that licensees must review (and update as necessary) their local risk assessments:
- a) to take account of significant changes in local circumstance, including those identified in this policy
  - b) when there are significant changes at a licensee's premises that may affect their mitigation of local risks
  - c) when applying for a variation of a premises licence; and
  - d) in any case, undertake a local risk assessment when applying for a new premises licence.
- 14.11** The Licensing Authority expects the local risk assessment to consider as a minimum:
- whether the premises is in an area of deprivation
  - whether the premises is in an area subject to high levels of crime and/or disorder
  - the ethnic profile of residents in the area, and how game rules, self-exclusion leaflets etc. are communicated to those groups
  - the demographics of the area in relation to vulnerable groups
  - the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather and
  - places listed under 14.16 below
- 14.12** In every case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.
- 14.13** Other matters that the assessment may include:
- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this
  - Details as to the location and coverage of working CCTV cameras, and how the system will be monitored
  - The layout of the premises so that staff have an unobstructed view of persons using the premises
  - The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises
  - Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
  - The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
  - Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide betting machines

- The Licensing Authority expects all licensed premises' to have their local area risk assessment available on site for inspection by an authorised officer at all times when they are trading.

**14.14** Such information may be used to inform the decision the council makes about whether to grant a licence, to grant a licence with special conditions or to refuse an application.

**14.15** This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

#### **14.16 Local Area Profile**

The Gambling Commission introduced new provisions in the social responsibility code within the 'Licence Conditions and Codes of Practice' which require gambling operators to assess local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises. These provisions came into force on 6<sup>th</sup> April 2016 and apply to operators of;

- Adult gaming centres
- Family entertainment centres
- Non remote betting
- Non remote bingo
- Non remote casinos
- Remote betting intermediates (trading room only)

This guidance has been produced to assist gambling operators in undertaking and preparing their local (premises) risk assessments. There is no definitive list of factors or premises which would influence the risk assessment or which are considered sensitive but the Council considers that Operators should have regard to the following;

- Playgrounds, parks and open spaces to which children are attracted
- Schools and children's centres
- Youth Clubs
- Scout groups
- Nurseries
- Leisure Centres
- Doctors surgeries and clinics
- Alcohol and drug support services
- Homeless or rough sleeping centres
- Places of worship

#### **Who is vulnerable? Findings from studies in Manchester and Westminster**

In their study, Manchester and Westminster conducted research to establish who may be at risk. The research identified the following;

Those with constrained social and economic circumstances. This may include;

- persons living in deprived areas,
- the unemployed
- low income groups,
- persons experiencing social isolation and homelessness.

Those with certain demographic characteristics such as age, gender and ethnicity. Although broadly accepted that these characteristics often serve as a proxy for other mechanism

Persons with poor judgement; certain mental health conditions, learning disabilities or low educational attainment, temporary impairment, longer term difficulties due to substance use/misuse issues etc.

Other groups, such as problem gamblers seeking treatment or those with substance abuse/misuse issues.

The Council has identified the location of premises that it considers sensitive and plotted these on the plan below. Operators will wish to consider the location of these premises and any other sensitive premises known to the operator when carrying out their risk assessments.

#### Plan

Premises and facilities to be considered by an operator when producing a risk assessment are available on request from Harlow Council.

The obligation to produce a local risk assessment and to identify risk factors applies in the following circumstances;

- On application for a new licence
- On application for a variation to an existing licence
- Where changes in the local environment or at the premises have been identified by the operator. For example where a new school has been built or substantial new nearby development has taken place.

**Steps available to operators to mitigate local risks:** After making their risk assessment, the operator may wish to consider applying further controls. Matters to be considered may include;

- Staffing levels
  - The provision of enhanced staff training
  - The design of the facilities to enable gambling at the premises
  - The proposed security arrangements at the premises
  - The gambling products offered at the premises
  - Arrangements for publicity and marketing material at the premises
  - Display and provision of information at the premises
- The design and layout of the premises are key considerations and may have a significant impact on local risks to the licensing objectives, **therefore the Authority shall require an appropriately defined plan of the premises to accompany any application.**
- Operators with premises located in areas with high numbers of children and young people may wish to avoid the use of a standard external design in order to reduce the risk of attracting young people. The Council may add control measures identified in the operator's assessment as conditions to be attached to the licence.

**14.17** The LAP should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the LAP and assessment, appropriate measures to mitigate risk in the area and how they might be relevant to their application. The local area profile will be presented to any subsequent licensing sub-committee when they determine an application that has received representations. The LAP should not be taken as the definitive overview of a particular area and applicants are encouraged to use their own local knowledge in addition to the content of the LAP to inform their local risk assessments.

**14.18** The Licensing Authority recognises that it cannot insist on applicants using the local area profiles when completing their risk assessments. However, an applicant who decides to disregard the LAP should be alert to the risk that they may face additional representations and the expense of a hearing as a result. A template of a suggested local risk assessment form for is included at Annex E. Applicants and licence holders may use this template or create their own.

#### **14.19 Duplication with other Regulatory Regimes**

Duplication with other statutory/regulatory regimes will be avoided where possible. **In particular, in making a determination in respect of an application** the Licensing Authority will not consider whether a licence application is likely to be granted Planning Permission or Building Control consent, **but will make its decision on the individual merits of each application.**

## 14.20 The Licensing Objectives

Premises Licences granted must be reasonably consistent with the three Licensing Objectives. With regard to these Objectives, the following will be considered:-

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime –**  
The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a Licensing Objective under the Act.

Whilst the Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this Licensing Objective.

Where an area has known high levels of organised crime, the Licensing Authority will consider carefully whether gambling premises are suitable to be located there and the need for conditions, such as the provision of Door Supervisors.

- **Ensuring that gambling is conducted in a fair and open way –**  
The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way. However, the Licensing Authority will familiarise itself with operator licence conditions and will communicate any concerns to the Gambling Commission about misleading advertising or any absence of required game rules or other matters as set out in the Gambling Commission's Licence Conditions and Code of Practice.
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling –**  
In practice, the Objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to gambling.

There is no definition of the term 'vulnerable person' in the Act, but this could include people who are gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or substance misuse of alcohol or drugs.

The Licensing Authority will consider very carefully whether applications for Premises Licences in respect of gambling premises located close to schools, centres for gambling addicts, or residential areas where there may be a high concentration of families with children, should be granted and will fully scrutinise the control measures outlined in an operator's local area risk assessment in this regard.

**The Licensing authority shall expect applicants to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations including the risk of child sexual exploitation.**

The Licensing Authority will consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

## 14.21 Conditions

The Licensing Authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises the Authority may consider attaching individual conditions related to the Licensing Objectives.

Any conditions attached to Licences will be proportionate and will be:-

- relevant to the need to make the proposed premises suitable as a gambling facility
- directly related to the premises and the type of licence applied for
- fairly and reasonably related to the scale and type of premises and
- reasonable in all other respects.

In addition, the Licensing Authority will examine how applicants propose to address the Licensing Objectives. In considering applications the Licensing Authority will particularly take into account the following, if deemed appropriate;

- Proof of age schemes
- **Appropriate measures/training for staff as regards suspected truant school children on the premises and how to recognise potential signs of child sex exploitation.**
- Closed Circuit Television
- Door Supervisors
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entrances
- Notices and signage
- Specific opening hours
- **Clear policies that outline the steps to be taken to protect children from harm and**
- With particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as GamCare.

**14.22** It is recognised that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:-

- any conditions on the Premises Licence which make it impossible to comply with an Operating Licence condition
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated)
- conditions in relation to stakes, fees, and the winning of prizes.

**14.23 Credit**

Credit facilities are prohibited from being provided in casinos and bingo licensed premises. Cash machines (ATM's) may be installed in such premises but the Licensing Authority may apply conditions as to where they are sited.

**14.24 Betting Machines [See Annex C for definition]**

In relation to Casinos, Betting Premises and Tracks, the Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or to a Casino Premises Licence (*where betting is permitted in the Casino*).

**14.25** When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, shall take into account:-

- the size of the premises
- the number of counter positions available for person to person transactions and
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

**14.26** In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of Codes of Practice or Guidance issued under the Act.

- 14.27** In all applications where a plan is required to be submitted, The Licensing Authority expectation is that, it will be in a scale of 1:50 unless otherwise agreed in writing and that, as a minimum, it will show the following (as appropriate to the type of application):
- The extent of the proposed licensed area
  - All entry and exit points (including fire exits)
  - CCTV camera positions
  - Positions of betting terminals, high pay out machines (including fixed odds betting terminals) and ATM's
  - Any fixed or permanent structures including counters
  - Privacy screens (see also section 21 of this policy)
  - All unlicensed areas under the control of the licensee including any 'sterile area's' and toilet and kitchen facilities be they for staff or public use.

## **15.0 PROVISIONAL STATEMENTS**

- 15.1** An application for a provisional statement may be made in respect of premises which the applicant
- expects to be constructed
  - expects to be altered
  - expects to acquire a right to occupy.

The applicant should refer to the Act and the detailed information provided in the Guidance

## **16.0 REVIEWS**

- 16.1** Applications for a Review of a Premises Licence may be made by Responsible Authorities and Interested Parties.

- 16.2** It is for the Licensing Authority to decide whether the review is to be carried out. This decision will generally be on the basis of whether the request for the review is relevant to the matters listed below;
- Whether the grounds for the request raises issues relevant to the principles to be applied by the Licensing Authority and set out within the Licensing Authority Statement of Policy
  - Whether the grounds for the request are frivolous or vexatious
  - Whether the grounds for the request would certainly not cause the Licensing Authority to alter/revoke/suspend the Premises Licence
  - Whether the grounds for the request are substantially the same as previous representations or requests for a review
  - In accordance with any relevant codes of practice issued by the Gambling Commission
  - In accordance with any relevant guidance issued by the Gambling Commission.
  - Reasonably consistent with the Licensing Objectives

- 16.3** In accordance with the Guidance. The Licensing Authority can also initiate a review of a Licence on the basis of any reason which it thinks is appropriate

## **17.0 ADULT GAMING CENTRES**

- 17.1** An Adult Gaming Centre is defined in Annex 'C'. Entry to these premises is age restricted.
- 17.2** The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

## **18.0 LICENSED FAMILY ENTERTAINMENT CENTRES**

**18.1** A Licensed Family Entertainment Centre is defined in Annex 'C'. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

**18.2** The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

## **19.0 CASINOS**

**19.1** A casino is defined in Annex 'C'. Entry to these premises is age restricted

**19.2** The Licensing Authority is empowered to pass a resolution not to issue new licences for casinos in its area. No such resolution has been made.

**19.3** The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

### **19.4 Betting Machines**

Conditions may be imposed, in accordance with paragraphs 14.13,-14.24, 14.25 and 14.26, above.

**19.5** In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

### **19.6 Credit**

Credit facilities are prohibited in casinos, however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

## **20.0 BINGO PREMISES**

**20.1** Bingo is defined in Annex 'C'. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

**20.2** If children are allowed to enter premises licensed for bingo it is important that that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Authority will expect to see that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults (over 18s) are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such an area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

**20.3** The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

### **20.4 Credit**

Credit facilities are prohibited in premises licensed for Bingo, however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

## **21.0 BETTING PREMISES**

**21.1** Betting is defined in Annex 'C'. Entry to these premises is age restricted.

**21.2** The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

### **21.3 Betting Machines**

Conditions may be imposed, in accordance with paragraphs 14.24, 14.25 and 14.26 above.

**21.4** In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

### **21.5 Fixed Odds Betting Terminals (FOBT's)**

In respect to nationally expressed concerns that exist in relation to the potentially adverse impact FOBT's may have on vulnerable groups of adults, The Licensing Authority will give due consideration to the need to apply conditions to betting shop premises licences including, but not limited to, setting out minimum staffing levels to ensure sufficient staff are on the premises to enable staff to comprehensively promote responsible gambling, adequately protect players, particularly in relation to players who are deemed to be vulnerable and to prevent under 18 year olds accessing gambling facilities. During the review period, the government had indicated the law dealing with FOBT's would be revised.

**21.6** The Licensing Authority expects FOBT's to be positioned in such a way that they can be appropriately monitored by staff particularly where those staff are positioned at a counter away from the machines. In general the Authority is of the view that 'privacy screens' will hamper this and will expect the local area risk assessment to take this into account where applicants intend to construct such screens. Particular attention should be paid to the Gambling Commission's Social Responsibility Codes in this regard, especially code 9.11.1. Where an existing licensee adds 'privacy screens' a variation application will be required.

## **22.0 TRACKS**

**22.1** A Track is defined in Annex 'C'. Entry to these premises may be age restricted. Please refer to the Gambling Commission Guidance.

**22.2** Tracks may be subject to one or more premises licences provided each licence relates to a specified area of the track. The Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) in the determination of premises licence applications for tracks and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

**22.3** The Authority will expect a premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

**22.4** The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

### **22.5 Betting Machines**

Conditions may be imposed, in accordance with paragraphs 14.24, 14.25 and 14.26 above.

**22.6** In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act

**23.0 TRAVELLING FAIRS**

**23.1** Facilities for gambling (being category D machines and/or equal chance prize gaming without a permit) must amount to no more than an ancillary amusement at the fair. The Licensing Authority will determine whether this requirement is being met.

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## **PART C PERMITS**

**24.0** The Act introduced a range of permits for gambling which are granted by Licensing Authorities. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. With the exception of limiting machine numbers on Licensed Premises Gaming Machine permits, the Licensing Authority may only grant or reject an application for a permit. No conditions may be added.

### **25.0 UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS**

**25.1** Where a premises does not hold a Premises Licence but wishes to provide Gaming machines, it may apply to the Licensing Authority for a Permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

**25.2** The Licensing Authority requires the applicant to submit a scale plan of the premises showing the areas which the permit will cover together with any other areas under the control of the licensee. Generally, this will be at a scale of 1:100 but other scales may be submitted with prior agreement from the Licensing Authority. Full details can be found in section 14.27

**25.3** The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-

- A basic Disclosure & Barring Service check or equivalent criminal record check for the applicant and the person(s) having the day to day control of the premises
- Proof of age schemes
- How the applicant proposes to ensure that children will be protected from harm whilst on the premises
- Training covering how staff would deal with:-
  - ❑ unsupervised, very young children being on the premises
  - ❑ children causing perceived problems on/around the premises, or
  - ❑ suspected truant children

In addition applicants should be able to demonstrate a full understanding of maximum stakes and prizes (and that staff are suitably trained in this respect)

### **26.0 (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS**

**26.1** There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of Categories C and/or D via a notification to the Licensing Authority.

**26.2** Gaming machines can only be located on licensed premises that have a bar for serving customers.

**26.3** Premises restricted to selling alcohol only with food, will not be able to have gaming machines or apply for a Permit.

**26.4** Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only machines. Measures will cover such issues as:-

- Adult machines being in sight of the bar;
- Adult machines being in sight of staff who will monitor that the machines are not being used by those under 18;
- Appropriate notices and signage; and
- As regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information, leaflets/help line numbers for organisations such as GamCare.
- Relevant codes of practice issued by the Gambling Commission

The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.

## **27.0 PRIZE GAMING PERMITS [See Annex C for definition]**

**27.1** The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-

- A basic Disclosure & Barring Service check or equivalent criminal record check for the applicant and the person having the day to day control of the premises.
- Proof of age schemes
- How the applicant proposes to ensure that children will be protected from harm whilst on the premises.
- Training covering how staff would deal with:-
  - unsupervised, very young children being on the premises
  - children causing perceived problems on/around the premises and
  - suspected truant children

In addition applicants should be able to demonstrate a full understanding of maximum stakes and prizes (and that staff are suitably trained in this respect)

In making its decision on an application for a Permit, the Licensing Authority does not need to have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

## **28.0 CLUB GAMING AND CLUB MACHINE PERMITS**

**28.1** Members' Clubs and Miners' Welfare Institutes may apply for a Club Gaming Permit and/or a Club Gaming Machine Permit, but are restricted by category and number of machines and to equal chance gaming and games of chance.

**28.2** Commercial clubs may apply for a club machine permit, subject to restrictions

**28.3** The gambling provided under the authority of a club gaming permit must also meet the following conditions:

- (a) in respect of gaming machines;
  - no child or young person may use a category B or C machine on the premises

- the holder must comply with any relevant provision of a code of practice about the location and operation of gaming machines
- (b) public, children and young persons must be excluded from any area of the premises where the gaming is taking place.

**28.4** Section 273 of the Act sets out the conditions that will apply to the club machine permit, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

**28.5** The Authority may only refuse an application on the following grounds:

- (a) the applicant does not fulfill the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police;

and in the case of (a) or (b) must refuse the permit.

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## **PART D**

### **OCCASIONAL AND TEMPORARY PERMISSIONS**

#### **29.0 TEMPORARY USE NOTICES (TUN)**

**29.1** A 'TUN' is defined in Annex 'C'.

**29.2** A TUN may only be granted to a person or company holding an Operating Licence relevant to the temporary use of the premises. Regulations issued by the Secretary of State prescribe the activities to be covered. At present a Temporary Use Notice can only be issued for equal chance gaming.

**29.3** For the purposes of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.

**29.4** The definition of a "set of premises" will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of "a set of premises", the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.

**29.5** The Licensing Authority will object to Notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

#### **30.0 OCCASIONAL USE NOTICES**

**30.1** Occasional Use Notices (OUN) are defined in Annex 'C'.

**30.2** The Licensing Authority has very little discretion as regards these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.

**30.3** The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.

#### **31.0 SMALL SOCIETY LOTTERIES**

**31.1** The definition of a Small Society Lottery is contained in Annex 'C' and these require registration with the Licensing Authority.

#### **32.0 APPENDICES**

**32.1** Appendices have been attached to this Statement providing further information and guidance and they are intended only to assist readers and should not be interpreted as legal advice or as constituent of the Licensing Authority's policy. Readers of this document are strongly advised to seek their own legal advice if they are unsure of the requirements of the Act, or the guidance or regulations issued under the Act.

#### **33.0 DELEGATION OF POWERS**

**33.1** The Licensing Authority has agreed a scheme of delegation for discharging its functions under the Act.

#### **34.0 DEFINITIONS – Annex 'C'**

### 35.0 FEES – Annex ‘F’

### 36.0 USEFUL CONTACTS

The Gambling Commission maintains a list of useful contacts on organisations involved in gambling and their contact details can be found on the Commission’s website [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) Some of these organisations provide codes of practice on their particular interest area.

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## ANNEX 'A'

### List of Consultees

The draft policy was placed on the Council Website and in accordance with the Act the following organisations and individuals were consulted as part of the formal consultation exercise on the Statement of Gambling Licensing Policy.

- All responsible Authorities for the Gambling Act (as specified in Annex B-2)
- Holders of Premises Licences and Permits under the Gambling Act 2005
- Regeneration Services HDC
- Revenues & Benefits
- Safer Harlow Partnership
- Environmental Health
- Services Supported Housing
- Harlow Youth Council
- Young Concern Trust
- Harlow Chamber of Commerce
- Children's Centres
- Head of Child Protection
- Director of Adults Safeguarding
- Her Majesty's Commissioners of Customs and Excise
- NACRO
- Citizens Advice Bureau
- Addison House Health Centre
- Church Langley Medical Practice
- Lister Medical Centre
- Old Harlow Health Centre
- NHS Private Medical Services
- Nuffield House
- Hamilton Practice
- Ross Practice
- St Mark's West Essex Catholic School
- Passmores Comprehensive School
- Mark Hall School
- Stewards School
- Burnt Mill School
- Aspire Academy
- Harlow Fields School
- Harlow College
- University Centre Harlow
- GAMCARE
- GAM-ANON
- Street2Homes
- Community Mental Health Team
- Safer Places
- Harlow Food Bank
- Great Open Door
- Street Pastors
- Freshwaters Contact Centre
- Family Solutions
- Family Mosaic

- Salvation Army
- Jehovah's Witnesses - Harlow
- Harlow Hindu Sabha
- Harlow Islamic Centre (HIC)
- Harlow Jewish Community
- Harlow Sikh Society
- Our Lady of the Assumption
- Our Lady of Fatima and St Thomas More
- SGI - UK (Buddhist Lay Society)
- Heart4Harlow
- St. Andrews Methodist Church
- St Mary at Latton
- St Stephens Church
- St Paul's Church
- St Mary's Church (Little Parndon)
- Potter Street Baptist Church
- Oakwood Chapel
- Lutheran Church of the Redeemer Kingsmoor Community Church
- Harlow Baptist Church
- Gateway Christian Fellowship (Evangelical)
- Church Langley Church
- Harefield Church

In addition to those specifically consulted, (insert) requests were received for copies of the draft Policy Document.

In addition to those specifically consulted, no requests were received for copies of the draft Policy Document, although the web page where it was located received ??? 'hits'

## ANNEX 'B'

### Contact Details for the Licensing Authority and Responsible Authorities

The Licensing Authority is:

Harlow District Council  
Licensing Team  
Civic Centre  
The Water Gardens  
Harlow, CM20 1WG Telephone: 01279 446655

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

The Responsible Authorities are:

- a) The Chief Officer of Police  
Essex Police Licensing Unit  
PO Box 12306  
Police Station  
Newland Street,  
Witham, CM8 2AS Telephone: 101 ext 452035  
E:mail [licensing.applications@essex.pnn.police.uk](mailto:licensing.applications@essex.pnn.police.uk)

Guidance from Essex Police on their expectations for licence applications can be found on their website at: [www.essex.police.uk/licensing](http://www.essex.police.uk/licensing)

- b) Essex County Fire and Rescue Service  
West Area Command, Harlow Service Delivery Point,  
Harlow, CM20 1DU Telephone 01376 576800
- c) The Local Planning Authority  
Harlow Council Development Control  
Civic Centre, The Water Gardens,  
Harlow. CM20 1WG Telephone: 01279 446655
- d) The Local Authority with functions related to prevention of risk of pollution of the environment:-  
  
Environmental Protection  
Harlow Council  
Civic Centre,  
Harlow, CM20 1WG Telephone: 01279 446655  
  
Email: [env.health@harlow.gov.uk](mailto:env.health@harlow.gov.uk)
- e) The body designated by the Licensing Authority as being competent to advise on the Authority about protection of children from harm.  
  
Essex Safeguarding Children Service
- f) The Gambling Commission  
Victoria Square House

Victoria Square  
Birmingham  
B2 4BP

Telephone: 0121 230 6500

- g) Her Majesty's Revenue and Customs  
National Registration Unit  
Betting & Gaming  
Cotton House  
& Cochrane Street  
Glasgow  
G1 1HY

Telephone: 03000 516023

Email: [NRUBetting&Gaming@HMRC.gsi.gov.uk](mailto:NRUBetting&Gaming@HMRC.gsi.gov.uk)

**Any further enquiries or assistance can be obtained from the Licensing Authority on the email address or telephone number given above. These addresses were correct at the time of going to press but are subject to change without notice. Any change made will not form part of a review of the Council's Statement of Licensing Policy**

## ANNEX 'C'

### DEFINITIONS

**Please note, definitions listed below are for guidance only and do not form part of the Council's Statement of Licensing Policy or will necessarily appear within it.**

Term	Description
ATM	Auto teller machine or cash machine.
Adult Gaming Centre	Premises in respect of which an Adult Gaming Centre Premises Licence has effect.
Authorised Local Authority Officer	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that Authority's area.
Betting	In this Act "betting" means making or accepting a bet on— (a) the outcome of a race, competition or other event or process, (b) the likelihood of anything occurring or not occurring, or (c) whether anything is or is not true.
Betting Machines	A machine designed or adapted for use to bet on future real events [not a gaming machine].
Bingo	Bingo is not given a statutory definition in the Act other than that it means any version of the game irrespective of by what name it is described. It is to have its ordinary and natural meaning. Two types of bingo are commonly understood: <ul style="list-style-type: none"> <li>• cash bingo, where the stakes paid make up the cash prizes that are won</li> <li>• prize bingo, where various forms of prizes are won, not directly related to the stakes paid.</li> </ul>
Casino	An arrangement whereby people are given an opportunity to participate in one or more casino games.
Casino Resolution	Resolution not to issue Casino Premises Licences.
Child	Individual who is less than 16 years old.
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines [3 machines of Categories B,C or D.]
Conditions	Conditions to be attached to licences by way of:- <ul style="list-style-type: none"> <li>□ Automatic provision</li> <li>□ Regulations provided by Secretary of State</li> <li>□ Conditions provided by Gambling Commission</li> <li>□ Conditions provided by Licensing Authority</li> </ul> <p>Conditions may be general in nature [either attached to all licences or all licences of a particular nature] or may be specific to a particular licence.</p>

Crane grab machine	A non-money prize machine in respect of which every prize which can be won consists of an individual physical object (such as a stuffed toy) won by a person's success in manipulating a device forming part of the machine so as to separate, and keep separate, one or more physical objects from a group of such objects.
Default Conditions	Conditions, prescribed in regulations that will apply unless the Licensing Authority decides to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.
Delegated Powers	Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.
Disorder	No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of Gambling Premises' Licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
Equal Chance Gaming	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.
Exempt Lotteries	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are four types:</p> <ul style="list-style-type: none"> <li>• Small Society Lottery [required to register with Licensing Authorities.</li> <li>• Incidental Non Commercial Lotteries.</li> <li>• Private Lotteries.</li> <li>• Customer Lotteries.</li> </ul>
Family Entertainment Centre (FEC)	<p>There are two types of FEC:-</p> <p>A licensed FEC (ie one with a Premises Licence) has no limit on the number of category C or D machines permitted</p> <p>An unlicensed FEC (ie one with a Permit) has no limit on the number of category D machines permitted</p>
Fixed Odds Betting Terminals (FOBTs)	FOBTs are a type of gaming machine which generally appear in licensed bookmakers. (Betting Shops) FOBTs have 'touch-screen' displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.
Gaming & game of chance	<p>In the Act "gaming" means playing a game of chance for a prize.</p> <p>and "game of chance"—</p> <p>(a) includes—</p> <p>(i) a game that involves both an element of chance and an element of skill,</p> <p>(ii) a game that involves an element of chance that can be eliminated by superlative skill, and</p>

	<p>(iii) a game that is presented as involving an element of chance, but</p> <p>(b) does not include a sport</p>
Gaming Machine	Machine covering all types of gambling activity, including betting on virtual events, but not including home computers even though users can access online gambling websites.
Guidance to Licensing Authorities	Guidance issued periodically by the Gambling Commission
Incidental Non Commercial Lottery	A lottery promoted wholly for purposes other than private game, and which are incidental to non-commercial events [commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance]
Lottery	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.
Members' Club	<p>A club, as defined by the Licensing Act 2003, that must:-</p> <ul style="list-style-type: none"> <li>❑ Have at least 25 members;</li> <li>❑ Be established and conducted 'wholly or mainly' for purposes other than gaming;</li> <li>❑ Be permanent in nature;</li> <li>❑ Not be established to make commercial profit;</li> <li>❑ Be controlled by its members equally.</li> </ul>
Money prize machine	A machine in respect of which every prize which can be won as a result of using the machine is a money prize.
Non-money prize machine	<p>A machine in respect of which every prize which can be won as a result of using the machine is a non-money prize. The winner of the prize is determined by:</p> <p>(i) the position in which the coin or token comes to rest after it has been inserted into the machine, together with the position of other coins or tokens which have previously been inserted into the machine to pay a charge for use, or</p> <p>(ii) if the insertion of a single coin to pay the charge for use enables the person using the machine to release one or more tokens within the machine, the position in which such tokens come to rest after being released, together with the position of other tokens which have previously been so released.</p>
Occasional Use Notice (OUN)	Betting may be permitted on a 'track' by an OUN without the need for a full Premises Licence.
Odds	The ratio to which a bet will be paid if the bet wins. e.g. 3-1 means for every £1 bet, a person would receive £3 of winnings.
Off Course Betting	Betting that takes place other than at a track, i.e. at a licensed betting shop.
Off Course Betting - Tracks	Betting that takes place in self-contained betting premises

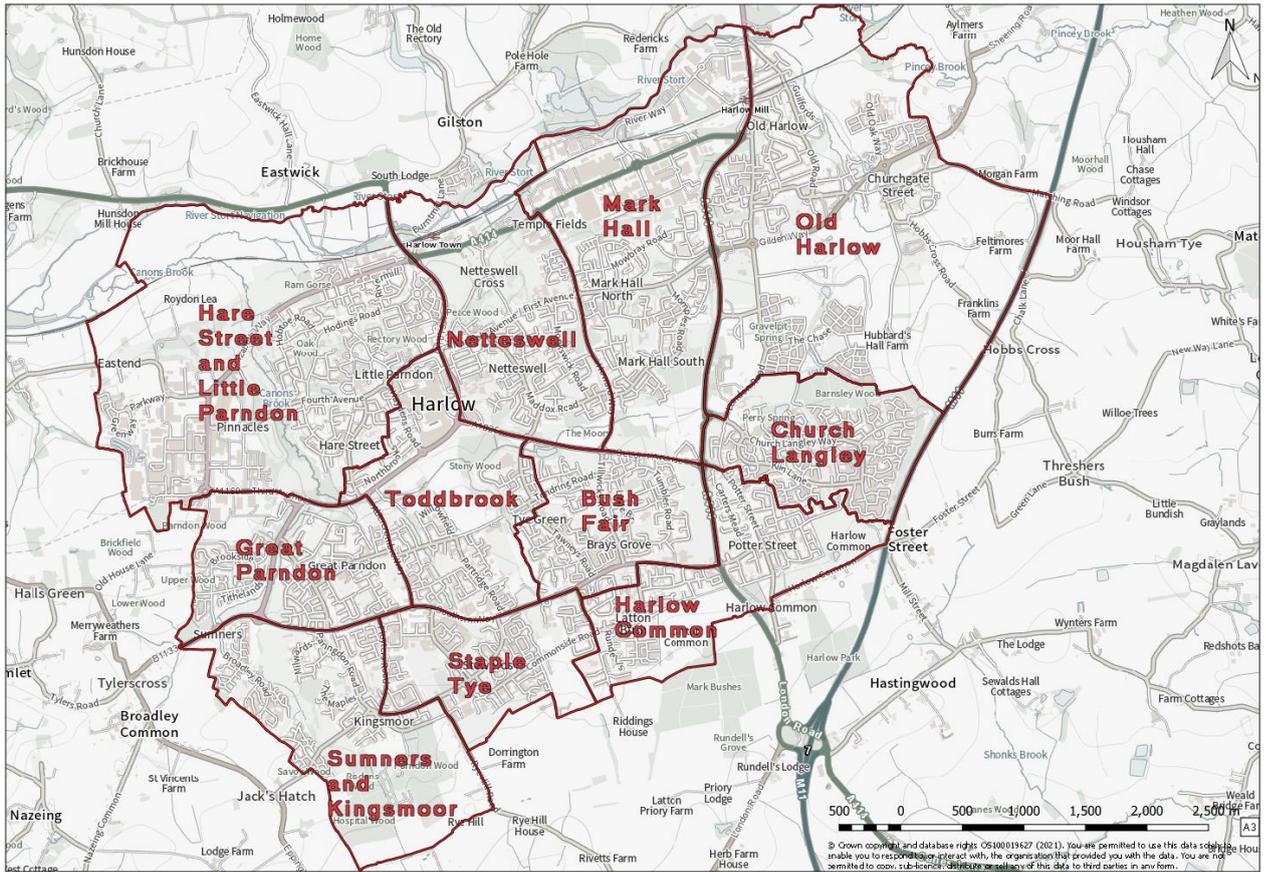
	with the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days.
On Course Betting – Tracks	Betting that takes place on a track while races are taking place.
Operating Licence	Licence to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non-remote gambling.
Permits	Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises.
Personal Licence	Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies.
Pool Betting – Tracks	For the purposes of the Gambling Act, pool betting is made on terms that all or part of the winnings: 1) Shall be determined by reference to the aggregate of the stakes paid or agreed to be paid by the persons betting 2) Shall be divided among the winners or 3) Shall or may be something other than money. For the purposes of the Gambling Act, pool betting is horse-race pool betting if it relates to horse-racing in Britain.
Private Lotteries	There are three types of Private Lotteries: <ul style="list-style-type: none"> <li><input type="checkbox"/> Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society;</li> <li><input type="checkbox"/> Work Lotteries - the promoters and purchasers of tickets must all work on a single set of work premises;</li> <li><input type="checkbox"/> Residents' Lotteries - promoted by, and tickets may only be sold to, people who live at the same set of premises.</li> </ul>
Prize Gaming	Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.
Prize Gaming Permit	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
Regulations or Statutory instruments	Regulations are a form of law, often referred to as delegated or secondary legislation. They have the same binding legal effect as Acts and usually state rules that apply generally, rather than to specific persons or things. However, regulations are not made by Parliament. Rather, they are made by persons or bodies to whom Parliament has delegated the authority to make them, such as a minister or an administrative agency.
Representations	In the context of the Gambling Act representations are either positive statements of support or negative objections which are made in relation to a licensing application.

	Representations must be made in time, e.g. during a designated notice period.
Responsible Authorities	<p>Public Bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:-</p> <ul style="list-style-type: none"> <li>❑ The Licensing Authority in whose area the premises is partly or wholly situated</li> <li>❑ The Gambling Commission</li> <li>❑ The Chief Officer of Police</li> <li>❑ Fire and Rescue Service</li> <li>❑ The Planning Authority for the local authority area</li> <li>❑ Environmental Health Service for the local authority area</li> <li>❑ The Body competent to advise on the protection of children from harm</li> <li>❑ HM Revenue and Customs</li> <li>❑ Authority in relation to vulnerable adults</li> <li>❑ Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency</li> </ul> <p>Full details of Responsible Authorities for the District are contained in Appendix 'B' to this Policy.</p>
Skill machine / Skill with prizes machine	The Act does not cover machines that give prizes as a result of the application of pure skill by players. A skill with prizes machine is one on which the winning of a prize is determined only by the player's skill – any element of chance imparted by the action of the machine would cause it to be a gaming machine. An example of a skill game would be trivia game machines, popular in pubs and clubs, which require the player to answer general knowledge questions to win cash prizes.
Small Society Lottery	A lottery promoted on behalf of a non commercial society, i.e. lotteries intended to raise funds for good causes.
Society	The society, or any separate branch of such a society, on whose behalf a lottery is to be promoted.
Stake	The amount pledged when taking part in gambling activity as either a bet, or deposit to the bank or house (where the house could be a gaming machine).
Table gaming	Card games played in casinos.
Temporary Use Notice (TUN)	To allow the use of a premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.
Tote [or Totalisator]	"Tote" is short for Totaliser, a system introduced to Britain in 1929 to offer pool betting on racecourses.
Track	Sites where races or other sporting events take place, e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended

	to take place.
Vehicles	Defined as trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
Vulnerable Persons	No set definition, but likely to mean group to include people who:- <ul style="list-style-type: none"> <li>□ gamble more than they want to</li> <li>□ gamble beyond their means</li> </ul> who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs
Young Person	An individual who is not a child but who is less than 18 years old.

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# ANNEX 'D'



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**ANNEX 'E'**

**Local Area Risk Assessment Example Template**

1: Local Area			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
1.1			Systems
			Design
1.2			Systems
			Design
1.3			Systems
			Design
			Physical

2: Gambling Operation			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
2.1			Systems
			Design
			Physical
2.2			Systems
			Design
			Physical
3.3			Systems
			Design
			Physical

3: Internal and External Premises Design			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
3.1			Systems
			Design
			Physical
3.2			Systems
			Design
			Physical
3.3			Systems
			Design
			Physical

Actions following assessment:			
1: Local Area			
Action	Person/Dept tasked	Date tasked	Date completed
2: Gambling Operation			
Action	Person/Dept tasked	Date tasked	Date completed
3: Internal and External Premises Design			
Action	Person/Dept tasked	Date tasked	Date completed

Signed:		Date:	
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Print Name:	
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Notes: In addition to the requirement for existing licence holders to have a local area risk assessment, this risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises. see section 14 of this policy)

Risks: Area of consideration that may impact on one or more of the licensing objectives  
 Local Risks: These are the identified factors that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises

Licensing Objectives: these are the three licensing objectives under the Gambling Act 2005 to which the risk factors have been identified as potentially impacting. For ease of reference within this assessment the objectives have been given codes that should be used to replace the full objective. These codes are CD for the Crime and Disorder objective, FO for the Fair and Open objective and CV for the protection of children and the vulnerable.

Control Measures: These are measures that the operator can put in place to mitigate the risk to the licensing objectives from the risk factors. These control measures are split into three categories, systems, design and physical.

The fact that there are three subsections in each section of the template should not be taken to suggest that you should limit your assessment to three risks for each section. The above template is an example only. You are at liberty to use your own design.

## ANNEX 'F'

Non statutory fees are reviewed by the Licensing Authority on an annual basis in accordance with the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. Details of current fees can be obtained by contacting

Harlow Council  
Civic Centre  
The Water Gardens  
Harlow  
Essex CM20 1WG

Telephone: 01279 446655

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

or alternatively by viewing the Council's Website [www.harlow.gov.uk](http://www.harlow.gov.uk)

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