



Epping Forest District Council



SCRUTINY

REPORT OF THE LICENSING SERVICES TASK AND FINISH PANEL

MARCH 2013

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1. Chairman's Foreword



(Waiting for foreword from Cllr Mrs Smith)

Setting out briefly what the panel was tasked to look at, and how the panel went about it.

The Chairman can use this section to give any personal thanks to the people and organisations consulted.

This should take up about one side of A4.

2. Introduction

Summary of issues scrutinised

The Licensing Services Task and Finish Panel was established by the Council's Overview and Scrutiny Committee in September 2012.

Our primary objective was to undertake a review of the proposal that licensing applications were considered in a similar way to planning applications –

- (i) Move the meetings to the evening so that Councillors with full time jobs could join the committee;
- (ii) Create south, east and west licensing sub-committees, so local councillors with local knowledge could decide the cases; and
- (iii) In cases where nightclubs, pubs or shops applied for changes to the hours in which they were licensed to sell alcohol, the relevant parish/town, district and county councillors and the nearest 50 residential properties to the application premises should be informed by letter to make them aware that an application had been submitted.

The Public Interest Justification presented as part of the original proposal forms are attached as Appendix 1.

Terms of Reference

At our initial meeting, the panel developed and agreed the following Terms of Reference. These were kept under review throughout the period of our work, to ensure their continued relevance.

1. To review the operation and effectiveness of the Licensing Sub-Committees structure.
2. To have regard of the Licensing Act 2003 on consultations.
3. To review the feasibility of moving some meetings to the evening.
4. To review the feasibility of creating a new Licensing Sub-Committee structure to enable local councillors and interested persons to have more input.
5. To review the most appropriate methods of informing people of their rights to make representations in respect of Licensing Applications and review hearings.

Methodology

The Panel agreed the matters which should be taken into consideration and instructed officers to provide statistical and other information.

This information was considered at our meetings and further reports required.

3. Context

The Authority has a statutory duty to issue and enforce conditions in respect a number of different licences. The types of applications that our Panel are considering are those which relate to premises licences. The reason is that the uses proposed in the applications may adversely affect the enjoyment of neighbouring properties. Examples of the types of licence are:

- Licence for the retail sale of alcohol which includes alcohol consumed on and off the premises,
- Licence for late night music,
- Licence for sale of hot food after 11pm,
- Licence for street trading
- Gambling Act licences, etc.

The Licensing Act 2003 specifies the composition of a Licensing Committee. Although it is not necessary to follow these requirements for licences issued under other legislation, such as gambling and street trading, this Authority does so and has only one licensing committee for all licensing. Regulations have been made under the different Acts specifying time limits for consultations and setting dates for the application hearings etc.

The statutory requirements and the Authority's own policies require that notices giving details of the applications are displayed on or near premises and advertised in a newspaper circulating in the area. The Panel has concerns that occupiers of neighbouring properties were not always aware of consultations.

We acknowledged that these proposals would lead to additional work for the sub-committees because of evening meetings and additional representations. The Panel considered that the residents concerns mainly related to Premises Licences however not all concerns will be relevant when making a decision in respect of an application. The various licensing regimes set out the what issues the sub-committee can take account of for example the Licensing Act 2003 specifies that members may only take account of the four licensing objectives mentioned in the Act and there are only three objectives specified in the Gambling Act. Representations on other grounds such as planning cannot be taken into account.

The Panel considered that it needed to go beyond its original terms of reference because the information provided to us by officers lead us to conclude that if we introduced evening meetings and wider notification of the applications this would lead to additional work for the sub-committees which could not easily be resourced. The Local Government Act 1972 permits decisions to be delegated to an officer and it was decided that those decisions regarding taxi licensing should be delegated to officers.

4. Summary of Recommendations

The Task and Finish Panel recommended:

Composition of Licensing Committees and sub-committees

the following structure and operation for the new Licensing Committee:

- 1) That a Licensing Committee of 15 (pro-rata) members be set up. The Committee to be split into a pool of members from the South of the district (Loughton, Chigwell and Buckhurst Hill) and from the North of the District (the remaining wards);
- 2) That the two pools be split by 6 members for the North and 9 members for the South each area to be pro-rata;
- 3) That 6 chairmen for the sub-committee be pro-rated consisting of 2 chairmen from the North pool and 3 from the South pool with 1 floating chairman;
- 4) That if there were not sufficient members from the appropriate area to hear an application then a member or member(s) of the other area would sit;
- 5) That one calendared meeting be included in a time table to be held per month, with a 6.30pm start (with a 3pm early start for exceptional meetings);
- 6) That two meetings (North and South) should not be held on the same night;
- 7) If there were more than one application a month additional meetings be organised for each application;
- 8) That these new procedures be reviewed after 12 months of operation;
- 9) that the Constitution and Member Services Standing Panel be asked to carry out the review;
- 10) that a bid for funds for the additional costs be added to the final report.

Notification of Premises Applications

- 11) That the Notification radius should be set at 150 metres;
- 12) The envelopes should state that "Important – Notice of Licensing Consultation" was enclosed;
- 13) A dummy letter be brought to the next meeting for the Panel to review; and
- 14) That a draft final report be brought to the next meeting of the Panel.

Determination of Taxi Licence Decisions

- 15) the determination of Taxi Licences be delegated to the Director of Corporate Support Services and the Assistant Director (Legal) and that the constitution be amended accordingly;
- 16) this arrangement be formally reviewed after 12 months of operation by the Constitution and Member Services Standing Panel; and
- 17) an interim 6 month report be submitted to the full Licensing Sub Committee.

5. Report

COMPOSITION OF LICENSING COMMITTEES AND SUB-COMMITTEES

The Licensing Committee currently is comprises fifteen members who are not selected on the basis of the location of their wards. Where the Authority receives objections to applications or the applicant does not meet set criteria the sub-committee hears the case and makes a decision.

The hearings take place during the day. The sub-committee may hear more than one premises licence application in a day together with applications relating to taxi vehicle and driver's licence.

A Request by Members for Scrutiny Review was made on the grounds for consideration that this be altered so that:

- applications should be heard by members who represent wards in the area where the Premises are located, and
- meetings should take place in the evenings so that members with day time jobs could take part in the sub-committee hearings

We instructed officers to provide a statistical review of the Licensing Sub-Committee meetings over the last two years to ascertain:

- how many applications there had been,
- how many applications received representations and were decided by the sub-committee,
- the length of the meetings,
- the types of applications considered,
- whether the applicants had been legally represented, and
- the indicative costs of hiring outside premises.

Officers also consulted with other officers from Councils who held evening meetings.

At our meetings we noted that last year that approximately two thirds of the hearings which took place related to premises in the south of the district. We considered that only one application should be heard in one evening.

The frequency of hearings could not be ascertained in advance as there was sometimes an application for more than one premises in an area in a month and in other months there may not be any. If a local hall for the south was booked for the year then it would not always be used. There may be difficulties in booking suitable additional accommodation if more than one hearing was to take place in a month. In the north, it would not be economic to book a year ahead and it may be difficult to book suitable accommodation at short notice.

The officer's consultations had also highlighted concerns about health and safety. We therefore decided that meetings should take place in the Council's Civic offices.



This Panel decided:

1) That a Licensing Committee of 15 (pro-rata) members be set up. The Committee to be split into a pool of members from the South of the district (Loughton, Chigwell and Buckhurst Hill) and from the North of the District (the remaining wards).

We did consider increasing the numbers of members of the Licensing Committee. However, we were advised that the Licensing Act 2003 limits the maximum number of members to fifteen. It was possible to set up another committee to have responsibility for taxi licensing only but this was rejected.

The Panel was advised that, unless the full Council meeting decides otherwise, the Committee must be appointed pro-rata.

2) That the two pools be split by 6 members for the North and 9 members for the South each area to be pro-rata;

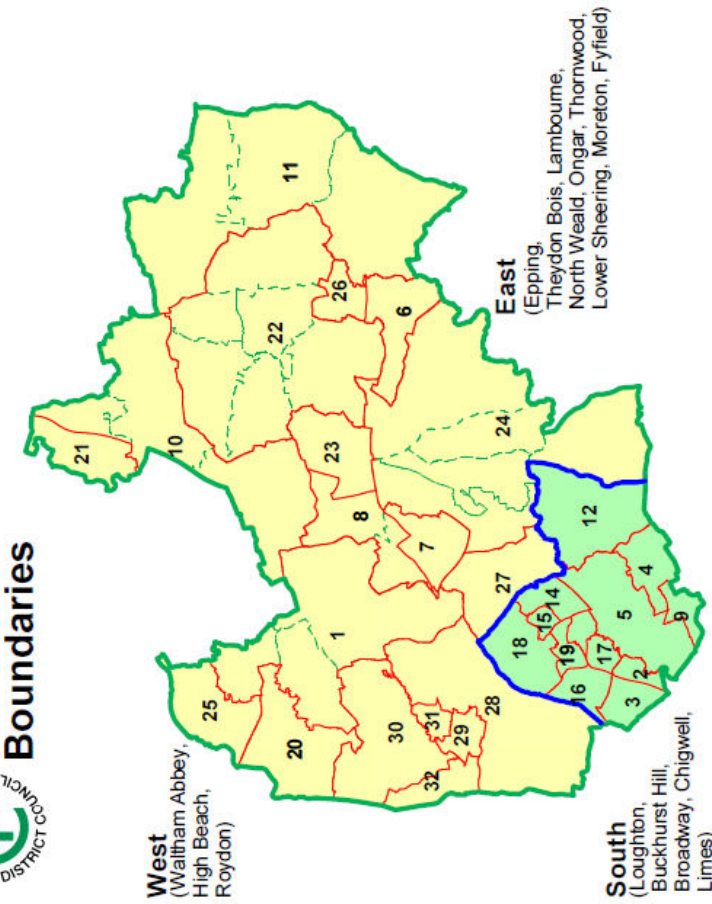
We were informed that two thirds of the premises applications last year were made in respect of premises in the south of the district. It was therefore decided to divide the committee into two areas – north and south.

Again, unless full Council agrees then each area must also be appointed pro-rata.

A plan which shows the division of the district into north and south areas is on the next page.



District and Parish Boundaries



West
(Waltham Abbey,
High Beach,
Roydon)

South
(Loughton,
Buckhurst Hill,
Broadway, Chigwell,
Limes)

East
(Epping,
Theydon Bois, Lamboume,
North Weald, Ongar, Thornwood,
Lower Sheering, Moreton, Fyfield)

Licensing		
West	South	East
Sarah Moran - 01992 564270 smoran@eppingforestdc.gov.uk	Gary Cootes - 01992 564034 klukey@eppingforestdc.gov.uk	Nuala Clark - 01992 564340 nclark@eppingforestdc.gov.uk

Key to Wards

- | | | |
|---|--------------------------------|-----------------------------|
| 1 Broadley Common, Epping Upland and Nazeing | 12 Lamboume | 23 North Weald Bassett |
| 2 Buckhurst Hill East | 13 Loughton Alderton | 24 Passingford |
| 3 Buckhurst Hill West (Queens Road) | 14 Loughton Broadway | 25 Roydon |
| 4 Chigwell Row | 15 Loughton Fairmead | 26 Shelley |
| 5 Chigwell Village | 16 Loughton Forest (High Road) | 27 Theydon Bois |
| 6 Chipping Ongar, Greensted and Marden Ash | 17 Loughton Roding | 28 Waltham Abbey High Beach |
| 7 Epping Hemmall | 18 Loughton St John's | 29 Waltham Abbey Honey Lane |
| 8 Epping Lyndsey and Thornwood Common | 19 Loughton St Mary's | 30 Waltham Abbey North East |
| 9 Grange Hill (Limes Farm) | 20 Lower Nazeing | 31 Waltham Abbey Patemoster |
| 10 Haslingwood, Matching and Sheering Village | 21 Lower Sheering | 32 Waltham Abbey South West |
| 11 High Ongar, Willingale and the Rodings | 22 Moreton and Fyfield | |

KEY

- Ward Boundary
- Parish Boundary
- Licensing Area Boundary

3) That 6 chairmen for the sub-committee be pro-rated consisting of 2 chairmen from the North pool and 3 from the South pool with 1 floating chairman;

We decided that this would be necessary because of the division of the Committee.

4) That if there were not sufficient members from the appropriate area to hear an application then a member or member(s) of the other area would sit;

The Panel considered that there may be occasions when it is not possible to appoint a member from the appropriate area to the sub-committee.

The panel noted that this may be especially true in the case of a summary review when there are usually three hearings required and there is a lesser risk of challenge if each sub-committee has a different membership.

It was decided that only if there were insufficient members for the area concerned then a member from the other area would sit.

5) That one calendared meeting be included in a time table to be held per month, with a 6.30pm start (with a 3pm early start for exceptional meetings);

The Panel agreed that the Committee Service should book the Council chamber for one meeting a month. It was noted that in a two year period there were ten months with two hearings and one month when there would be three hearings. The rooms in the Civic Offices for those additional hearing would be booked within statutory time limits.

We are proposing that the occupiers of every property within 150 meters of the application premises receive notification of the application. The panel considers that this will lead to an increase the involvement of the local residents in the licensing decisions and we understand from the experience of Westminster Council that representations are received on all applications and it receives a large number of representations in some of the cases. If our proposals meet with a similar response we would expect that there will be two meetings a month and increase in the time members of the sub-committees and legal officers will have to prepare for the meetings.

Most licensing hearings will be booked to start at 6.30pm. We heard evidence that in some cases, especially reviews, these have taken a full day. In cases where it is likely that the hearing and decision in a case will exceed three and a half hours then the case will start earlier in the day. It was noted that if it is expected that the time for the hearing is likely to continue to the next day it is a statutory requirement that the hearing takes place on consecutive days.

In addition to the extra licensing meetings, Democratic Services have been asked to cover:

(a) a new Cabinet House Building Committee, and

(b) a Portfolio Holder Advisory Group on the Waste contract.

There has been additional pressure from the Constitution Panel and it is likely that the OS Review Panel will not complete its review in the one remaining programmed meeting.

To cover this work and the additional requirement of day time meetings for the taxi meetings a new post would be require (c. £21,000 including on costs full time) to provide support for these recommendations

6) That two meetings (North and South) should not be held on the same night;

7) If there were more than one application a month additional meetings be organised for each application;

We noted that officers may be required to give evidence in two hearings for applications within one month. This would cause problems if the hearings took place on the same night.

It was reported to us that the committee rooms are also more likely to be booked in an evening. The Council chamber is more easily booked for the additional meetings.

8) That these new procedures be reviewed after 12 months of operation;

9) That the Constitution and Member Services Standing Panel be asked to carry out the review;

We recognise the need to review the procedures. One concern was that elderly people may not wish to travel in an evening. However, it was considered that this should be balanced against allowing people who are in work to attend.

10) That a bid for funds for the additional costs be added to the final report.

There is usually four officers who attend the Committee Officer, Legal Advisor, the Licensing Enforcement Officer, and, the Senior Licensing Enforcement Officer. If the evening meetings finish before 10pm the cost for officer's time will be £234.52 for an evening.

Last year there were 41 applications. If the evening meetings and specific notifications of licence applications lead to an increase in the hearings and consultations have indicated that there is likely to be a representation in respect of every premises application. If the number of applications where representations are received are increased to 41 hearings the cost would be £9,604.25.

The additional input from Democratic Services is recognised and a new post be created c. £21,000.

NOTIFICATION OF PREMISES APPLICATIONS

There are varying requirements in the legislation for consulting with members of the public. We noted that the procedure usually followed was that a public notice was published in a local newspaper and a notice of a type prescribed by statute was displayed on or near the premises.

Members had concerns that the occupiers of neighbouring properties do not always see these notices and have decided that a notification of the consultation should be sent to the occupiers of neighbouring properties. We further decided that:

1. That the Notification radius should be set at 150 metres;
2. The envelopes should state that "Important – Notice of Licensing Consultation" was enclosed;
3. A dummy letter be brought to the next meeting for the Panel to review; and
4. That a draft final report be brought to the next meeting of the Panel.

The panel considered whether the notices should be addressed individually to named residents as it would be possible to identify occupiers from various data bases held by the Council. However, we

received advice that if information is required for one purpose the Council cannot legally use it for another purpose e.g. Council tax information cannot be used for licensing purposes.

We were informed that the Senior Licensing Enforcement Officer carried out a consultation with Westminster Council who similarly notifies occupiers of neighbouring properties and we understand that this is a very effective way of communicating knowledge of the application and, in Westminster; representations are received in respect of every application. There is also a high level of representations received.

There were 41 premises applications last year which would require notification in this way. It is intended that the Council's GIS officer would identify the properties within 150 meters of the premises concerned. He will prepare a spreadsheet that will be suitable for using with mail merge. His charges are £38.61 per hour. On average it will take about 30 minutes for an application.

The licensing officers will send the spreadsheet, a standard notification letter and a copy of the notice to Reprographics. Their charges below are based on 180 properties which would be the average in an urban area. Most applications are in an urban area.

Reprographics would print out the letters and be able to put them automatically in an envelope with the copy notice.

The Licensing officers will have to check the notices and input information onto their licensing software M3 to record that this has been done. There is expected to be an increase in the numbers of telephone calls, correspondence and the need for mediation. Last year 28 cases went to the sub-committee out of a possible 41. Consultation suggests that representations and/or enquiries will be received in respect of all properties if notifications are sent out and the numbers of representations received.

The additional work required will be carried out by one of the Licensing Enforcement Officers as they will have the knowledge to advise members of the public regarding the relevance of their objections and procedure at the meetings. They will also act as mediators in these types of cases. If there are 30 replies the following is the likely time taken..

- Preparing the draft letter, sending to Reprographics, checking and sending out the notification = 82 hours
- Acknowledgment sent to all respondents and saving original communication and acknowledgement on M3 (assumed 30 letters x 15 min x 41) = 307.5 hours
- Email replies to respondents – assumed required clarifications etc on 5 – 1 hour each =205 hours
- Telephone enquiries - 205 hours
- Sending out invite to sub-committee- to all making representations and responsible authorities = 307.5 hours
- The reports to sub-committee will have to make reference to all letters received and comment on whether the representations are legally correct - additional 1 ½ hours = 63 hours
- Redacting of documents – (30 letters x 15mins x 41) = 307.5 hours
- Entering all documents on M3 - saving and entering documents onto M3 = 41 hours

The total would be for routine applications 1518.5 hours. This would require another full time member of staff. However, this is an estimate of time. There are clearly likely to be cases where there will be many more representations and others where there will be very few or none. Until the notification process is introduced it will not be possible to estimate this and a temporary member of staff should be employed for one year and the workload reviewed after that time.

The cost of this additional service would be for 41 applications for an average of 180 properties:

GIS

41 applications x 19.30 (1/2 hr @ £38.61)	791.30
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Reprographics

Recharges from Reprographics	£1,435.00
Envelopes with alert.	£ 217.30
Postage	£3,394.80

Licensing Service

Additional Licensing Enforcement Officer £22,317 pa

Committee Services Costs:

Additional Committee Officer for this work and the extra Taxi Licensing c. £21,000.

Additional Costs

It will be necessary to add further accommodation to Licensing. It has not been possible to obtain specific costing but it is likely to be in the range of £5,000.

Draft Letter

A draft letter in respect of the Licensing Act Applications is attached as Appendix 2. If this is approved in this format a similar letter will be prepared for Gambling, Street Trading and Sex Establishments.



DELEGATION OF TAXI LICENCE DECISIONS

The Panel had concerns that the additional hearings which would be the likely outcome of the changes in policy mentioned above would give too much work to the licensing sub-committees. It was considered that the decisions regarding taxi licences should be delegated to officers.

It was decided that:

1. The decision regarding Taxi Licences be delegated to the Director of Corporate Support Services and the Assistant Director (Legal) and that the constitution be amended accordingly;

We discussed the danger that the applicants would perceive this as an unfair arrangement and applicants would be more likely to appeal to the magistrates' court. However, it was decided that as long as full records were kept of the decision and the hearing this would be acceptable. It would free up Councillors time for them to deal with other things. It should be that exceptional cases could still be sent to a Sub-Committee for their consideration.

The Panel also considered having two Licensing Committees one for taxi licensing and one for all other types of licences but we decided against this as we consider that officers should be delegated to make these decisions.

2. This arrangement be formally reviewed after 12 months of operation by the Constitution and Member Services Standing Panel; and

3. An interim 6 month report be submitted to the full Licensing Sub Committee.

The purpose of these reviews was to monitor whether there was an increase in appeals.

Additional Resources

It was noted that the meetings to decide taxi applications would have to be clerked and this along with the proposed evening meetings would increase the workload on officers from the committee service.

The additional costs are mentioned earlier in our report.

The Panel requested no information on the likely impact upon resources which would be required if there were to be a significant increase in appeals to the magistrates court. These would be difficult to estimate.



RESOURCE RECOMMENDATIONS.

We recommend that the following resources are made available each year to ensure that these initiatives can be introduced. The amount of additional work is unknown at present and these figures will be kept under review

Annual Costs:

Committee and Sub-committees

Officer's Time for evening attendance - £7,973.68

Notification of Application

GIS	791.30	
Reprographics	5,047.10	
Licensing	<u>22,317.00</u>	
		28,155.40

Taxis and Committee

Committee Officer	<u>21,000.00</u>
	£57,129.08

Additional costs

Accommodation Costs (First Year) - £5,000.

The Licensing Service must process many of the licences within statutory time limits or the licence is deemed to have been granted. There have been new statutory obligations under scrap metal licensing which have led to an increase in work as well as the introduction of changes in the charging regime for licensing fees and if taxi metering is introduced. The additional work will adversely affect other licensing work unless additional staffing resources are agreed to.

6. Conclusion

The Task and Finish Panel was set up to investigate whether there were ways in which Licensing Applications in respect of premises licences could be decided more locally and give the occupiers of neighbouring properties greater opportunities to participate in the hearings. Members who have work commitments during the daytime also wished to be involved in Licensing decisions.

We decided that the most appropriate way to do this was to hold evening meetings for applications which related to premises licences. This would allow members and those who wished to make personal representations at the hearings but who work during the day an opportunity to attend. To ensure that the occupiers of neighbouring properties were aware of the applications we further agreed to recommend that specific notifications be sent to occupiers of properties within 150 meters of the property.

The panel acknowledged that this would increase the number of hearings and that the Licensing Committee members could not continue to decide all the cases as at present. The panel is recommending that the decisions on all taxi licences be delegated to officers.

The implementing of these proposals will lead to additional costs. It is difficult to estimate at this stage the increase of work and this will be kept under review. It is recommended that the additional resources be approved so that the Panel's decisions can be implemented.

8. Members of the Panel

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

7. Acknowledgements

Consultations

- Members of the Public Law Partnership's Licensing Special Interest Group
- Members of the Solicitors in Local Government Group ;
- Local Government Association
- Licensing Manager fro Westminster City Council

Officers;

Rob Irwin – GIS Officer, Rob Purse – Systems Manager

Ann Hickman – Reprographics Assistant

Adrian Hendry Democratic Services Officer, Graham Lunnun – Assistant Director,

Ian Willett – Assistant to the Chief Executive

Kim Tuckey – Senior Licensing Enforcement Officer

Rosaline Ferreira – Assistant Solicitor

Alison Mitchell – Assistant Director (Legal)

Experts;

Websites; Local Government Association

Laws;

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

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:

Agenda and Minutes of the task and Finish Group for 17th December 2012, 24th January 2012

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

Council policies etc.

Current list of delegations and the Council's Constitution

APPENDIX 1

**Request by Member for Scrutiny Review
2012/13 Work Programme**



Please complete the form below to request consideration of your issue by the Overview and Scrutiny Committee

Proposers Name: James Hart	Date of Request 17.8.12
Supporting Councillors (if any): Sylvia Watson	
Summary of Issue you wish to be scrutinised: I would like to propose that the ONS committee set up a task and finish panel to look into restructuring the running of the council's licensing committee on a trial basis for the 2013/14 council year. Specifically, the proposal is to consider licensing applications in a very similar way to the way in which planning applications are decided by the council:- <ol style="list-style-type: none"> 1) Move the meetings to the evening so that councillors with full time jobs can join the committee. 2) Create south, east and west licensing sub-committees so that local councillors with essential local knowledge can decide the cases. 3) In cases involving nightclubs, pubs or shops applying for changes to the hours in which they are licensed to sell alcohol, the relevant town, district and county councillors, and the nearest 50 residential properties to the application premises, should be informed by letter to make them aware that an application has been submitted. 	
NOTE: ENTRIES BELOW RELATE TO ISSUE CATEGORIES OF THE PICK PROCESS. PLEASE REFER TO THE EXPLANATORY NOTES TO THIS FORM FOR FURTHER INFORMATION	
Public Interest Justification: The current system is far from satisfactory given the size and diversity of the district. Under the current system it is not unusual for councillors drawn from the rural north of the district to be called upon to decide upon licencing applications that have a very big impact upon the lives of residents living in towns such as Loughton or Buckhurst Hill. The councillors deciding these cases may never even have visited Loughton or Buckhurst Hill late on a Friday or Saturday night and therefore lack the essential local knowledge to decide these cases. Many of the council's 58 councillors have full-time jobs and their working commitments prevent them from joining committees, like the licensing committee, that meet during working hours. The licensing of nightclubs and pubs, and the knock-on effect on our high streets on Friday and Saturday nights, is too big an issue to effectively dis-enfranchise working age councillors from attending these meetings and representing their ward members when these cases are decided by the council. The vast majority of local residents don't even know that a local nightclub or pub has submitted an application for extensions to their licensing hours until they read about the decision of the licensing committee in the local press. Many residents feel	

APPENDIX 2 – Amendments to the Constitution and Delegations

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	Director of Corporate Support Services

		<p>and electrolysis;</p> <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</p>	<p>Director of Housing</p> <p>Director of Environment and Street Scene</p> <p>No Delegation</p>
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		<p>Appendix A to the Scheme of Delegation (Council 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</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~~ 18 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

**APPENDIX B
(Ref CL44)**

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."

APPENDIX 3 – Draft Consultation letter for premises licensed under the Licensing Act 2003

Our Ref:

Name

Date:
If Telephoning please ask for:
(01992)

Dear Occupier,

NOTIFICATION OF CONSULTATION – AN APPLICATION IN RESPECT OF PREMISES LICENCES WHICH MAY AFFECT YOU

GUIDE TO MAKING REPRESENTATIONS UNDER THE LICENSING ACT 2003

Epping Forest District Council is undertaking a public consultation details of which are set out in the notice enclosed. The consultation involves advertising in the local newspaper, site notices and advertisement on the Council's website. We encourage members of the public and local businesses to be involved in the licensing process and so we are notifying occupiers of nearby properties of this consultation.

This letter explains how you can make representations either for or against the application and how you can take part in any meeting where you have submitted a written representation.

WHAT CAN I SAY?

The Act limits the grounds upon which you may make a representation in respect of an application. These are:

- The prevention of crime and disorder;
- Public Safety;
- The prevention of public nuisance; and
- The protection of children from harm

You should state which of the above grounds you are making a representation on, the reasons for each representation and send any evidence you may have. **Please do not include representations on any other issues such as planning, as the Authority is prohibited by statute from taking these into account.**

It is important that your written representation makes the points which you wish to raise as the Council cannot hear new issues at the hearing.

Please note that if you submit a representation the Authority will inform the Applicant of your name and address. If you have concerns about this you must let the Senior Licensing Officer know your reasons for not disclosing your details or withdraw any representation.

DEADLINE FOR MAKING A REPRESENTATION

The closing date for submitting a representation is shown on the attached notice.

ATTENDING THE MEETING OF THE SUB-COMMITTEE

If you make a representation you will be informed of the date of the hearing. A copy of the agenda of the Licensing Sub-Committee will be placed on the Council's website.

If you have submitted a written representation you will be allowed to have your say about the representation. However, if you have not made any representation in writing or it has been received after the closing date mentioned on the attached notice the Authority cannot hear your representation.

If the representations are valid, i.e. relate to one of the four licensing objectives you may explain the issues to the sub-committee but not introduce new representations.

It is a good idea to arrive a few minutes earlier to collect papers and speak to the Licensing Officers who can answer any questions you may have.

If there are a number of people raising the same issues you are encouraged to appoint a spokesman. The members of the sub-committee will have read all the representations prior to the meeting and it is only necessary to clarify issues or reply to issues raised during the hearing.

SUB-COMMITTEE

The sub-committee consists of three District Councillors.

WHAT HAPPENS AT THE SUB-COMMITTEE

- Firstly, the Chairman of the sub-committee will introduce the application and explain the procedure
- Then the applicant or their representative will present their application. The sub-committee members will then ask questions and those who have made written representations will be invited to ask questions.
- Those who have submitted written representations will then have an opportunity to put their case. The members of the sub-committee and the applicant or their representative can then ask questions. Those who made written representations will then be asked to sum up to clarify any issues that have been raised.
- The applicant will then be asked to sum up again clarifying any points raised.
- Following the speeches, the items will be discussed by the Councillors who are the members of the sub-committee.

SUGGESTIONS ON HOW TO SPEAK

- If you have the right to speak please keep your comments to the points raised in your written representations.
- If you are one of a number of people who made similar representations you should consider appointing a representative to speak on behalf of the group.
- You can ask a person to represent you at a sub-committee but if you do not attend you must write a letter authorising them to speak on your behalf unless they are an Epping Forest District Councillor.
- However strongly you may feel about an issue, keep in mind the need to be polite and to respect the views of others. Avoid personal insults.

HOW MATTERS ARE DECIDED

All items are decided by a simple majority by the members of the sub-committee after the end of the discussion on each item. The decision is usually announced at that time.

The address to send any representation or to make enquiries is:

The Licensing Team,
Epping Forest District Council,
Civic Offices,
High Street,
Epping,
Essex CM16 4BZ

Or email

Yours faithfully,

K Tuckey,

Senior Licensing Officer