

# ROLE OF THE LICENSING COMMITTEE, DELEGATIONS AND LICENSING POLICIES

<b>Committee</b>	Licensing Committee
<b>Officer Contact</b>	Mark Braddock – Democratic Services
<b>Papers with report</b>	Appendix 1 – Chapter 8 Council Constitution Appendix 2 - Table of Licensing Policies and dates for revision Appendix 3 – List of Responsible Authorities
<b>Ward(s) affected</b>	All

## HEADLINE

1. To note the Committee's Terms of Reference, i.e. remit, which has been agreed by Council and is largely as require in law.
2. To provide Members with information concerning the scheme of delegations in respect of licensing decisions.
3. To advise Members of the various Licensing policies in force and their dates for revision.

## RECOMMENDATION

That the Committee note the information.

## INFORMATION

### Terms of Reference

The Licensing Committee's Terms of Reference is set out below. The Committee is responsible for overseeing the Council's licensing and related functions and discharges the day to-day decision-making on these to the Licensing Sub-Committee or Council Officers, depending on the nature of the decision to be made.

Specifically, the Committee's Terms of Reference are:

- 1) To oversee the discharge of all licensing functions of the Council as the licensing authority under the Licensing Act 2003, Gambling Act 2005, Local Government (Miscellaneous Provisions) Act 1982, London Local Authorities Act 1990; the Scrap Metal Dealers Act 2013 and The Police Reform & Social Responsibility Act 2011, except, in respect of each, the determination of the Council's Statement of Licensing Policy and the publication of that Statement.
- 2) To establish and appoint sub-committees to determine any applications requiring a hearing under the Licensing Act 2003, Gambling Act 2005, Local Government (Miscellaneous Provisions) Act 1982, London Local Authorities Act 1990 and the Scrap Metal Dealers Act 2013 or otherwise the determination of any application not delegated to officers.

- 3) To arrange for the discharge of the functions governed by the Licensing Act 2003, Gambling Act 2005, Local Government (Miscellaneous Provisions) Act 1982, London Local Authorities Act 1990 and the Scrap Metal Dealers Act 2013 by its sub-committees or by officers except where prohibited by the Licensing Act 2003 and Gambling Act 2005
- 4) To receive and consider reports, where appropriate, on the needs of the local tourist economy, employment and investment in the area and any other matter directly related to the licensing functions in the Borough.

### **The Licensing Committee's role**

The Licensing Committee makes few decisions itself, other than agreeing how the Licensing Sub-Committee operate, i.e. through their hearing protocols. Delegation No.4 above is the primary one exercised by the Committee, which is usually where it receives information reports or presentations on matters, such as from the various Responsible Authorities (See Appendix 3), to ensure the Committee is kept abreast of wider licensing matters. The Committee uses a Forward Planner, set out on this agenda, to plan this activity. The Committee also ratifies the minutes of the Licensing Sub-Committee as the parent body.

### **Delegations (i.e. who takes what decision)**

Appendix 1 shows the Council's Constitution, Chapter 8. This sets out the detailed delegation of the various licensing functions under:

- The Licensing Act 2003
- Gambling Act 2005
- Sex Establishments legislation
- Scrap Metal Dealers Act 2013
- Street Trading legislation

Delegations are to the full Council or Cabinet (in the case of approving policies), or to the Licensing Sub-Committee or Officers in respect of day-to-day licensing decisions on the above matters. Usually the sub-committee determine applications where there are objections or representations. If there are no such representations, then officers are authorised to determine the matter.

### **Key Licensing policies**

Appendix 2 shows the key policies which the Licensing Sub-Committees operate under (and in accordance with) when making decisions. The Council is required to have such key licensing policies in place and review them periodically. Some require Full Council approval and others Cabinet only. The Licensing Committee is, therefore, naturally a key consultee on these.

For example, an updated draft Gambling Policy is scheduled to come to the Licensing Committee at its October meeting for comments. Other policies will be scheduled on both the Cabinet Forward Plan and this Committee's Forward Planner as they come forward for review.

## **Licensing Protocols**

As well as the key licensing policies mentioned above, there are a range of protocols (guidance documents) that have been approved by the Licensing Committee. They are not policy documents, more operational, and helpfully explain how the Licensing Sub-Committee operate and makes decisions in respect of its licensing hearings. These are issued with the agenda for each meeting and circulated to all parties involved.

The most recent update to the Licensing and Gambling Protocols was last year and permitted the ability to hold Licensing Sub-Committee hearings remotely (or virtually) on an exceptional basis. Whilst virtual meetings are possible for Licensing Sub-Committees, they are not for the parent Licensing Committee which is governed by different local government meeting legislation, and therefore, must meet in person.

## **Ward Councillor call-in**

Ward Councillors are automatically notified of any new licensing applications received from Public Houses, Off licenses, night clubs, street traders and bars etc... As such, the Council has agreed a provision to enable ward councillors to 'call-in' applications under the Licensing and Gambling Acts to a Licensing Sub-Committee for determination - rather than determined officers. The same provision exists for planning applications to Planning Committees. However, any Ward Councillor must cite the relevant Licensing Objectives and valid reasons for why they wish the matter to be called-in. The Ward Councillor will then be invited to attend to speak at the Licensing Sub-Committee.

## **Implications on related Council policies**

None at this stage

## **Legal implications**

None at this stage

## **Financial Implications**

None at this stage

## **Background Papers / Further Reading Material**

- [Revised Guidance in relation to the Licensing Act](#)
- [Gambling guidance](#)

# **Appendix 1 - Chapter 8 - Licensing Decisions**

[Extract from Council Constitution]

The Council takes decisions on local licensing matters, including those under the Licensing Act 2003 and the Gambling Act 2005 and other legislation set out. The Council may discharge this through a parent Licensing Committee, which has the duty to set up a Licensing Sub-Committee to determine matters and these are generally where representations are received. The Licensing Committee or the Full Council may also discharge licensing decisions to officers, and these are generally where there are no representations made.

## **Licensing Committee**

The Licensing Committee discharges the Council's functions under the Licensing Act 2003, Gambling Act 2005, Sex Establishment Venue Licences under the Local Government (Miscellaneous Provisions) Act 1982, Street Trading determination functions under the London Local Authorities Act 1990 and the Scrap Metal Dealers Act 2013, which are statutory in nature.

## **Terms of Reference**

The Committee's Terms of Reference are:

- 5) To oversee the discharge of all licensing functions of the Council as the licensing authority under the Licensing Act 2003, Gambling Act 2005, Local Government (Miscellaneous Provisions) Act 1982, London Local Authorities Act 1990; the Scrap Metal Dealers Act 2013 and The Police Reform & Social Responsibility Act 2011, except, in respect of each, the determination of the Council's Statement of Licensing Policy and the publication of that Statement.
- 6) To establish and appoint sub-committees to determine any applications requiring a hearing under the Licensing Act 2003, Gambling Act 2005, Local Government (Miscellaneous Provisions) Act 1982, London Local Authorities Act 1990 and the Scrap Metal Dealers Act 2013 or otherwise the determination of any application not delegated to officers.
- 7) To arrange for the discharge of the functions governed by the Licensing Act 2003, Gambling Act 2005, Local Government (Miscellaneous Provisions) Act 1982, London Local Authorities Act 1990 and the Scrap Metal Dealers Act 2013 by its sub-committees or by officers except where prohibited by the Licensing Act 2003 and Gambling Act 2005
- 8) To receive and consider reports, where appropriate, on the needs of the local tourist economy, employment and investment in the area and any other matter directly related to the licensing functions in the Borough.

## **Membership, Training and Frequency**

The Committee will have 10 Members (*10 is the minimum required and 15 the maximum under regulations*). Political balance rules do not apply to the make-up of the Committee, but the Council has decided to apply these rules to the Committee and its sub-committee. The

Licensing Committee will meet on a regular basis. Mandatory licensing training is required for committee members.

### **Quorum**

No business shall be transacted at a meeting of a Licensing Committee unless there is present at least one third of the whole number of Members of the body concerned or 3 Members of the Committee whichever is the greater.

### **Licensing sub-committee**

#### **Membership**

There will be a single Licensing Sub-Committee which will comprise 3 Members of the parent Licensing Committee selected on a rota basis, with any substitute Members, if required, being selected from the Licensing Committee only. The meetings of the Sub-Committee will ordinarily be chaired by the Chairman of the Licensing Committee. Political balance rules do not apply to the make-up of the Sub-Committee.

#### **Quorum**

2 Councillors

#### **Operation and Protocols**

The Licensing Sub-Committee will meet when required to effectively discharge its functions or to determine matters as set out in this Chapter below. These meetings will also be known as Licensing Sub-Committee 'hearings'. Such hearings will operate under protocols agreed by the parent Licensing Committee. As set out in the currently agreed protocols, it is permitted under law, by exception, to hold such hearings remotely and also to adjourn administratively after notice has been given for a hearing without the requirement to formally convene first.

### **Delegation of Licensing Functions**

The Tables below set out the delegation of Licensing functions to the Licensing Sub-Committee and Officers as agreed by the parent Licensing Committee. In respect of Officer delegations listed, the Council has delegated the following licensing decisions to the Corporate Director of Place who, in accordance with S101 of the Local Government Act 1972, may agree to sub-delegate these to other officers. For completeness, it also shows those related functions reserved to Full Council and Cabinet, which are set out in their own delegations.

#### **Licensing Act 2003**

FUNCTION	COUNCIL / CABINET	SUB-COMMITTEE	OFFICER
Approval of 5-year Statement of Licensing Policy	Cabinet and Full Council	-	-

Fee setting, where appropriate – reserved to Cabinet	Cabinet	-	-
<b>FUNCTION</b>	<b>COUNCIL / CABINET</b>	<b>SUB-COMMITTEE</b>	<b>OFFICER</b>
Application for a personal licence		If a Police objection	If no objection made
Application for personal licence, with unspent convictions		If a Police objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no representation made
Application for provisional statement		If a relevant representation made	If no representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no representation made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a Police objection	All other cases
Application for Interim Authorities		If a Police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a representation/objection is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of an objection to a Temporary Event Notice		All cases	
Revocation of Personal Licence where convictions come to light after grant		All cases	
Determination of application by Community Premises to include alternative licence condition		If a Police objection	All other cases
Decision whether to consult other responsible authorities on minor variation applications			All cases
Determination of minor variation applications			All cases

## Licensing Act 2003 – Ward Councillor Call-in

Where a Ward Councillor makes representations upon an application within their ward, in writing, to the Head of Licensing, Trading Standards and Regulatory Services within the appropriate statutory period of consultation for the application, and this representation has been forwarded to the Licensing Authority, that application shall then be scheduled to be heard by the Licensing Sub-Committee for determination. The Ward Councillor must include in their representations the reasons why they wish the application to be determined by the Sub-Committee and how the application adversely affects the licensing objectives, otherwise the call-in will not be valid.

## Gambling Act 2005

FUNCTION	COUNCIL / CABINET	SUB-COMMITTEE	OFFICER
Approval of the three year Statement of Gambling Policy	Cabinet and Full Council		
Policy not to permit casinos	Full Council		
Fee Setting - when appropriate	Cabinet		
Application for premises licences		If representation made	If no representation made
Application for a variation to a licence		If representation made	If no representation made
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		If representation made	If no representation made
Review of a premises licence		X	
Application for club gaming /club machine permits		If representation made	If no representation made
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X

Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Notifications and applications for two or three gaming machines			X
	<b>COUNCIL / CABINET</b>	<b>SUB- COMMITTEE</b>	<b>OFFICER</b>
Applications for four to five gaming machines			Officers in consultation with the Chairman of the Licensing Sub-Committee
Applications for more than five gaming machines		By way of a report	
Decision to give a counter notice to a temporary use notice		X	
Section 284 Order to revoke the automatic entitlement for 2 gaming machine notifications		X	

### **Gambling Act 2005 – Ward Councillor Call-in**

Where a Ward Councillor makes representations upon an application within their ward, in writing, to the Head of Licensing, Trading Standards and Regulatory Services within the appropriate statutory period of consultation for the application, that application shall be submitted to the Licensing Sub-Committee for determination. The Ward Councillor must include in their representations the reasons why they wish the application to be determined by the Sub-Committee, otherwise the call-in will not be valid.

### **Other licensing functions exercised**

<b>Functions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in respect of Sex Establishment Licences</b>			
	<b>CABINET / COUNCIL</b>	<b>SUB- COMMITTEE</b>	<b>OFFICER</b>
Adoption of powers and resolution to prescribe appropriate number of Sex Establishments	Full Council		
Sex Establishment Policy	Cabinet		
Sex Establishment Fees – when appropriate	Cabinet		

To determine application for new/renewal licences where no representation made.			X
To determine application for new/renewal licences where a representation is made.		X	

<b>Functions under the Scrap Metal Dealers Act 2013</b>			
	<b>CABINET</b>	<b>SUB-COMMITTEE</b>	<b>OFFICER</b>
Scrap Metal Dealers Policy	Cabinet		
Scrap Metal Fees – when appropriate	Cabinet		
To determine any contested applications or where representations have been received		X	
To determine uncontested applications for site and collector's licences.			X
To determine uncontested applications for site and collector's licences subject to conditions			X
To determine uncontested applications for variations to a site or collector's licence			X
To revoke a site or collectors licence where no relevant representations from the licensee have been received.			X

<b>Street Trading</b>			
	<b>CABINET</b>	<b>SUB-COMMITTEE</b>	<b>OFFICER</b>
Street Trading / Markets Policy	Cabinet		
Street Trading / Markets Fees	Cabinet		
Determination of applications for street trader's licences and temporary markets and enforcement action as necessary.		Where contested	X
All matters concerning street trading licenses to enable the granting, renewing or revoking of a street trading license or to make regulations for prescribing new Standard Conditions.		Where contested	X

Authorisation, subject to legal advice, of legal proceedings under street trading legislation.			
Authorisation and issue of street litter control notices to businesses etc...			
Under Part 1 of the Business and Planning Act – Coronavirus measures To grant or refuse an application for a Pavement Licence. Where a Licence is granted, this is to be for an initial period of 4 months. Subsequent extensions will also be for a 4 month period, with the maximum period of any initial licence and extensions being 12 months.		<p>Any decision to revoke a Pavement Licence is to be taken by officers acting in consultation with the Chairman / Vice Chairman of the Licensing Sub Committee.</p> <p>Approved by Full Council 16 July 2020</p>	

## Appendix 2 - Table of Licensing Policies and dates for revision

Policy	Legislation & Summary	Approval body	Date for revision
Statement of Gambling Policy	Gambling Act 2005 - a statutory requirement to have a gambling policy to govern gambling activity in the borough. I.e. betting shops, gaming machines and raffles etc.	Council	2022/23
Scrap Metal Dealers Policy	Scrap Metal Dealers Act 2013 dealing with scrap metal sites, scrap metal collectors and car breakers	Cabinet	As and when
Statement of Licensing Policy	Licensing Act 2003 - a statutory requirement for Councils to have a policy under Section 5 of the Act. Governs decision making and enforcement for alcohol, entertainment and late night refreshment	Council	2026/27
Street Trading Licensing Policy	London Local Authorities Act 1990 governing street trading activity i.e. shop front displays, tables & chairs, trading pitches.	Cabinet	As and when
Markets Policy	Food Act 1984 to deal with street markets	Cabinet	As and when
Sex Establishments Policy	Local Government (Miscellaneous Provisions) Act 1982 (as amended) dealing with Sexual Entertainment Venues, Sex Shops and Sex Cinemas	Cabinet	N/A

## Appendix 3 – List of Responsible Authorities

<b>The Licensing Service</b>  The Licensing Authority	<b>Police Licensing Department</b>  Hillingdon Police Enforcement
<b>Fire Safety Regulation</b>  The Fire Authority	<b>Safeguarding Children &amp; Quality Assurance</b>  A body involved in the Protection of Children from Harm
<b>Health &amp; Safety Executive</b>  Enforcing Authority for the Health and Safety at Work etc Act 1974 in HSE enforced premises	<b>Trading Standards Service</b>  Enforcing Authority under the Weights and Measures Act 1985
<b>Anti-Social Behaviour &amp; Environment Team (ASBET)</b>  Enforcing Authority for matters relating to environmental pollution and public nuisance	<b>Planning</b>  The Planning Authority
<b>Public Health</b>  Health Authority Body	<b>Food, Health and Safety Team</b>  Enforcing Authority for the Health and Safety at Work etc Act 1974
<b>London Waterways</b>	<b>Home Office (Immigration Enforcement)</b>