



HILLINGDON
LONDON



Licensing Committee

Date: THURSDAY, 21 APRIL 2011

Time: 10.00 AM

Venue: COMMITTEE ROOM 4 -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE UB8
1UW

**Meeting
Details:** Members of the Public and
Press are welcome to attend
this meeting

Councillors on the Committee:

Andrew Retter (Chairman)
Josephine Barrett (Vice-Chairman)
Lynne Allen (Labour Lead)
David Allam
Bruce Baker
Mike Bull
Judy Kelly
Peter Kemp
Janet Gardner
Carol Melvin

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Published: Wednesday, 13 April 2011

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This Agenda is available online at:

<http://modgov.hillingdon.gov.uk/ieListDocuments.aspx?CId=257&MIId=657&Ver=4>

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Head of Democratic Services
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www.hillingdon.gov.uk



INVESTOR IN PEOPLE

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Agenda

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To confirm that all items marked Part 1 will be considered in public and all items marked Part 2 will be considered in private.
- 4 To agree the minutes of the previous Licensing Committee meeting

Part 1 (Public)

- 5 Police Reform Social Responsibility Bill
- 6 Update on banned Street Trading in Uxbridge Town Centre
- 7 Update on Sex Establishment provisions
- 8 Licensing Statistics Update
- 9 Gambling Act 2005 - Committee Update
- 10 Licensing Delegations Update

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Minutes

LICENSING COMMITTEE

18 January 2011

Meeting held at Committee Room 6 - Civic Centre,
High Street, Uxbridge UB8 1UW



	<p>Committee Members Present: Councillors Andrew Retter (Chairman), Josephine Barrett (Vice-Chairman), David Allam, Bruce Baker, Michael Bull, Janet Gardner, Peter Kemp, Judy Kelly & Carol Melvin</p> <p>LBH Officers Present: Natasha Dogra, Democratic Services Officer David Frost, Regulatory Services Manager Sharon Garner, Licensing Officer Norman Stanley, Licensing Service Advisor Stephanie Waterford, Licensing Service Manager</p>	
1.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>Apologies were received from Cllr Lynne Allen.</p>	Action by
2.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p>	Action by
3.	<p>TO CONFIRM THAT ALL ITEMS MARKED PART 1 WILL BE CONSIDERED IN PUBLIC AND ALL ITEMS MARKED PART 2 WILL BE CONSIDERED IN PRIVATE. (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items on the agenda were marked Part 1 and were therefore considered in public.</p>	Action by
4.	<p>TO AGREE THE MINUTES OF THE MEETING HELD ON 30 SEPTEMBER 2010 (<i>Agenda Item 4</i>)</p> <p>The minutes of the full Licensing Committee meeting held on 30 September 2010 were agreed as an accurate record.</p>	Action by
5.	<p>UPDATE FROM PROSECUTION OF THE DE BURGH ARMS (<i>Agenda Item 5</i>)</p> <p>Licensing Service Officers informed the Committee that in December 2009, Punch Taverns, being the premises licence holder for the De Burgh Arms, Station Approach, West Drayton, applied for a variation of the premises licence to allow the performance of dance for lap dancing and striptease. Following representations from the Metropolitan Police and members of the public, a hearing was held on the 26th January</p>	Action by

2010 to determine the application. The Licensing Sub Committee refused the application.

In February 2010, the designated premises supervisor, Mr Mukhtiar Singh Sandhu, notified the Licensing Service and the Metropolitan Police Service of the lap dancing/striptease events that were being held over 12 dates between March 2010 and June 2010 using the authority under temporary event notices.

On 14th June 2010, the manager, Mr Richard (Ricky) Whallen, was informed that as the allocation of TEN's had been used, the lap dancing and striptease events must stop.

On 28th July 2010 following information received regarding allegations of lap dancing continuing in the rear function room of the De Burgh Arms, two Officers from the London Borough of Hillingdon attended the premises and witnessed four females carrying out lap dancing for members of the public.

On 29th July 2010, an inspection was carried out by Sharon Garner, the licensing officer responsible for the premises, who was informed by both Ricky the manager and Mrs Sandhu, the wife of the designated premises supervisor, that the rear function room had not been used for lap dancing/striptease since 12th June 2010 when the last TEN was used.

Further to 28th July 2010, information received from the Metropolitan Police states that on 9th August 2010 in the mid afternoon, striptease was witnessed being performed in the function room of the premises.

Due to the evidence that was gathered, a decision was made to prosecute Mr Sandhu and Mr Whallen and a case file was passed to the Council's legal department.

On Tuesday 16th November 2010 both defendants attended Uxbridge Magistrates Court and pleaded guilty to allowing a licensable activity to be carried out without authorisation, contrary to section 136 of the Licensing Act 2003.

Mr Sandhu was fined a total of £1,500 in fines and costs. Mr Whallen was also fined a total of £1,500 in fines and costs and his personal licence was suspended for 2 months.

Agreed:

- 1. The Committee noted the update from Officers.**
- 2. The Committee asked Licensing Service Officers to write to the Secretary of State to encourage the use of a national database of licence holders to ensure a person whose licence has been revoked in one borough cannot visit another borough and gain a licence.**

*Stephanie
Waterford,
Licensing
Service
Manager*

6.	UPDATE OF STATEMENT OF LICENSING POLICY (<i>Agenda Item 6</i>) Noted: The Committee noted the updated Statement of Licensing Policy.	Action by
7.	LICENSING STATISTICS REPORT (<i>Agenda Item 7</i>) Noted: The Committee noted the Licensing Statistics report.	Action by
The meeting, which commenced at 10.00 am, closed at 10.20 am.		

These are the minutes of the above meeting. For more information on any of the resolutions please contact Natasha Dogra on 01895 277 488. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

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PROPOSALS IN THE POLICE REFORM AND SOCIAL RESPONSIBILITY BILL

Committee	Licensing Committee
Officer Contact	Sharon Garner 01895 277230
Papers with report	none
Ward(s) affected	All

SUMMARY

A report to update the Licensing Committee on the progress of the overhaul of the Licensing Act 2003.

RECOMMENDATION

That the Committee note the report.

INFORMATION

The Police Reform and Social Responsibility Bill 2010-2011 is intended to rebalance the Licensing Act 2003 in a number of ways. The following proposals have been read at the House of Commons and are currently waiting to have the second reading at the House of Lords on 27th April 2011. Following the third reading, Royal Assent is expected by mid July 2011 and the provisions of the Act are expected to commence in Spring 2012.

Proposals:

Much stronger powers for Licensing Authorities and the Police

- The Licensing Authority to become a Responsible Authority. This will empower the Licensing Authority to refuse, remove or review premises licences themselves without a representation being made by one of the other Responsible Authorities.
- Reducing the burden of proof on Licensing Authorities when making decisions by requiring that the decisions made are 'appropriate' rather than necessary for promoting the licensing objectives.
- Remove the requirement for interested parties who wish to make representations to be living or working in the 'vicinity' so long as the objection relates to one or more of the licensing objectives.
- Primary Care Trusts to become a Responsible Authority.
- Increase the weight Licensing Authorities will have to give to relevant representations from the Police.
- Applicants will be required to demonstrate knowledge and awareness of issues in the local community where the premises would be based in their operating schedule.

Dealing with late night drinking

- To allow Licensing Authorities to charge a late night levy on premises that have a late alcohol licence. This is intended to pay for policing the night time economy. The levy will be collected annually and the revenue will be split between the Licensing Authority and the Police, with a minimum of 70% being paid to the Police.

- To extend Early Morning Restriction Orders (EMROs) to restrict the sale of alcohol between midnight and 06.00 hours where appropriate. This applies to premises licences, club premises certificates and temporary event notices.
- To allow Licensing Authorities to use measures such as fixed closing times in designated areas where there are crime and disorder issues and noise disturbances, staggered closing times for different premises in an area over the course of the evening and zoning to prevent premises from opening beyond a time that the Licensing Authority chooses in certain zones.
- To reduce the evidential requirement from Licensing Authorities when implementing Cumulative Impact Policies to give more control over premises density.

Temporary Event Notices

- To allow the Council's Environmental Health Officers to object to a TEN.
- To allow the Police and EHO's to object to a TEN on the grounds of any of the licensing objectives.
- To allow the Police and EHO's three working days to object to a TEN (currently 2 working days).
- To allow Licensing Authorities the discretion to apply existing licence conditions to a TEN if there are objections from the Police or EHO's.
- To allow late TENs up to five days before the event without the need for a hearing, (if there is an objection on a late TEN, the event cannot go ahead) and an annual cap on the number of late TENs allowed, to prevent abuse of the system.
- To relax the length of a single TEN from 96 hours (4 days) to 168 hours (7 days) and for the total annual availability covered by a TEN for any single premises from 15 days to 21 days.

Protection of Children form Harm

- To double the maximum fine for under-age sales of alcohol to £20,000
- To extend the minimum period of voluntary closure for persistent under-age sales from a maximum of 48 hours to a minimum of 48 hours to a maximum of 2 weeks.
- To introduce presumption that licences will be reviewed and revoked following evidence of persistent under-age sales.

Reducing Burden and Bureaucracy

- To allow Licensing Authorities to suspend licences for non payment of fees.
- The review of the Statement of Licensing Policy will be carried out every 5 years rather than 3 years as at present.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

N/A

BACKGROUND PAPERS

<http://www.homeoffice.gov.uk/drugs/alcohol/rebalancing-consultation>

Update on banned Street Trading in Uxbridge Town Centre

Committee	Licensing Committee
Officer Contact	Stephanie Waterford x7232
Papers with report	none
Ward(s) affected	All

SUMMARY

To update the committee in respect of the decision made by Cabinet on 17th March 2011 to ban the continuous street trading of hot food in Uxbridge Town Centre.

RECOMMENDATION

That the committee note the report.

INFORMATION

The Licensing Service had received numerous enquiries for mobile hot food traders to trade late at night around Uxbridge Town Centre to catch trade as the pubs and bars were closing.

A recommendation was made to Cabinet to amend the Street Trading terms and conditions to ban the sale of hot food from the Town Centre. This was after concerns were raised about such traders becoming a target for anti-social behaviour, litter and general nuisance.

On 17th March 2011 Cabinet made a decision to ban hot food traders from street trading regularly or continuously in Uxbridge Town Centre.

The amendment to the regulations would allow officers to respond to such enquiries clarifying that the Council will not consider any street trading of food in Uxbridge town centre that takes place on a continuous or weekly basis.

The changes will come into effect on 27th April 2011.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

None

BACKGROUND PAPERS

Street Trading Terms & Conditions

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Update on Sex Establishment provisions

Committee	Licensing Committee
Officer Contact	Stephanie Waterford x7232
Papers with report	none
Ward(s) affected	All

SUMMARY

To update the committee in respect of the progress of the Sex Establishment provisions.

RECOMMENDATION

That the committee note the report.

INFORMATION

Following on from previous reports, the Sex Establishment Licensing Policy, together with a recommendation that Council adopt the provisions was discussed and endorsed by Cabinet on 17th March 2011.

The adoption of the provisions will be decided at the Council meeting on 7th July 2011.

The proposed timetable for the implementation of the provisions is as follows:

20 th July 2011	Legal notice published to notify of the adoption of the provisions
27 th July 2011	Second legal notice published to notify of the adoption of the provisions
20 th August 2011	First appointed day
20 th February 2012	Second appointed day
20 th August 2012	Third appointed day

Applicants for existing sex establishment premises will be required to apply for licences between the First and Second appointed days, with applicants for new premises required to apply between the second and third appointed days.

All licences granted during the transitional period will come into force on 20th August 2012.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

None

BACKGROUND PAPERS

Sex Establishment Licensing Policy

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Agenda Item 8

TOTAL NUMBER OF PREMISES AND PERSONAL LICENCES GRANTED UNDER OFFICER DELEGATED POWERS AND BY LICENSING SUB-COMMITTEES UP TO 8th APRIL 2011

Premises Licences

Type of Licence	No. issued
Clubs	84
Entertainment Premises	54
Hotels	34
Off Licences	267
Public Houses	139
Restaurants	150
Take Aways	77
Other	20
Total	825

Personal Licences

Personal Licences	2095
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Temporary Event Notices (TENS)

Issued from January 2010 to December 2010	429
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A list of Licensing Sub-Committee decisions from Jan 2011 to Mar 2011

Date Determined	Premises	Reason for Hearing	Decision
28 March 2011	Tesco, High Street, Yiewsley	Representation received from Planning	Licence granted with terminal time
			changed

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Period April 2010 to March 2011														
New premises licence applications by type and month														
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Totals	
Clubs	1												1	
Entertainment prems													0	
Hotels													0	
Off Licences	1	2		1	3	3	5	3	1	3	1		23	
Pubs	1	1											2	
Restaurants		1	2	1					2	1	1	1	9	
Take Aways							2				1		3	
Other	1	1											2	
Totals	4	5	2	2	3	3	7	3	3	4	3	1	40	
Variation and Minor Variation applications by type and month														
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Totals	
Clubs							2						2	
Entertainment prems								1					1	
Hotels								2					2	
Off Licences						2	1			1			3	
Pubs			1				1		1				3	
Restaurants		1					2			1	1		3	
Take Aways													0	
Other													0	
Totals	0	1	1	0	0	2	6	3	1	2	1	0	14	

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A list of all premises licences that have been determined using delegated licensing officer powers from Jan 2011 to Mar 2011

Date Determined	Premises	Applicant	Licensable Activities	Operating Hours
07/01/11	Costcutter, Hamilton Centre, Brunel University	Pearl Beverly Williams	Sale of alcohol	07.00 - 23.00 each day
<i>New premises licence</i>	<i>New premises licence for alcohol off sales</i>			
07/01/11	AVI Convenience Store, 4 The Parade, Cowley	Sawinder Chopra	Sale of alcohol	05.00 - 23.30 Monday to Thursday
<i>Minor Variation</i>	<i>Minor change to internal layout - hours unchanged</i>			05.00 - 24.00 Friday and Saturday
				05.00 - 22.00 Sunday
Page 17				
03/02/11	Café on the Green, Little Harlington Playing Fields, Sipson	E Banda	Sale of alcohol	07.00 - 24.00 each day
<i>New premises licence</i>	<i>New premises licence for alcohol sales</i>		Regulated Entertainment	
09/02/11	White Bear, Ickenham Road, Ruislip	Enterprise Inns plc	Sale of alcohol	10.00 - 01.00 each day
<i>Minor Variation</i>	<i>Minor variation to internal layout</i>		Regulated Entertainment	
10/02/11	Tesco, Vantage Building, 81-103 Station Road, Hayes	Tesco Stores Ltd	Sale of alcohol	06.00 - 23.00 each day
<i>New premises licence</i>	<i>New premises licence for alcohol sales</i>			

A list of all premises licences that have been determined using delegated licensing officer powers from Jan 2011 to Mar 2011

16/02/11	Three Bells, Terminal 3, Heathrow Airport	Geronimo Inns Ltd	Sale of alcohol	00.00 - 24.00 each day
<i>Minor variation</i>	<i>Minor changes to internal layout</i>			
16/02/11	Waters Edge, Reservoir Road, Ruislip	Mitchells & Butlers Leisure Ltd	Sale of alcohol	07.00 - 01.00 Monday to Saturday
<i>Minor Variation</i>	<i>Minor variation to AM opening hours</i>			08.00 - 01.00 Saturday
17/02/11	Zizzi, (ex Auberge), 223 High Street, Uxbridge	Ask Restaurants Ltd	Sale of alcohol	11.00 - 24.00 each day
<i>Variation</i>	<i>Variation to internal layout and licensed hours</i>		Late night refreshment	
18/02/11	Central News, 63 Coldharbour Lane, Hayes	N Nanjee	Sale of alcohol	06.00 - 22.00 Monday to Saturday
<i>Variation</i>	<i>Variation to licensed hours</i>			07.00 - 19.00 Sunday
03/03/11	Door to Door Pizza, Uxbridge Road, Hayes	Shorsh Majid	Late Night Refreshment	11.00 - 02.00 each day
<i>New premises licence</i>	<i>New premises licence for take-away</i>			
09/03/11	Villa Café, 20 The Broadway, Joel Street, Northwood	J M C Rocha	Sale of alcohol	08.00 - 23.30 each day
<i>New premises licence</i>	<i>New premises licence for alcohol sales</i>			
09/03/11	Wild Lemon, 14 Station Approach, Northwood	Gulam Khan	Sale of alcohol	10.00 - 24.00 each day
<i>Variation</i>	<i>Variation to include off sales for take-away</i>		Late night refreshment	
			Regulated Entertainment	

A list of all premises licences that have been determined using delegated licensing officer powers from Jan 2011 to Mar 2011

17/03/11	Reds Restaurant, Bakers Yard, Uxbridge	Reds Restaurant Ltd	Sale of alcohol	10.00 - 23.30 each day
<i>New premises licence</i>	<i>New premises licence for alcohol sales</i>		Late night refreshment	
17/03/11	Great Barn, Manor Farm, Ruislip	Arts & Culture Service, LBH	Sale of alcohol	08.00 - 00.30 each day
<i>Minor Variation</i>	<i>Minor changes to licence condition</i>		Late night refreshment	
			Regulated Entertainment	

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Gambling Act 2005 Refresher

Committee

Licensing Committee

Officer Contact

Beejal Soni - 01895556425

Papers with report**Appendix 1 – Decision Making Considerations****Ward(s) affected**

All

SUMMARY

There have been various developments in the Gambling Act 2005 since it came into force in 2007. This report is intended to provide guidance on relevant considerations for Sub-Committees when determining applications for a license / permit under the Gambling Act 2005/

RECOMMENDATION

That Members note the contents of this report and the attached annexure.

INFORMATION

The changing financial landscape has seen a rise in applications to transfer licences issued under the Gambling Act. Simultaneously it has been noted that objections to gambling establishments are rising in response to difficult financial circumstances. The LGA is currently considering options on whether it would be possible for local authorities to limit the number of gambling premises using various clauses contained in the Sustainable Communities Act 2007.

Appendix A provides information on current considerations that would be relevant to Members of the Licensing Committee when determining applications under the Gambling Act 2005.

FINANCIAL IMPLICATIONS

There are no direct financial implications related to this report.

LEGAL IMPLICATIONS

Relevant legal considerations have been incorporated into appendix 1.

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Appendix 1

Gambling Act 2005 Decision-Making Considerations

The Main Institutions

- Secretary of State
- Gambling Commission
- First Tier Tribunal (Gambling)
- Licensing Authorities
- Magistrates Courts

Role of the Gambling Commission

- **Statement of principles for itself** (Statement expresses the principles to be applied by it in exercising its own functions)
- **Codes of Practice for providers** (Codes concern the manner in which facilities for gambling are provided)
- **Guidance to local authorities** (the manner in which and principles applied by local authorities when exercising their functions under the Act)
- First Tier Tribunal deals with appeals from a Gambling Commission Decision

Licensing Authority

- Publication of three-year licensing policy
- Grant of premises licences
- Administration of occasional use notices
- Endorsement of temporary use notices
- Grant of family entertainment centre gaming machine permits
- Grant of club gaming permit
- Grant of club machine permit
- Grant of licensed premises gaming machine permit
- Grant of prize gaming permit
- Grant of application for registration of small societies
- Maintenance of registers
- Compliance

Magistrates Court

Appeals from licensing authorities regarding:

- Decisions re. premises licences, including transfer and review.
- Refusal or revocation of small society registration
- Temporary use notice decisions.
- Refusals of FEC gaming machine permits.
- Decisions re. club gaming / machine permits.
- Refusals of prize gaming permits.

What is gambling?

Gambling is:

- Gaming
- Betting
- Participating in a lottery

Relevance of distinction?

- Type of gambling affects type of operating licence

Remote Gambling

Gambling includes remote gambling, i.e. participation by:

- Internet
- Telephone
- Television
- Radio
- Any other electronic or other technology for facilitating communication.

Gambling Licensing Objectives

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

Application of Objectives

- Premises licences: aim to permit where reasonably consistent with licensing objectives (subject to other considerations)
- Club gaming permits / club machine permits, have regard to licensing objectives (subject to other considerations)
- Licensed premises gaming machine permits: have regard to licensing objectives (among other things)
- Family entertainment centre gaming machine permits and prize gaming permits: **may** have regard to objectives (among other things)

Determination of Application

- Operating licence required for provision of facilities.
- Premises licence required for premises.
- Operating licence a prerequisite for premises licence (save track betting licence)
- But a premises licence does not remove need for operating licence, and vice versa.

Determination of Application

- Operating licence required for provision of facilities.
- Premises licence required for premises.
- Operating licence a prerequisite for premises licence (save track betting licence)
- But a premises licence does not remove need for operating licence, and vice versa.

Principles to be applied

Authority shall aim to permit the use of premises for gambling in so far as the authority think it:

- (a) In accordance with any relevant code of practice;
- (b) In accordance with any relevant guidance issued by the Commission;
- (c) Reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b));
- (d) In accordance with the statement of licensing policy (subject to paragraphs (a) to (c)).

Irrelevant Considerations

- Licensing authority may not have regard to:
 - the expected demand for the facilities.
 - whether a proposal is likely to receive planning permission or building regulations approval.
- Note, a decision by the licensing authority “shall not constrain” planning or building authority.

Weighting of Criteria

- “Aim to permit” is not “shall permit”
- Where (a) – (d) satisfied:
 - there is presumption of grant;
 - but what, if anything, may displace the presumption?
- Where (a) – (d) not satisfied:
 - Presumption of refusal?
 - Authority should consider conditions to overcome perceived problems.
- Hierarchy:
 - Licensing objectives not predominant, unlike LA03
 - Local policy subordinate to national guidance, unlike LA03

Grounds for Refusal

- Gambling Commission advises that: Licensing authority may refuse only on grounds of the licensing objectives or breach of policy, code or guidance
- But “aim to permit” does not mean that the starting point is the issue of a licence. It means do everything possible to allow the licence to be issued incl. adding conditions
- The Act is silent on whether Licensing Authorities retain say about layout, toilet provision, disabled facilities, location (except where children/vulnerable harmed), character, good neighbourliness, over-concentration, nuisance etc?

Imposing Conditions

- According to GA05, must not:
 - Prevent compliance with condition of operating licence
 - Vary number of machines permitted under Act
 - Contradict Regulations re. machines.
 - Require premises to be operated as a club / membership body.
 - Impose limits on stakes, fees, winnings or prizes (save fees for admission to a track).
- According to Guidance, should be:
 - Relevant to need to make building suitable for gambling;
 - Directly relevant to premises and type of licence;
 - Fairly and reasonably related to scale/type of premises;
 - Reasonable.

And if it all goes wrong?

- Despite the best laid plans, and tightest conditions, there may be problems associated with a gambling establishment.
- Licensing Authority may review:
 - **Multiple** licences of a particular **class**, re. use made of premises and arrangements for ensuring compliance with conditions.
(Note, this appears to be information-gathering exercise)
 - Interested/Responsible party or Licensing Authority can apply to review a **single** licence if:
 - Reason to suspect condition breached;
 - It thinks review appropriate.

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Proposed Amendment to Licensing Committee Scheme of Delegations

Committee	Licensing Committee
Officer Contact	Beejal Soni – 01895 556 425
Papers with report	Appendix 1 – Proposed Scheme of Delegations
Ward(s) affected	All

SUMMARY

Licensing Officers have undertaken a review of various licensing functions with a view to improving services and obtaining further efficiencies. This report proposes changes in the Licensing Committee decision-making process by delegating unopposed street trading applications to officer level as recommended by the Cabinet. It is anticipated that this proposal will improve service delivery whilst making efficient use of officer time.

RECOMMENDATION

That the Committee:

- 1. Note the recent recommendation by Cabinet on 14 April 2011 regarding street trading delegations set out in the background papers;**
- 2. Agree the proposed changes to the scheme of delegations as set out in Appendix 1 and;**
- 3. Agree that the changes will come into effect following the expiry of the Cabinet scrutiny call-in period on 26th April 2011.**

INFORMATION

On 14th January 2010, the Council of the London Borough of Hillingdon resolved to grant powers so that *"...the Licensing Committee to determine street trading applications and authorises the Head of Democratic Services, in consultation with the Leader of the Council, to agree any protocols or procedures or further constitutional changes required to effect this."*

The Licensing Committee subsequently met and resolved that all street trading applications would be determined by Licensing Sub-Committees. This decision included both contested and un-contested applications.

In January 2011 officers undertook a review of Street Trading functions as part of a rapid improvement programme for the Council's services. It was found that greater efficiency could be achieved if the Street Trading decision-making process was amended to bring it in line with the decision-making processes for the Licensing Act 2003 and the Gambling Act 2005.

Under this proposal, all contested street trading applications would continue to be determined by the Licensing Sub-Committees. However, all un-contested applications would be determined

under delegated powers to the Deputy Chief Executive and Corporate Director of Planning, Environment, Education and Community Services. Any revocation of a street trading licence, as this would likely affect the livelihood of an individual(s), would still be determined by a Licensing Sub-Committee. This proposal was endorsed by Cabinet on 14th April 2010 as set out in the report in **the Background Papers**.

Consultees, consultation arrangements and the circumstances for defining when an application is “contested” and thus due for Licensing Sub Committee referral would be clarified in a Street Trading Policy, which will be put forward to the May Cabinet for consideration.

Subject to the call-in period expiring on 26 April 2011, Cabinet has recommended that the Licensing Sub-Committee re-consider its scheme of delegations with regard to Street Trading.

The proposed Scheme of Delegation is set out in **Appendix 1** to this report. If accepted, the Scheme of Delegation will be included in the Street Trading Policy currently being drafted.

FINANCIAL IMPLICATIONS

Some savings are anticipated as a result of streamlined licensing processing.

LEGAL IMPLICATIONS

Section 25(3B) of the London Local Authorities Act 1990 (as amended) permits the relevant local authority to make regulations prescribing the procedure for determining applications. The Council of the London Borough of Hillingdon has awarded the Licensing Committee the powers to arrange for the discharge of functions under the London Local Authorities Act 1990 (as amended), including the manner in which licence applications are determined.

The Licensing Committee may therefore consider and determine whether or not to accept the proposed Scheme of Delegation included at Annex 1. It is confirmed that the acceptance of the recommendation will not require any amendment to the Licensing Committee’s terms of reference.

BACKGROUND PAPERS

April 2011 Cabinet Report on Street Trading Licensing Delegations and Policy

**Proposed Street Trading licensing delegations
(subject to approval by the Licensing Committee)**

MATTER TO BE DEALT WITH	FULL COUNCIL/ CABINET	LICENSING COMMITTEE	SUB-COMMITTEE	OFFICERS
Approval of Street Trading Terms & Conditions/ Licensing Policy	X (Cabinet)			
Designation of 'Licence Streets' (S24)		X		
Fee Setting - when appropriate	X			
Application for new Street Trading Licence			Contested	Un-contested
Application for a Temporary Street Trading Licence			Contested	Un-contested
Application for a variation to a Street Trading Licence			Contested	Un-contested
Application for a renewal of a Street Trading Licence			Contested	Un-contested
Revocation of a Street Trading Licence			All instances	

STREET TRADING LICENSING DELEGATIONS AND POLICY

Cabinet Member	Councillor Jonathan Bianco
Cabinet Portfolio	Finance, Property & Business Services
Officer Contact	Beejal Soni, Central Services Stephanie Waterford, Planning, Environment, Education and Community Services
Papers with report	Appendix 1 – Table of Delegations

HEADLINE INFORMATION

Summary	Cabinet is asked to consider initial proposals arising from the wider improvement review of licensing to provide a clearer policy framework for those involved in the process, including residents, businesses and the voluntary sector.
Contribution to our plans and strategies	Part of the Council's Business Improvement Delivery programme.
Financial Cost	Some savings are anticipated as a result of streamlined licensing processing.
Relevant Policy Overview Committee	Residents' & Environmental Service Policy Overview Committee
Ward(s) affected	All

RECOMMENDATIONS

That Cabinet:

- 1) Recommends that the Licensing Committee consider re-delegating its licensing functions as set out in the attached Appendix 1 and;**
- 2) Instructs officers to prepare a Street Trading Licensing Policy.**

INFORMATION

Reasons for recommendation

To consider the above two proposals arising from the licensing review being undertaken to improve the process and issue of street trading licences by the Council.

Alternative options considered / risk management

If the proposals are not implemented and the existing system of determining applications continues, there will be different procedures for different licences. Not to introduce a policy will create a vacuum with regard to information and expectations of those involved.

Comments of Policy Overview Committee(s)

None at this stage.

Background

Licensing Sub-Committee Delegations

At its meeting on 14th January 2010, Council resolved:

"That Council grant the necessary powers to the Licensing Committee to determine street trading applications and authorises the Head of Democratic Services, in consultation with the Leader of the Council, to agree any protocols or procedures or further constitutional changes required to effect this."

The Licensing Committee subsequently met and resolved that all street trading applications would be determined by Licensing Sub-Committees. This decision included both contested and un-contested applications.

Since then, the Licensing Sub-Committees have determined over 428 street trading applications (at the time of writing this report) ranging from table and chair licences, shop front licences, individual market stalls and temporary pitches etc. The Licensing Sub-Committee also has an urgency procedure, where it can meet quickly to approve licences at short notice, e.g. for events in the Borough.

This report to Cabinet now proposes that street trading licence applications are brought in line with all the other licensing functions carried out by the Licensing Service and Licensing Sub-Committees. For example, un-contested alcohol and entertainment premises applications and unopposed gambling applications are currently determined using delegated officer powers.

Under this proposal, all contested street trading applications would continue to be determined by the Licensing Sub-Committees. However, all un-contested applications would be determined under delegated powers to the Deputy Chief Executive and Corporate Director of Planning, Environment, Education and Community Services. Any revocation of a street trading licence, as this would likely affect the livelihood of an individual(s), would still be determined by a Licensing Sub-Committee.

Under these proposed new arrangements, objections / representations to street trading applications would be considered in the light of the proposed Street Trading Licensing Policy (recommendation 2). Consultees, consultation arrangements and the circumstances for defining when an application is "contested" and thus due for Licensing Sub Committee referral would be clarified in this policy. It is proposed that this policy be put forward to the May Cabinet for consideration.

This proposal has been identified as one of the early improvements which will assist the Council's Rapid Improvement Event review of licensing functions, which is part of the Business Improvement Delivery programme. If implemented, it could potentially reduce the cost of

processing such licence applications and licence processing turn around times would greatly improve.

London Boroughs, including Westminster, Greenwich, Hammersmith & Fulham, Lambeth, Southwark and Waltham Forest have adopted the approach of delegating decisions on uncontested Street Trading applications to officers.

The proposed delegations are set out in **Appendix 1**.

Whilst Cabinet is being asked to recommend this change, regulations require that the Licensing Committee must meet to agree this revision to the operation of the Licensing Sub-Committees.

The Licensing Sub-Committees would continue to meet regularly to determine licence applications under the following legislation:

- Licensing Act 2003 – for alcohol, entertainment, late night refreshment etc.
- Gambling Act 2005 – for bingo, adult gaming, betting, gaming machines, lotteries etc.
- Local Government (Miscellaneous Provisions) Act 1982 – for sex establishments (as currently proposed by Cabinet and subject to Council approval in July 2011)

Licensing of leaflet or hand bill distributors and busking is carried out under delegated officer powers. It is not proposed to amend this arrangement.

Street Trading Licensing Policy

It is proposed to prepare a Street Trading Licensing Policy, which will ensure consistency, accountability and transparency and bring street trading in line with the other licensing functions. Policies are a statutory requirement under the Licensing Act 2003 and Gambling Act 2005 and although such a policy is not statutory for street trading, the European Union Services Directive recommends the introduction of policies for regulatory functions.

Financial Implications

If implemented this change is expected to generate some minor savings which will arise from a reduction in printing and advertising costs, application processing costs and general licence administration. There would be a small reduction in paperwork and support from Legal and Democratic Services to the Licensing Sub-Committees.

A wider review of applications and licensing is being undertaken as part of the Business Improvement Delivery (BID) programme and any cashable savings will be identified as part of this review for inclusion in the Medium-Term Financial Forecast (MTFF) and budget process.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

Residents and stakeholders will continue to be consulted on street trading applications in the usual way. Proposed changes to the Licensing delegations will reduce the burdens and delays for those applying. A new policy will provide clear guidance for those involved.

Public consultation will be required if the Council is to create a Street Trading Licensing Policy. This public consultation would last 28 days and include meetings with various stakeholders and residents in order to ensure that their concerns are addressed.

CORPORATE IMPLICATIONS

Corporate Finance

Corporate Finance has reviewed this report and is satisfied that the financial implications reflect the direct resource implications for the Council. Any cashable savings resulting from the wider review will be included in the Medium-Term Financial Forecast (MTFF) and budget setting process.

Legal

Legal comments have been incorporated into this report. It is confirmed that the proposed scheme of delegations does not contravene any legislative requirements related to that particular licensing function.

BACKGROUND PAPERS

NIL.

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