

## **Scrutiny Task and Finish Panel Agenda**



### **Review of Licensing Services Task and Finish Panel Thursday, 24th January, 2013**

You are invited to attend the next meeting of **Review of Licensing Services Task and Finish Panel**, which will be held at:

**Committee Room 1, Civic Offices, High Street, Epping  
on Thursday, 24th January, 2013  
at 7.00 pm .**

**Glen Chipp  
Chief Executive**

**Democratic Services  
Officer**

Adrian Hendry, Office of the Chief Executive  
email: [ahendry@eppingforestdc.gov.uk](mailto:ahendry@eppingforestdc.gov.uk) Tele: 01992 564246

#### **Members:**

Councillors Mrs P Smith (Chairman), K Angold-Stephens, J Hart, R Morgan, J Philip,  
Mrs C Pond, D Stallan and Ms S Watson

THE DEADLINE FOR THE SUBMISSION OF SUBSTITUTES TO THIS MEETING IS  
18:00 HOURS

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#### **1. APOLOGIES FOR ABSENCE**

#### **2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)**

(Assistant to the Chief Executive) To report the appointment of any substitute members for the meeting.

#### **3. DECLARATIONS OF INTEREST**

(Assistant to the Chief Executive). To declare interests in any items on the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview & Scrutiny members are asked pay particular attention to paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an OS Committee which relates to a decision of or action by another Committee or Sub Committee of the Council, a Joint Committee or Joint Sub Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an OS meeting purely for the purpose of answering questions or providing information on such a matter.

**4. NOTES OF THE LAST MEETING (Pages 3 - 6)**

To agree the notes of the last meeting held on 17 December 2012.

**5. CONSIDERATION OF TAXI LICENCES DELEGATION (Pages 7 - 16)**

To consider the attached report.

**6. LICENSING COMMITTEE OPTIONS (Pages 17 - 20)**

To consider the attached report.

**7. PUBLIC CONSULTATION (Pages 21 - 32)**

To consider the attached report.

**8. FUTURE MEETINGS**

To consider a date for the next meeting.

**EPPING FOREST DISTRICT COUNCIL**  
**NOTES OF A MEETING OF REVIEW OF LICENSING SERVICES TASK AND FINISH**  
**PANEL**  
**HELD ON MONDAY, 17 DECEMBER 2012**  
**IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING**  
**AT 7.30 - 9.51 PM**

**Members Present:** Mrs P Smith (Chairman), K Angold-Stephens, J Hart, J Philip, Mrs C Pond, D Stallan (Housing Portfolio Holder) and Ms S Watson

**Other members present:**

**Apologies for Absence:** R Morgan (Chairman, Overview and Scrutiny Committee)

**Officers Present** A Hendry (Democratic Services Officer) and A Mitchell (Assistant Director (Legal))

**5. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)**

The Panel noted there were no substitute members.

**6. DECLARATIONS OF INTEREST**

No declarations of interest were made.

**7. NOTES OF THE LAST MEETING**

The notes of the previous meeting held on 23 October 2012 were agreed.

**8. LICENSING BACKGROUND REPORT**

The Assistant Director (Legal), Alison Mitchell tabled a statistical report updating the one in the agenda.

The Panel noted that most local authorities considered Premises licence applications separately from other applications. The report split the district up into three areas, West, South and East for ease of consideration. The Licensing team divided the district into these three areas with individual officers responsible for one area each. The areas are based on the levels of work generated and are not an equal geographical split. The majority of applications were in the South, which was the smallest of the geographical regions, but generated the most work. This locale was also the most controversial as it was a mixture of residential and commercial in close proximity. The rural areas were not as intensely used.

It was noted that:

- If the Panel were minded to hold hearings in separate areas then the meetings would have to double;
- Evening meetings should ideally only deal with one premises licence case, as they tend to take time and should ideally be finished on the same night;
- Adjourned meetings should continue the next day, this would also depend on the availability of rooms for the next day;

- It was suggested that an evening meeting should start at 6.30pm to give it a good chance of finishing that night;
- Other local authorities tended to hold the serious premises applications that were likely to take a long time during the day;
- However, members were concerned that this went against why this Task and Finish Panel was convened in the first place, to enable local working residents and ward members to attend evening meetings;
- Serious (long) applications only tended to happen occasionally, there had only been two in the last three years;
- Reviews came in three parts, if closed down immediately by a responsible authority, an initial review had to be held within 48 hours to confirm (or not) the closure. After this a full review hearing must be held within 21 days which may be followed up by another, appeals meeting;
- These reviews were a lot like court proceedings;
- Councillor Philip suggested that these bigger cases should perhaps be started at 3pm; and
- There were also the more numerous non-urgent, standard reviews.

Councillor Watson noted that each party must be given an equal amount of time to speak and given the number of objectors this could last a long while. She asked if each speaker at a review could be given a set time to speak. She was told that it was not that practical as the applicant may get 10 minutes but then if there were 10 objectors they would get 100 minutes, not an equitable arrangement and has the perception of being very unfair and would probably open us up to an appeal. It should also be remembered that each speaker was open to cross questioning by the other side on the points they had raised.

Councillor Angold-Stephens had worked out that approximately 3 to 4 meetings per year would last longer than 3 hours.

Councillor Smith asked the Panel if they wanted to consider splitting out the taxi and premises licensing into separate meetings. They noted that it would effectively double the number of meetings needed. However, two scheduled monthly sub-committee meetings were already factored in, one for the daytime and one for the evenings.

Asked if there was a time limit for assessing taxi drivers Alison Mitchell said that there wasn't but they had to be reasonable in their consideration of these cases.

Considering the areas proposed for dividing the district into manageable parts Councillor Philip suggested that it really only needed to be split into two areas, North and South, with the South consisting of the urban areas of Loughton, Chigwell and Buckhurst Hill, and the North the other more rural areas. Were there any operational difficulties in doing this?

Councillor Watson asked why taxi applications had to go to a sub-committee. She was told that only about one fifth of the applications went the sub-committee, as these were the ones that officers did not have the delegated powers to consider them. Councillor Philip asked if more powers could be delegated down to officers. He was told that it was useful to put the more serious cases to members to make it more formal for the applicant. Councillor Angold-Stephens added that there were a whole range of reasons why they came to members such as speeding and other more serious criminal offences. It was also noted that they also had the right to appeal to the magistrate's court.

On consideration it was noted that taxi applications need not be considered at the same meetings as premises applications. Also, the Panel asked that at a future meeting Alison brings some sort of report on just how much can or should be delegated to officers for taxi applications.

Councillor Stallan, referring to premises applications, asked if there was a procedure for adjourning a meeting. He was told that normally they would have to continue the next day, but only with the agreement of both parties. He reminded the meeting that the purpose of the Panel was to allow ward councillors to attend these meetings which they cannot do so when they were held during the day.

The Panel then considered how the public could be better informed on any premises applications. It was noted that planning only consulted the people in the immediate curtilage of an application. If the Panel wanted to consult people in a radius of 150 yards of a site, it could be done using the GIS mapping system, but it would take at least a week to do. It would also probably mean that an officer from licensing going around the area and delivering letters to make sure that no flats had been left out, as we would have to prove, in law, that we were not negligent in doing this. This could not be done within existing licensing resources. Members only see a small number of cases but there are a large number of cases in the background which would have to be treated the same way and we would have to do this within the timescales proscribed.

Councillor Philip wanted to know just how many premises applications were dealt with in a year and the average cost for doing this.

Councillor Stallan asked if the cost for a licensing application fee was set or could we cover our costs. He was told that it depended to the type of licence applied for; also next year new regulations would be coming in that would probably enable us to cover our costs. At present on average the licensing fee was about £1300. We would not know how much we can charge until the new regulations come out.

Councillor Philip wanted to know if the approximate costs of the increased resources needed by licensing could be brought to the next meeting.

The Panel considered if the sub-committee should meet in a local venue instead of Epping and came to the conclusion that with the practical difficulties raised such as looking for somewhere at short notice and going over 10pm, they did not see a problem in holding the sub-committee meetings at the Civic Offices in Epping.

It noted that it had been suggested that local councillors should decide on their own local cases. However the timetable was worked out at the start of the year before it was known what cases were coming to which meeting so it would be pot luck. It would also be considered a breach of natural justice to do this and we would be liable to have an appeal against us and are constrained by law on this. The law on this was quite different to planning law. In licensing it would be inappropriate for a councillor to decide an application in his own ward.

Members also wanted to know:

- If the Licensing Committee could be extended to say a membership of 18 Councillors, split into two teams of 9 to cover the north and south areas of the district;
- would it be a pro-rata committee or with area pools; and

- would it be possible to run two meeting on the same night (implications for officer availability)?

Members agreed that the new arrangements should also be reviewed in a year's time; and that a leaflet along the lines of 'Your Voice Your Choice' be produced by the Licensing Section for use by members of the public.

In summary, the following points were raised for future discussion:

- a) Evening meetings should ideally only deal with one premises licence case;
- b) Adjourned meetings should continue the next day;
- c) Evening meeting should start at 6.30pm;
- d) The District only needed to be split into two areas, North and South, with the South consisting of the urban areas of Loughton, Chigwell and Buckhurst Hill, and the North the other more rural areas;
- e) The Panel asked that at a future meeting a report be presented on just how much can or should be delegated to officers for taxi applications;
- f) Just how many premises applications were dealt with in a year and the average cost for doing this;
- g) That the approximate costs of the increased resources needed by licensing could be brought to the next meeting;
- h) If the Licensing Committee could be extended to say a membership of 18 Councillors, split into two teams of 9 to cover the north and south areas of the district; and
- i) Would it be possible to run two meeting on the same night (implications for officer availability).

## **9. FUTURE MEETINGS**

It was suggested that the next meeting be held on Thursday, 24 January 2013. The Democratic Services Officer would check the calendar of meetings and confirm by email to the members if this was possible.

### **Report to Licensing Review Task and Finish Panel**

**Date of meeting: 24 January 2013**

**Portfolio: Safer Greener and Highways**

**Subject: Delegation of Taxi Licence Applications**

**Officer contact for further information: Alison Mitchell ext 4017**

**Committee Secretary: Adrian Hendry, ext. 4246**

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#### **Decisions Required:**

**That the Task and Finish Panel decide whether to recommend to the Council that:**

**(1) the decisions regarding Taxi Licensing be delegated the Director of Corporate Support Services and the Assistant Director (Legal), and**

**(2) that the Constitution be amended as shown on the extracts attached to this report..**

#### **Report:**

1. At the last meeting of the Task and Finish Panel officers were asked to report on the extent to which taxi applications can be delegated to officers.

#### **Applications that come before the Sub-committee**

2. There are five types of taxi licences. There are:

- Hackney Carriage Proprietors Licence
- Hackney Carriage Drivers Licence
- Private Hire Operators Licence
- Private Hire Vehicle Licence, and
- Private Hire Driver's Licence.

3. The applications which come before the sub-committee are for the grant, renewal or for revocation of these licences.

#### **Delegated Authority.**

4. S101 of the Local Government Act 1972 states that a Council may delegate the licensing functions to either:

- A committee of the Council;
- A sub-committee; or
- An officer.

5. There is attached to this report extracts from the Council's Constitution which set out the amendments which would be required to give delegated authority to the Director of Corporate Support Services and the Assistant Director (Legal) to make all decisions in respect of applications and revocation of licences except where in those officer's view the delegation should not be exercised. Where a deletion is required to the Constitution the text is shown as

struck through and any amendments are shown in bold.

### **Right to a hearing**

6. Any applicant would have the right to a fair hearing before a decision is made. The hearing would follow the same format as that before the sub-committee. It would be necessary for formal minutes to be taken. This is not a type of work currently undertaken by the Committee Service. A decision would have to be given by the officers with reasons. The applicant or licence holder would have the right of appeal against the decision to the magistrates' court.

### **Numbers of Hearings.**

7. There were 10 meetings in 2012 which involved applications for taxi licences. In each of these meetings applications for premises licences were also taken place.

### **Consultation undertaken:**

None

### **Resource implications:**

Budget provision: None

Personnel: None.

Land: None

Community Plan/BVPP reference: None

Relevant statutory powers:

Town and Police Clauses Act 1847 and 1889

Local Government (Miscellaneous Provisions) Act 1976

Human Rights Act – Article 6 - right to a fair hearing

Background papers:

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Key Decision reference: (if required) none

Minutes of the Task and Finish Panel – 17<sup>th</sup> December 2012



# EXTRACT FROM THE COUNCIL'S CONSTITUTION

## PART 3

### RESPONSIBILITY FOR FUNCTIONS

#### RESPONSIBILITY FOR FUNCTIONS

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 give effect to Section 13 of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the executive, which may (but need not) be the responsibility of the executive (the 'local choice functions') and which are to some extent the responsibility of the executive. All other functions not so specified are to be the responsibility of the executive. The executive arrangements contained in the Constitution show how these distinctions are given effect by indicating whether:

- (a) they are the responsibility of the Council and/or its committees; or
- (b) they are the responsibility of the executive; or
- (c) they are, or are not, the responsibility of the executive to a specified extent; and
- (d) this requirement is included in Article 4 (The full Council) and Article 7 (The Executive). The tables below provide a means of meeting this requirement. Table 1 covers local choice functions. Table 2 covers functions which are not the responsibility of the executive. Table 3 covers executive responsibilities.

#### 2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

Responsibility for Council functions in accordance with the following table.

<b>Committee (1)</b>	<b>Membership (2)</b>	<b>Functions (3)</b>	<b>Delegation (4)</b>
Licensing Committee or Licensing Sub Committee	11 members of the Authority 3 members of the Licensing Committee	Licensing Functions  1. Functions which are delegated to the Director of Corporate Support Services where in that officer's view the delegation should not be exercised relating to licensing and registration as set out in Schedule 1 to the Functions Regulations including those summarised below:  (a) Hackney Carriages and Private Hire Vehicles;  (b) Lotteries; (c) Premises for acupuncture, tattooing, ear piercing and electrolysis;	Director of Corporate Support Services

		<p>(d) Markets and street traders;</p> <p>(e) Poisons;</p> <p>(f) Selling of Game;</p> <p>(g) Dogs;</p> <p>(h) Dangerous Wild Animals</p> <p>(i) Licensed Premises/Persons including any appeal against a decision of the Director of Corporate Support Services taken under delegated authority but excluding enforcement of the above.</p> <p>2. Functions which are delegated to the Director of Housing namely:</p> <p>(a) Caravan Sites;</p> <p>3. Functions which are delegated to the Director of Environment and Street Scene namely:</p> <p>(a) Premises for the Preparation of Food.</p> <p>4. Functions which are reserved for determination by the Licensing Committee or a Licensing Sub Committee in certain circumstances as set out in Appendix 4 (Annex 1) in Part 3 of the Constitution or Appendix A to the Scheme of Delegation (Council</p>	<p>Director of Housing</p> <p>Director of Environment and Street Scene</p> <p>No Delegation</p>
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		<p>functions)</p> <p>Entertainments</p> <p>Gambling Acts</p> <p>Late Night Cafes and Takeaway Food</p> <p>Shops</p> <p>Licensed Premises and Persons</p> <p>Hackney Carriage/Private Hire Vehicle Licences</p> <p>Functions which are reserved for determination by the Licensing Committee or a Licensing Sub Committee: Sex Shops, Sex Cinemas and Sexual Entertainment Venues</p>	<p>Director of Corporate Support Services and the Assistant Director (Legal)</p>
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## **LICENSING COMMITTEE – TERMS OF REFERENCE**

- (1) The full Committee shall comprise 15 Councillors appointed by the Council at its annual meeting, including a Chairman and Vice-Chairman. **There shall be ?? members for the area north of the district and ?? from south of the district as shown on the attached plan.**
- (2) For the functions set out in Annex 1, and the legislation listed in Annex 2, a Sub-Committee consisting of no more than any three Councillors drawn, in alphabetical order, from the members of the full Committee **who represent one of the wards in the same area as the premises concerned shall be formed. If it is not possible to form a sub-committee from members of the licensing committee in the appropriate area another member of the Licensing Committee from the other area will act as a member of the sub-committee** Any such Sub Committee shall include, by rota, one of the **six** Licensing Sub Committee Chairmen appointed at each Annual Council meeting **preferably one who represents a ward in the area of the premises. If no premises are concerned then the Sub-Committee shall consist of no more than three Councillors, drawn in alphabetical order from the members of the Full Committee.**
- (3) For the transaction of business at full Committee meetings, the quorum shall be a minimum of five Committee members save that no business shall be transacted unless either the Chairman or Vice-Chairman of the Committee is present.
- (4) The Committee and Sub-Committees shall have full authority to hear and determine licensing applications.
- (5) The Committee and Sub-Committees shall be further empowered to determine appeals made against the decisions of the Head of Environmental Services **and the Director of Corporate Support Services, Assistant Director (Legal) or the Senior Licensing Officer** taken under delegated authority on licensing applications.
- (6) The Committee shall at all times carry out its duties solely within the policy from time to time determined by the Council and shall conduct its proceedings in accordance with the requirements set out in Annex 3 (Conduct of Business by Licensing Committee and Sub-Committees).
- (7) The Licensing Committee shall take no part in the production or revision of the statement of licensing policy made under Section 5 of the Licensing Act 2003, however, they may determine policy under the legislation listed in Annex 3.
- (8) To be responsible for the consideration and approval of Designation Orders under Section 13 of the Criminal Justice and Police Act 2001 (Exercise of Controls of the over consumption of alcohol in public places).

**PART TWO – COUNCIL AND  
REGULATORY FUNCTIONS  
DELEGATION APPROVED BY  
OR ON BEHALF OF THE COUNCIL**

	<b>Authorising Committee And Minute Ref or Other Authority</b>	<b>Officer Authorised</b>	<b>Subject or Function Delegated</b>
<b>CL46</b>	Licensing Committee (Min 12 – 15.10.08)	DIRECTOR OF CORPORATE SUPPORT SERVICES ASSISTANT DIRECTOR (LEGAL SERVICES) SENIOR LICENSING OFFICER or suitably qualified officer authorised by them	LICENSING – HACKNEY CARRIAGE AND PRIVATE VEHICLE LICENCES To determine Licences in respect of hackney carriage and private hire licensing (as set out in Appendix B) except in those circumstances where under the Council’s policy they should be referred to the Director of Corporate Support Services or the Assistant Director (Legal Services). <del>Licensing Sub Committee (see Minute 12 opposite).</del>
		CORPORATE SUPPORT SERVICES ASSISTANT DIRECTOR (LEGAL SERVICES)	LICENSING – HACKNEY CARRIAGE AND PRIVATE VEHICLE LICENCES To determine Licences in respect of hackney carriage and private hire licensing (as set out in Appendix B) Except where in the officer’s view the delegation should not be exercised

## **Licensing**

Hackney Carriage and Private Hire Licences  
Town and Police Clauses Act 1847 (Sections 37, 41, 42, 43, 45, 46, 47, 50, 68)  
Town and Police Clauses Act 1889 (Sections 4, 5 and 6)  
Local Government (Miscellaneous Provisions) Act 1976 (Part II)

### **Licensing Committee Min 12 – 15.10.08**

That the delegated authority to grant and renew Hackney Carriage and Private Hire Drivers' Licences be amended as follows:

“(1) All applications for Hackney Carriage and Private Hire Vehicle Driver's licences will be determined by the Director of Corporate Support Services, the Assistant Director Legal Services and the Senior Licensing Officer or suitably qualified officers authorised by them to exercise this function except in the following circumstances when the application will be referred to the Sub-Committee:

- (a) where there have been breaches of condition of a previous driver's licence or related law in the preceding twelve months;
- (b) an applicant fails to comply with the Council's licensing procedure or meet the experience or medical fitness requirements;
- (c) where in the opinion of the Council's medical advisor (or doctor nominated by them), an applicant is not medically fit to hold a driver's licence;
- (d) an applicant for a driver's licence has any unspent criminal convictions;
- (e) an applicant has motoring convictions listed below:
  - (i) disqualification from driving by a court for any reason within the preceding ten years;
  - (ii) an accumulation of a total of 10 or more penalty points from endorsable motoring offences in any of the preceding five years; or
  - (iii) any unspent conviction for an offence or offences within the following categories:
    - CD10 Driving without due care and attention;
    - CD20 Driving without reasonable consideration for other road users;
    - CD30 Driving without due care and attention or without reasonable consideration for other road users;
    - CD40 Causing death through careless driving when unfit through drink;
    - CD50 Causing death by careless driving when unfit through drugs;
    - CD60 Causing death by careless driving with alcohol level above the limit;
    - CD70 Causing death by careless driving then failing to supply a specimen for analysis; or
    - DD30 Reckless driving;
    - DD40 Dangerous driving; or
    - IN10 Using a vehicle uninsured against third party risks; or
    - SP60 Undefined speed limit offence;

(2) Where the Director of Corporate Support Services, the Assistant Director Legal Services or the Senior Licensing Officer consider it appropriate to exercise their discretion by reason of their concern as to the suitability of the applicant they may refer the application to the licensing sub-committee; and

(3) The Director of Corporate Support Services, the Assistant Director (Legal) and the Senior Licensing Officer may grant at their discretion a licence for a short period until the next meeting of the licensing sub-committee if a driver wishing to renew his or her licence has committed an offence such that there is no delegated authority to renew the licence.”

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### **Report to Licensing Review Task and Finish Panel**

**Date of meeting: 24 January 2013**

**Portfolio: Safer Greener and Highways**

**Subject: Licence Committee Options**

**Officer contact for further information: Alison Mitchell ext 4017**

**Committee Secretary: Adrian Hendry, ext. 4246**

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#### **Decisions Required:**

**That the Task and Finish Panel consider the structure and operation of the Licensing Committee and recommend any proposed changes to the Council.**

#### **Report:**

1. At the last meeting of the Task and Finish Panel officers were instructed to report on the following matters:

- whether the membership of the Licensing Committee could be extended to 18 Councillors, split into two teams to cover the north and south areas of the district;
- would it be necessary for there to be a pro-rata committee;
- would it be possible to run two meetings on the same night (implications for officer availability), and
- are there any operational difficulties in splitting the responsibility into two areas North and South with the South consisting of the urban areas of Loughton, Chigwell and Buckhurst Hill, and the North the other more rural areas?

#### **Licensing Committees**

2. The Licensing Act 2003 requires that a licensing authority establish a Licensing Committee consisting of at least ten, but not more than fifteen members of the authority. It is not therefore possible to increase the numbers of members.

3. The membership of the Committee is required to be pro-rata and if it is split into two areas that split would also need to be made pro-rata.

#### **Number of meetings to be held each month**

4. The panel asked if it would be possible to hold more two meetings in one evening. During the two years October 2010 to September 2012 there were:

- If it were intended to hear only 1 application at each meeting, there would have been:
  - North – 1 month with 2 meetings
  - South – 7 months with 2 meetings and 1 month with three hearings.
  - North and South – 2 months with a hearing in both areas.
- North of the District there will be 17 months with no meetings and 6 months with no hearings in the south of the district.

Over that period about 35% of the applications were in the proposed north area of the District.

### **Two Meetings in One Night**

5. If two meetings were to be held on the same night this would mean that one meeting would be held in a Council Chamber and the other in a Committee Room. The Committee Rooms are booked out at the beginning of the year. It would not be known whether there were to be an additional meeting in any month until the end of the consultation period for any application which is two to three weeks before the meeting. It may not be possible to book a committee room at such short notice.

6. There were seven months in the two year period where there were two applications in respect of licences for premises in the south of the district. The licensing officer who will have inspected the premises and processed the applications could not be in attendance at both hearings.

7. The committee service would not be able to plan for the additional meetings and may not have two officers available on one night.

8. As the majority of the meetings are in respect of premises in the south it may be difficult to arrange for members for area south to be available on the same night for two meetings.

9. There are practical difficulties in holding two meetings on the same night and this is not recommended.

### **Operational Difficulties**

10. If the police ask for a summary review this will involve a meeting of the sub-committee being held at each of the three stages of the process. The Committee membership was increased to fifteen to take account of this type of review as the membership of each of the three sub-committees should be different to ensure that there are no accusations of bias. The division of the committee evenly into two areas would make it impossible for the membership of each of these sub-committees to be from the appropriate area of the district and if the balance was in favour of the south then north would have less representatives on these hearings. One such application was in respect of premises in Epping which would be in the north area.

11. It is usual for the Senior Licensing Officer to attend all meetings to give advice on policy and the Licensing Enforcement Officer concerned to answer specific questions regarding the applications. The officers are responsible for particular areas. If more than one application is heard on any one night then this may lead to more than one Licensing Enforcement Officer having to attend in an evening.

### **Costs.**

12. If all meetings ended before 10 pm then the cost of four officer's time for each meeting would be £234.52. Over the two year period mentioned above, if each application were to be heard separately then there would be 34 meetings at a total cost of £7,973.68.

13. If the Task and Finish Group agree that the decisions regarding to the grant of taxi licences remain the responsibility of the Licensing Sub-committees there were ten meetings which involved taxi licences last year. If those are all held separately in an evening there would be an additional cost of £1,755.90p in respect of officer's time.

**Consultation undertaken:**

None

**Resource implications:**

Budget provision: None

Personnel: None.

Land: None

Community Plan/BVPP reference: None

**Relevant statutory powers:**

Licensing Act 2003 as amended, The Licensing Act 2003 (Hearings) Regulations 2005

The Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007

Gambling Act 2005

The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees)(Premises Licences and Provisional Statement)(England and Wales)

Regulations 2007.

Local Government (Miscellaneous Provisions) Act 1982

Local Government and Housing Act 1989

**Background papers:**

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Key Decision reference: (if required) none

Minutes of the Task and Finish Panel – 17<sup>th</sup> December 2012

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## **Report to Licensing Review Task and Finish Panel**

**Date of meeting: 24 January 2013**

**Portfolio: Safer Greener and Highways**

**Subject: Public Consultations**

**Officer contact for further information: Alison Mitchell ext 4017**

**Committee Secretary: Adrian Hendry, ext.4246**



**SCRUTINY**



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### **Decisions Required:**

**That the Task and Finish Panel decides whether to recommend that postal consultations are carried out within 150 metres of any premises which are the subject of any application.**

### **Report:**

1. At the last meeting members asked for the following information:

- how many premises applications there were in each year,
- the average cost of processing an application.
- The increased cost of the resources required to post consultation letters to premises within 150 metres radius of the premises concerned.

### **Premises Licences**

2. There are a number of different types of premises licence applications which come before the sub-committee:

#### **Gambling Act 2005**

Where representations are received the following applications are referred to the sub-committee

- Application for a Premises Licence
- Application for the variation of a Premises Licence.
- Applications for a transfer of a Premises Licence
- Application for a provisional statement
- Applications for club gaming/club machine permits.

#### **Licensing Act 2003**

The Licensing Act 2003 provides that a licence must be granted unless an objection is received. In that event a hearing must be held for the following

- Application for a new Premises Licence
- Variation of Premises Licence
- Grant of Club Premises Certificate
- Variation of Club Premises Certificate
- Objection to a Temporary Event Notice.

The sub-committee also hears applications for:

- Reviews of the Premises Licence or Club Premises Certificate
- Reviews of a Premises Licence following a closure order made by the police
- Summary Review of a Premises Licence which can be used by the police in serious cases and involves a total of three hearings.

Sexual Entertainment Venues

- Applications, Variations and Renewal

Street Trading Licences

- Application and the annual renewal of a street trading licence
- Revocation of a licence.

The most usual type of application is one to vary a premises licence. Under the Licensing Act 2003.

### **Applications**

3. For the period 1<sup>st</sup> April 2011 to 1<sup>st</sup> April 2012 there were 36 Premises Licence applications, 2 sex shops licence applications and 3 applications for street trading licences. It is estimated that officers spend approximately 3 days a week at present to process each application that they receive.

4. If the application is a routine application it will take approximately three hours to process by one of the senior enforcement officers. The cost of a simple application with no objections would be in the region of £52.50. If there are objections, additional time is taken corresponding with the objectors and attending the sub-committee.

5. Members should also note that inspections are carried out mainly in respect of the premises where complaints have been received.

### **Consultation**

6. The Senior Licensing Officer looked at an example of a premises in a rural area, Matching Green, Harlow and one in a urban area Loughton to estimate the numbers of properties that would need to receive a specific notification if it was decided to consult within a 150 metres radius. The premises in Matching Green would require 33 occupiers of properties to be consulted and the Loughton 180 occupiers. The majority of applications relate to urban areas.

7. The properties affected were identified by the Council's GIS Officer who is able to put the data into a format than can be used in a mail merge for letters. Each search took him approximately 15 minutes. I understand that at present there would be sufficient capacity in that service to allow a same day turn around taking account of the importance of consultation. The information can be emailed to the Licensing Officers.

8. The licensing officers can send the information from GIS to Reprographics together with the draft letter, copy notice and information on how to object. The letters would be prepared and enveloped by Reprographics using their specialist equipment. It has been highlighted that many people will discard letters addressed to 'The Occupier' without opening them. It is possible to have a message printed on the outside of the envelopes "Important Licensing

Consultation” but this will increase the cost of a consultation.

The cost of sending out consultations to 180 people is:

	<b>1 consultation</b>	<b>41 consultations</b>
Recharges from Reprographics	£35 – 40	£1,435.00
Envelopes Plain	£ 3.20	£ 131.20
Envelopes with alert.	£ 5.30	£ 217.30
Postage	<u>£82.80</u>	<u>£3,394.80</u>
	£126.30	£5,178.30

9 Identifying properties using the GIS rather than visiting the area and undertaking consultations by post may mean that a few properties may be missed. It is expected that this would rarely happen but this would be monitored.

10. Although there will be an increase in internal recharges to the Licensing Service from the GIS service and Reprographics increasing the cost of the applications, if the process mentioned above proves to be satisfactory there would not need to be additional staff employed. The additional costs would arise from the postage and stationery used.

### **Fees**

11. At present the Licensing Act 2003 Fees are specified by regulations. The Licensing Act 2003 has been amended whereby the Secretary of State has reserved the right to fix fees or permit Authorities to fix fees taking account of certain criteria which will be specified in detail in regulations. This part of the Act is not yet in force and no regulations have yet been made. A list of the main fees currently specified is attached.

### **Consultation undertaken:**

None

### **Resource implications:**

Budget provision: Please refer to the figures mentioned above.

Personnel: None.

Land: None

Community Plan/BVPP reference: None

### **Relevant statutory powers:**

Licensing Act 2003 as amended, The Licensing Act 2003 (Hearings) Regulations 2005

The Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007

Gambling Act 2005

The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees)(Premises Licences and Provisional Statement)(England and Wales) Regulations 2007.

Local Government (Miscellaneous Provisions) Act 1976

Local Government (Miscellaneous Provisions) Act 1982

Local Government and Housing Act 1989

### **Background papers:**

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Key Decision reference: (if required) none

## Main Fee Levels

Band	A	B	C	D	E
Non domestic rateable value	None to £4,300	£4,301 to £33,000	£33,001 to £87,000	£87,001 to £125,000	£125,001 plus
Premises licences*					
New application and variation	£100	£190	£315	£450	£635
Multiplier applied to premises used exclusively or primarily for the supply of alcohol for consumption on the premises (Bands D & E only)	N/A	N/A	N/A	X2 (£900)	X3 (£1,905)
Annual charge*	£70	£180	£295	£320	£350
Annual charge multiplier applied to premises used exclusively or primarily for the supply of alcohol for consumption on the premises (Bands D&E only)	N/A	N/A	N/A	X2 (£640)	X3 (£1,050)
Club premises certificates					
New application variation	£100	£190	£315	£450	£635
Annual charge	£70	£180	£295	£320	350

\*There are additional fees for premises licence applications, and the annual fee for exceptionally large scale events (5,000+), unless certain conditions apply. Please read Regulation 4(4) and 4(5) of the [Licensing Act 2003 \(Fees\) Regulations 2005](#).



## **Fees**

8. The Police Reform and Social Responsibility Act 2011 changes the basis upon which the Licensing Authority may charge fees.

### **Consultation undertaken:**

None

### **Resource implications:**

Budget provision: None

Personnel: None.

Land: None

Community Plan/BVPP reference: None

### **Relevant statutory powers:**

Licensing Act 2003 as amended, The Licensing Act 2003 (Hearings) Regulations 2005

The Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007

Gambling Act 2005

The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees)(Premises Licences and Provisional Statement)(England and Wales) Regulations 2007.

Local Government (Miscellaneous Provisions) Act 1976

Background papers:

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Key Decision reference: (if required) none

## PART 3

### RESPONSIBILITY FOR FUNCTIONS

#### RESPONSIBILITY FOR FUNCTIONS

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 give effect to Section 13 of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the executive, which may (but need not) be the responsibility of the executive (the 'local choice functions') and which are to some extent the responsibility of the executive. All other functions not so specified are to be the responsibility of the executive. The executive arrangements contained in the Constitution show how these distinctions are given effect by indicating whether:

- (a) they are the responsibility of the Council and/or its committees; or
- (b) they are the responsibility of the executive; or
- (c) they are, or are not, the responsibility of the executive to a specified extent; and
- (d) this requirement is included in Article 4 (The full Council) and Article 7 (The Executive). The tables below provide a means of meeting this requirement. Table 1 covers local choice functions. Table 2 covers functions which are not the responsibility of the executive. Table 3 covers executive responsibilities.

#### 2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

Responsibility for Council functions in accordance with the following table.

<b>Committee (1)</b>	<b>Membership (2)</b>	<b>Functions (3)</b>	<b>Delegation (4)</b>
Licensing Committee or Licensing Sub Committee	11 members of the Authority 3 members of the Licensing Committee	Licensing Functions  1. Functions which are delegated to the Director of Corporate Support Services where in that officer's view the delegation should not be exercised relating to licensing and registration as set out in Schedule 1 to the Functions Regulations including those summarised below:  (a) Hackney Carriages and Private Hire Vehicles;  (b) Lotteries; (c) Premises for acupuncture, tattooing, ear piercing and electrolysis;  (d) Markets and street	Director of Corporate Support Services

		<p>traders;</p> <p>(e) Poisons;</p> <p>(f) Selling of Game;</p> <p>(g) Dogs;</p> <p>(h) Dangerous Wild Animals</p> <p>(i) Licensed Premises/Persons including any appeal against a decision of the Director of Corporate Support Services taken under delegated authority but excluding enforcement of the above.</p> <p>2. Functions which are delegated to the Director of Housing namely:</p> <p>(a) Caravan Sites;</p> <p>3. Functions which are delegated to the Director of Environment and Street Scene namely:</p> <p>(a) Premises for the Preparation of Food.</p> <p>4. Functions which are reserved for determination by the Licensing Committee or a Licensing Sub Committee in certain circumstances as set out in Appendix 4 (Annex 1) in Part 3 of the Constitution or Appendix A to the Scheme of Delegation (Council functions)</p>	<p>Director of Housing</p> <p>Director of Environment and Street Scene</p> <p>No Delegation</p>
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		Entertainments Gambling Acts Late Night Cafes and Takeaway Food Shops Licensed Premises and Persons <del>Hackney</del> <del>Carriage/Private Hire</del> <del>Vehicle Licences</del> Functions which are reserved for determination by the Licensing Committee or a Licensing Sub Committee: Sex Shops, Sex Cinemas and Sexual Entertainment Venues	
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## LICENSING COMMITTEE – TERMS OF REFERENCE

- (1) The full Committee shall comprise 15 Councillors appointed by the Council at its annual meeting, including a Chairman and Vice-Chairman. **There shall be 9 members for the area north of the district and nine from south of the district as shown on the attached plan.**
- (2) For the functions set out in Annex 1, and the legislation listed in Annex 2, a Sub-Committee consisting of no more than any three Councillors drawn, in alphabetical order, from the members of the full Committee **who represent one of the wards in the same area as the premises concerned** shall be formed. **If it is not possible to form a sub-committee from members of the licensing committee in the appropriate area another member of the Licensing Committee from the other area will act as a member of the sub-committee** Any such Sub Committee shall include, by rota, one of the **six** Licensing Sub Committee Chairmen appointed at each Annual Council meeting.
- (3) For the transaction of business at full Committee meetings, the quorum shall be a minimum of five Committee members save that no business shall be transacted unless either the Chairman or Vice-Chairman of the Committee is present.
- (4) The Committee and Sub-Committees shall have full authority to hear and determine licensing applications.
- (5) The Committee and Sub-Committees shall be further empowered to determine appeals made against the decisions of the ~~Head of Environmental Services~~ **Director of Corporate Support Services** taken under delegated authority on licensing applications.
- (6) The Committee shall at all times carry out its duties solely within the policy from time to time determined by the Council and shall conduct its proceedings in accordance with the requirements set out in Annex 3 (Conduct of Business by Licensing Committee and Sub-Committees).
- (7) The Licensing Committee shall take no part in the production or revision of the statement of licensing policy made under Section 5 of the Licensing Act 2003, however, they may determine policy under the legislation listed in Annex 3.
- (8) To be responsible for the consideration and approval of Designation Orders under Section 13 of the Criminal Justice and Police Act 2001 (Exercise of Controls

**PART TWO – COUNCIL AND  
REGULATORY FUNCTIONS  
DELEGATION APPROVED BY  
OR ON BEHALF OF THE COUNCIL**

	<b>Authorising Committee And Minute Ref or Other Authority</b>	<b>Officer Authorised</b>	<b>Subject or Function Delegated</b>
<b>CL46</b>	Licensing Committee (Min 12 – 15.10.08)	DIRECTOR OF CORPORATE SUPPORT SERVICES ASSISTANT DIRECTOR (LEGAL SERVICES) SENIOR LICENSING OFFICER or suitably qualified officer authorised by them	LICENSING – HACKNEY CARRIAGE AND PRIVATE VEHICLE LICENCES To determine Licences in respect of hackney carriage and private hire licensing (as set out in Appendix B) except in those circumstances where under the Council’s policy they should be referred to the Director of Corporate Support Services or the Assistant Director (Legal Services). <del>Licensing Sub Committee (see Minute 12 opposite).</del>
		CORPORATE SUPPORT SERVICES ASSISTANT DIRECTOR (LEGAL SERVICES)	LICENSING – HACKNEY CARRIAGE AND PRIVATE VEHICLE LICENCES To determine Licences in respect of hackney carriage and private hire licensing (as set out in Appendix B) Except where in the officer’s view the delegation should not be exercised

## **Licensing**

Hackney Carriage and Private Hire Licences

Town and Police Clauses Act 1847 (Sections 37, 41, 42, 43, 45, 46, 47, 50, 68)

Town and Police Clauses Act 1889 (Sections 4, 5 and 6)

Local Government (Miscellaneous Provisions) Act 1976 (Part II)

### **Licensing Committee Min 12 – 15.10.08**

That the delegated authority to grant and renew Hackney Carriage and Private Hire Drivers' Licences be amended as follows:

“(1) All applications for Hackney Carriage and Private Hire Vehicle Driver's licences will be determined by the Director of Corporate Support Services, the Assistant Director Legal Services and the Senior Licensing Officer or suitably qualified officers authorised by them to exercise this function except in the following circumstances when the application will be referred to the Sub-Committee:

(a) where there have been breaches of condition of a previous driver's licence or related law in the preceding twelve months;

(b) an applicant fails to comply with the Council's licensing procedure or meet the experience or medical fitness requirements;

(c) where in the opinion of the Council's medical advisor (or doctor nominated by them), an applicant is not medically fit to hold a driver's licence;

(d) an applicant for a driver's licence has any unspent criminal convictions;

(e) an applicant has motoring convictions listed below:

(i) disqualification from driving by a court for any reason within the preceding ten years;

(ii) an accumulation of a total of 10 or more penalty points from endorsable motoring offences in any of the preceding five years; or

(iii) any unspent conviction for an offence or offences within the following categories:

- CD10 Driving without due care and attention;
- CD20 Driving without reasonable consideration for other road users;
- CD30 Driving without due care and attention or without reasonable consideration for other road users;
- CD40 Causing death through careless driving when unfit through drink;
- CD50 Causing death by careless driving when unfit through drugs;
- CD60 Causing death by careless driving with alcohol level above the limit;
- CD70 Causing death by careless driving then failing to supply a specimen for analysis; or
- DD30 Reckless driving;
- DD40 Dangerous driving; or
- IN10 Using a vehicle uninsured against third party risks; or
- SP60 Undefined speed limit offence;

(2) Where the Director of Corporate Support Services, the Assistant Director Legal Services or the Senior Licensing Officer consider it appropriate to exercise

their discretion by reason of their concern as to the suitability of the applicant they may refer the application to the licensing sub-committee; and

(3) The Director of Corporate Support Services, the Assistant Director (Legal) and the Senior Licensing Officer may grant at their discretion a licence for a short period until the next meeting of the licensing sub-committee if a driver wishing to renew his or her licence has committed an offence such that there is no delegated authority to renew the licence.”