

Report to Licensing Review Task and Finish Panel

Date of meeting: 24 January 2013

Portfolio: Safer Greener and Highways

Subject: Public Consultations

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Committee Secretary: Adrian Hendry, ext.4246



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 1st April 2011 to 1st 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:

	1 consultation	41 consultations
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.

Committee (1)	Membership (2)	Functions (3)	Delegation (4)
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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		<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</p> <p>Carriage/Private Hire</p> <p>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>	
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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**

	Authorising Committee And Minute Ref or Other Authority	Officer Authorised	Subject or Function Delegated
CL46	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). Licensing Sub Committee (see Minute 12 opposite).
		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.”