



HILLINGDON  
LONDON



# Licensing Committee

**Date:** WEDNESDAY, 8 JUNE 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  
Bruce Baker  
Mike Bull  
Judy Kelly  
Peter Kemp  
Janet Gardner  
Carol Melvin  
Brian Stead

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**Published:** Tuesday, 31 May 2011

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<http://modgov.hillingdon.gov.uk/ieListDocuments.aspx?CId=257&MIId=988&Ver=4>

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# Agenda

## **Chairman's Announcements**

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To agree the minutes of the previous meeting
- 4 To confirm that all items marked Part 1 will be considered in Public and any items marked Part 2 will be considered in private
- 5 Hayes super-store update
- 6 Sex Establishments Update
- 7 Tiger Bar and Grill Review Update
- 8 Street Trading Policy Update
- 9 Licence Applications Statistics
- 10 Amendment to Licensing Sub Committee Protocol

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**Minutes**

**LICENSING COMMITTEE**

**21 April 2011**

**Meeting held at Committee Room 4 - Civic Centre,  
 High Street, Uxbridge UB8 1UW**



	<p><b>Committee Members Present:</b>                  Councillors Andrew Retter (Chairman), Mike Bull (Vice-Chairman), Lynne Allen (Labour Lead), Josephine Barrett, Bruce Baker, Peter Kemp and Carol Melvin.</p> <p><b>LBH Officers Present:</b>                  David Frost – Regulatory Services Manager                  Stephanie Waterford – Licensing Services Manager                  Beejal Soni – Legal Advisor                  Natasha Dogra – Democratic Services Officer</p>	
8.	<p><b>APOLOGIES FOR ABSENCE</b> (<i>Agenda Item 1</i>)</p> <p>Apologies had been received from Cllr David Allam, Cllr Judy Kelly and Cllr Janet Gardner.</p>	<b>Action by</b>
9.	<p><b>TO CONFIRM THAT ALL ITEMS MARKED PART 1 WILL BE CONSIDERED IN PUBLIC AND ALL ITEMS MARKED PART 2 WILL BE CONSIDERED IN PRIVATE.</b> (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items on the agenda were marked Part 1 and would therefore be considered in public.</p>	<b>Action by</b>
10.	<p><b>TO AGREE THE MINUTES OF THE PREVIOUS LICENSING COMMITTEE MEETING</b> (<i>Agenda Item 4</i>)</p> <p>The Committee agreed that the minutes of the previous meeting were an accurate record.</p>	<b>Action by</b>
11.	<p><b>POLICE REFORM SOCIAL RESPONSIBILITY BILL</b> (<i>Agenda Item 5</i>)</p> <p>Officers informed the Committee that the Police Reform and Social Responsibility Bill 2010-2011 was intended to rebalance the Licensing Act 2003 in a number of ways.</p> <p>The following proposals had been read at the House of Commons and were currently waiting to have the second reading at the House of Lords on 27 April 2011. Following the third reading, Royal Assent was expected by mid July 2011 and the provisions of the Act were expected to commence in spring 2012:</p> <ul style="list-style-type: none"> <li>- Much stronger powers for Licensing Authorities and the Police</li> <li>- Dealing with late night drinking</li> <li>- Temporary Event Notices</li> <li>- Protection of Children form Harm</li> </ul>	<b>Action by</b>

	<p>- Reducing Burden and Bureaucracy</p> <p>The Committee discussed the proposal for the Primary Care Trust (PCT) to become a Responsible Authority. Members were concerned that as PCTs were to be abolished this proposal would not be useful. Members said that Hillingdon Hospital and the Local GP Consortia would need to be consulted on this proposal. The Committee felt it necessary to write a letter from the Cabinet Member to Ministers involved and to the Home Office to note the Licensing Committee's concerns.</p> <p>Members were concerned that the proposal to charge a late night levy on premises that had a late alcohol licence to pay for policing the late night economy would target the smaller businesses harder than the larger businesses. This concern would also be raised in the letter to the Home Office.</p> <p>Members were concerned that the proposal for fixed closing times in designated areas where there were crime and disorder issues and noise disturbances would create a domino effect and lead to displacement. This concern would also be raised in the letter to the Home Office.</p> <p>Members suggested that the proposal to allow the police and Environmental Health officers three working days to object to a Temporary Event Notice (TEN) in place of the current two working day notice should be changed to five working days. This proposal would be raised in the letter to the Home Office.</p> <p><b>Noted:</b> The Committee noted the update from Officers and asked Officers to write a letter from the relevant Cabinet Member to the Home Officer raising concerns over the role of the PCT, the levy charges, zone-closing time proposals and TEN objection notice.</p>	<p><i>Stephanie Waterford (Licensing Services Manager) / Beejal Soni (Legal Advisor)</i></p>
12.	<p><b>UPDATE ON BANNED STREET TRADING IN UXBRIDGE TOWN CENTRE</b> (<i>Agenda Item 6</i>)</p> <p>Officers updated the committee on the decision made by Cabinet on 17 March 2011 to ban the continuous street trading of hot food in Uxbridge Town Centre.</p> <p>Officers reminded the Committee that 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.</p> <p>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.</p>	<b>Action by</b>

	<p>On 17<sup>th</sup> March 2011 Cabinet made a decision to ban hot food traders from street trading regularly or continuously in Uxbridge Town Centre.</p> <p>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.</p> <p>The changes would come into effect on 27<sup>th</sup> April 2011.</p> <p><b>Noted: The Committee noted the update.</b></p>	<p><i>Stephanie Waterford (Licensing Services Manager) / Beejal Soni (Legal Advisor)</i></p>
13.	<p><b>UPDATE ON SEX ESTABLISHMENT PROVISIONS</b> (<i>Agenda Item 7</i>)</p> <p>Officers updated the Committee in respect of the progress of the Sex Establishment provisions.</p> <p>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 17<sup>th</sup> March 2011.</p> <p>The adoption of the provisions would be decided at the Council meeting on 7<sup>th</sup> July 2011.</p> <p>Applicants for existing sex establishment premises would 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.</p> <p>All licences granted during the transitional period would come into force on 20<sup>th</sup> August 2012.</p> <p><b>Noted: The Committee noted the update.</b></p>	<p><b>Action by</b></p> <p><i>Stephanie Waterford (Licensing Services Manager) / Beejal Soni (Legal Advisor)</i></p>
14.	<p><b>LICENSING STATISTICS UPDATE</b> (<i>Agenda Item 8</i>)</p> <p>Officers presented the totally number of premises and personal licenses granted under officer delegated powers and by Licensing Sub Committees up to 8 April 2011. 825 premises licenses and 2095 personal licenses had been granted.</p> <p>Members asked Officers to report the number of street trading licences, sex establishment licences and gambling licences statistics to future Licensing Committee meetings coupled with the premises licences.</p> <p><b>Noted: The Committee noted the update.</b></p>	<p><b>Action by</b></p> <p><i>Stephanie Waterford (Licensing Services Manager) / Beejal Soni (Legal Advisor)</i></p>

15.	<p><b>GAMBLING ACT 2005 - COMMITTEE UPDATE</b> (<i>Agenda Item 9</i>)</p> <p>Officers informed Members that there had been various developments in the Gambling Act 2005 since it came into force in 2007. The changing financial landscape saw a rise in applications to transfer licences issued under the Gambling Act. Simultaneously it had been noted that objections to gambling establishments are rising in response to difficult financial circumstances. The LGA was 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.</p> <p>Officers provided information on current considerations that would be relevant to Members of the Licensing Committee when determining applications under the Gambling Act 2005.</p> <p><b>Noted:</b> <b>The Committee noted the update.</b></p>	<p><b>Action by</b></p> <p><i>Stephanie Waterford (Licensing Services Manager) / Beejal Soni (Legal Advisor)</i></p>
16.	<p><b>LICENSING DELEGATIONS UPDATE</b> (<i>Agenda Item 10</i>)</p> <p>Licensing Officers had undertaken a review of various licensing functions with a view to improving services and obtaining further efficiencies. This item proposed changes in the Licensing Committee decision-making process by delegating unopposed street trading applications to officer level as recommended by the Cabinet. It was anticipated that this proposal would improve service delivery whilst making efficient use of officer time.</p> <p>On 14<sup>th</sup> January 2010, the Council of the London Borough of Hillingdon resolved to grant powers so that <i>"...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."</i></p> <p>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.</p> <p>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.</p> <p>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</p>	<p><b>Action by</b></p>



<p>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.</p> <p>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 would be put forward to the May Cabinet for consideration.</p> <p>Subject to the call-in period expiring on 26 April 2011, Cabinet recommended that the Licensing Sub-Committee re-consider its scheme of delegations with regard to Street Trading.</p> <p>A Member of the Committee was concerned of the transparency of street trading applications. This Member was also concerned that delegated authority to sign off uncontested street trading application would be bestowed upon the Director for Planning, Environment, Education &amp; Community Services. The Committee were assured that each application would be considered on its own licensing merits.</p> <p>Members advised Officers to inform relevant Ward Councillors and the full Licensing Committee when street trading applications were received.</p> <p><b>The Committee:</b></p> <ol style="list-style-type: none"> <li><b>1. Noted the recent recommendation by Cabinet on 14 April 2011 regarding street trading delegations and;</b></li> <li><b>2. Agreed the proposed changes to the scheme of delegations and;</b></li> <li><b>3. Agreed that the changes will come into effect following the expiry of the Cabinet scrutiny call-in period on 26 April 2011.</b></li> <li><b>4. Agreed that Officers would notify relevant Ward Councillors and Licensing Committee Members when a street trading application was submitted.</b></li> </ol>	<p><i>Stephanie Waterford (Licensing Services Manager) / Beejal Soni (Legal Advisor)</i></p>
<p>The meeting, which commenced at 10.00 am, closed at 12.00 pm.</p>	

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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Minutes

## LICENSING COMMITTEE

12 May 2011

Meeting held at Civic Centre, High Street,  
Uxbridge UB8 1UW



HILLINGDON  
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	<b>Committee Members Present:</b> Councillors Andrew Retter (Chairman), Josephine Barrett (Vice-Chairman), Lynne Allen (Labour Lead), Bruce Baker, Michael Bull, Janet Gardner, Judy Kelly, Peter Kemp, Carol Melvin and Brian Stead.	
1.	<b>APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN</b> ( <i>Agenda Item 1</i> )  <b>RESOLVED: That:</b> <ol style="list-style-type: none"> <li>1. Councillor Andrew Retter be elected Chairman of the Licensing Committee for the municipal year 2011/2012; and</li> <li>2. Councillor Josephine Barrett be elected as Vice-Chairman of the Licensing Committee for the municipal year 2011/2012.</li> </ol>	<b>Action by</b>
2.	<b>APPROVAL OF THE TERMS OF REFERENCE AND OPERATION AND THE LICENSING SUB-COMMITTEES</b> ( <i>Agenda Item 2</i> )  <b>Approved:</b> The Licensing Committee's Term of Reference and Operation were agreed by the Committee.	<b>Action by</b>
3.	<b>LICENSING SUB-COMMITTEES TO THEN MEET AND APPOINT CHAIRMAN</b> ( <i>Agenda Item 3</i> )  <b>RESOLVED: That:</b> <ol style="list-style-type: none"> <li>1. Councillor Andrew Retter be elected Chairman of the Licensing Sub Committee North for the municipal year 2011/2012; and</li> <li>2. Councillor Josephine Barrett be elected as Vice-Chairman of the Licensing Sub Committee South for the municipal year 2011/2012.</li> </ol>	<b>Action by</b>
	The meeting, which commenced at 9.17 pm, closed at 9.18 pm.	

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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## APPEAL TO MAGISTRATES COURT

<b>Committee</b>	Licensing Committee
<b>Officer Contact</b>	Sharon Garner, Licensing Officer 01895 277230
<b>Papers with report</b>	None
<b>Ward(s) affected</b>	Botwell

### SUMMARY

To update the Licensing Committee on an appeal to Magistrates Court made in respect of an off licence known as Hayes Superstore.

### RECOMMENDATION

**That the committee note the information below**

### INFORMATION

A review was requested by the Council's Trading Standards Service in respect of an off licence named Hayes Superstore.

The review was called under the licensing objectives of prevention of crime and disorder and protection of children from harm.

On 19<sup>th</sup> January 2011 the review was held by a Licensing Sub Committee.

The Licensing Sub Committee decided to revoke the Premises Licence for Hayes Superstore.

Mr Manmohan Singh, the Premises Licence Holder, appealed against the Licensing Sub Committee's decision.

The appeal was to be heard at Uxbridge Magistrates Court on 25<sup>th</sup> May 2011.

However, the appeal had to be adjourned until 10<sup>th</sup> June 2011. Further information will be provided to the Licensing Committee after the appeal has been heard

### FINANCIAL IMPLICATIONS

None

### LEGAL IMPLICATIONS

None

### BACKGROUND PAPERS

None

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## Update on the Implementation of Sex Establishment Provisions

<b>Committee</b>	Licensing Committee
<b>Officer Contact</b>	Stephanie Waterford x7232
<b>Papers with report</b>	Sex Establishment Licensing Policy
<b>Ward(s) affected</b>	All

### SUMMARY

To update the committee in respect of the progress of the implementation of the provisions relating to Sex Establishments

### RECOMMENDATION

**That the committee note the report.**

### INFORMATION

On 12<sup>th</sup> May 2011, Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and also agreed the Sex Establishment Licensing Policy.

The dates for implementation have now been pulled forward. The revised timetable is:

- 25<sup>th</sup> May 2011 First legal notice published in local paper
- 1<sup>st</sup> June 2011 Second legal notice published in local paper
- 22<sup>nd</sup> June 2011 First appointed day
- 22<sup>nd</sup> December 2011 Second appointed day
- 22<sup>nd</sup> June 2012 Third appointed day – provisions fully in force

Existing operators will be invited to apply for the new licence on the first appointed day and applications will be determined after the Second appointed day.

New operators will be able to apply after the second appointed day and applications will be determined after the third appointed day.

### BACKGROUND PAPERS

Local Government (Miscellaneous Provisions) Act 1982  
Sex Establishments Licensing Policy

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## Review of a Premises Licence

<b>Committee</b>	Licensing Committee
<b>Officer Contact</b>	Sharon Garner, Licensing Officer 01895 277230
<b>Papers with report</b>	None
<b>Ward(s) affected</b>	Botwell

### SUMMARY

To update the Licensing Committee on recent review hearing made in respect of a licensed premises known as Tiger Bar & Grill.

### RECOMMENDATION

**That the committee note the information**

### INFORMATION

An application for a Review of the premises licence for Tiger Bar & Grill made by Sgt Ian Meens on behalf of the Metropolitan Police Service, was received on 25<sup>th</sup> February 2011.

The review was called under the licensing objectives of prevention of crime and disorder and prevention of public nuisance.

On 15<sup>th</sup> April 2011 the review hearing was held by the Licensing Sub Committee.

The decision of the Licensing Sub Committee is annexed to this report.

### FINANCIAL IMPLICATIONS

None

### LEGAL IMPLICATIONS

None

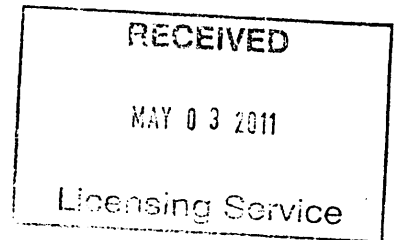
### BACKGROUND PAPERS

None

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## Licensing Sub-Committee

# Decision Notice

Application by the Metropolitan Police Services  
Seeking a Review of the Premises Licence of  
Tiger Bar and Grill, Dawley Road, Hayes,  
UB3 1EN

**Hearing:** 15 April 2011  
**Sub-Committee:** Cllr Mike Bull (*Chairman*)  
Cllr Judy Kelly  
Cllr Lynne Allen

**Legal Adviser:** Beejal Soni  
**Licensing Officer:** Sharon Garner  
**Committee Clerk:** Nav Johal

Chairman.....

Cllr Mike Bull

Dated: 15 April 2011

**This notice confirms the decision of the Licensing Sub-Committee made at a public hearing on Friday, 15 April 2011.**

### **THE APPLICATION**

This was an application initiated by the Metropolitan Police Services seeking a review of the Premises Licence of Tiger Bar and Grill, Dawley Road, Hayes on the grounds of Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance. Submissions in support of the review application were received from the London Borough of Hillingdon Environmental Protection Unit on the grounds of Prevention of Public Nuisance. The London Borough of Hillingdon Food Health and Safety Team also submitted representations in support of the application on the grounds of Prevention of Crime and Disorder and Public Safety.

SAZ Investments Ltd is the registered Premises Licence Holder. Mr Saranjit Bhambra is the only Designated Premises Supervisor (DPS) named on the Premises Licence.

### **ATTENDANCE**

Mrs Sharon Garner introduced the report on behalf of the Council's Licensing Service. Sergeant Ian Meens of the Metropolitan Police Services submitted representations on behalf of the Metropolitan Police Services. Alexandra Russell and Chima Umunnakwe submitted representations on behalf of the Food Health and Safety Team and Environmental Protection Unit respectively. The respondent to the Review, Mr Bhambra, was represented at the hearing by David Smith of Turbervilles Solicitors.

Prior to the hearing, the legal advisor discussed and agreed a detailed review hearing procedure with all parties which was aimed at ensuring that all parties would receive a fair and equal opportunity to make their representations. For ease of reference, a copy of these agreed procedures is attached marked Appendix 1.

### **THE HEARING**

This review proceeded on 19 January 2011. The Sub-Committee was satisfied that timely notice had been served on all parties and that all those entitled to attend and

speak had the opportunity to do so. The Sub-Committee considered the written evidence and oral submissions from all parties.

Mrs Garner introduced and outlined the report and grounds for the review application. The Sub-Committee began by inviting Sgt Meens to address the Sub-Committee.

Sgt Meens began by making submissions as per his statement on pages 23-25 of the hearing bundle; referring to various crime reports included in the bundle to support submissions. Key points made by Sgt Meens included:

- the inability of staff present on premises to download footage from the CCTV system;
- the number of times police were called out to incidents on the premises since its opening in September 2010;
- an incident involving the breaking of double-glazed glass by a patron / person who was refused entry;
- The confiscation of the CCTV hard-drive. An expert analysis indicated that footage had been tampered with (either by erasing data and/or replacing the Hard Drive);
- an alleged stabbing and clearing up of the area before police could obtain forensic evidence;
- incident logs which were not maintained as stipulated on the licence conditions;
- security logs which showed door staff present and going off duty a significant time after the closing of the premises;
- The premises operating beyond its authorised time. The Sub-Committee noted that Temporary Event Notices had been in effect on some of the dates mentioned;
- Alleged "proceeds of crime incident". The Sub-Committee noted that Sgt Meens advised that it is likely there is no substance to this allegation.

In response to various questions from other parties including Members of the Sub-Committee, Sgt Meens advised that:

- The premises could have opened for business at the end of August
- he had no knowledge of a new CCTV system which Mr Smith advised had lately been installed;
- it was possible that the incident related to the broken double-glazing window could have been caused by a member of the public who was denied access to the building;
- he would not begin a criminal prosecution on matters relating to the premises operating outside its permitted hours;
- the problems related to CCTV occurred when the DPS
- revocation is a matter for the Sub-Committee to determine – but that he would be happy for licence conditions and hours to be tightened as most of the problems are related to the incidents which occurred in the later hours of trading;
- that the Metropolitan Police Services had spent more time investigating and following up incidents on this premises rather than other premises in the area;
- he had discussed his concerns on a number of occasions with the DPS and Narinder Bhambra and provided advice on remedying various concerns relating to security and CCTV;
- That the DPS was difficult to get hold of and that he had frequent dealings with nominated persons. This was a concern because the DPS appeared to be the only person who knew how to operate the CCTV system;
- After confiscating the CCTV unit, it was only when he advised the DPS that the licence required an operational CCTV unit that the DPS made arrangements for an alternative unit to be installed.

As there were no further questions to be asked of Sgt Meens, the Sub-Committee then invited Mr Umannakwe to submit representations. Mr Umannakwe confirmed that one anonymous complaint had been received relating to noise from the premises. No noise nuisance was witnessed and it appeared officers had not attended the premises. A letter was sent to the owner of the premises on informal basis. Despite a request from the Sub-Committee to check the Council's electronic system for further information, he was unable to neither provide a specific date/date

range for the incident nor provide any more information other than what was contained in the anonymous complaint.

Alexandra Russell, of the Food Health and Safety Team then made submissions. She advised that, following an anonymous complaint, a visit to the premises was conducted on 01 February 2011. Evidence of a heavy rat infestation was found and the premises voluntarily closed until 11 February 2011. Officers provided detailed guidance to the licence holder about what was expected and how best to operate the food business. Two Hygiene Improvement Notices were also served relating to the requirement for a safe food production system and having chefs who could demonstrate adequate training. During this period of voluntary closure, complaints were received about the premises still being in operation.

The visit also revealed that a Shisha Lounge was in the process of being constructed. The Shisha Lounge area is reflected on plans as being the smoking area for patrons. Officers took advantage of the visit to provide information and advice on smoke-free legislation and what was required to comply with the legislation. It was Ms Russell's assertion that staff present seemed to possess no information about the requirements of the smoke-free legislation.

On 3 March 2011 Ms Russell and Ms Bedi visited the premises again to inspect the Shisha Lounge. Despite the advice provided in February, their opinion was that the premises was found to be fully erected and substantially enclosed. It was therefore not within the legislation. Concerns were also raised related to Fire Safety legislation, placement of heaters and an inability to show that the electric works were undertaken by a competent electrician. Staff were unable to present health and safety paperwork including a fire risk assessment for the Shisha Lounge. Submissions were therefore made as part of the review of the licence. Sharon Garner advised that the timings on the advertising of the Shisha Lounge did not correspond to the timings previously stipulated by the Sub-Committee.

In response to various questions from other parties including Members of the Sub-Committee, she advised that:

- If a premises was closed (voluntarily or by Order) because of a rat infestation, then the service of beverages and food was not permitted during the period of closure;
- A Voluntary Closure Notice is issued upon closure which does not have to be displayed to the public. The duty is not to allow anyone to enter the premises until the problem is resolved;
- Mrs Bedi authorised the re-opening of the premises following the issue of a voluntary closure Notice. The electronic records indicate that the premises re-opened on 11 February 2011.
- Detailed calculations (showing a minimum of 50% enclosure) will have to be undertaken in order to prove that the Shisha Lounge was not compliant with legislation ;
- Smoking is not a licensable activity under the Licensing Act 2003
- The Legal Advisor confirmed that because the area fell within the licensed premises area, it was under the control of the DPS.

Mr Smith was then invited to make submissions on behalf of the respondent to the application for review. By means of a series of questions asked to Mr Bhambra by Mr Smith, the Sub-Committee was advised that:

- that Mr Saranjit Bhambra is the DPS and he always intended to be the single point for accountability;
- Mr Bhambra is the only person working on the premises who holds a personal licence. 1 manager (referred to as "Mandeep") has passed the test and will be applying in due course for a personal licence. There are plans for other members of staff to obtain Personal Licences;
- The staff compliment comprises himself, Mandeep, Deepak, a chef and his dad Narinder.
- He lives above the premises and spends a lot of time on the premises itself. His first holiday was to take his wife away to Venice for Valentines Day this year;
- he knows nothing of a Lithuanian/Russian club opening advertised as being held at the premises;



- With regard to the incident on 12 December, he is not sure about the CCTV footage and confirmed the premises shut at 01:30.
- With regard to the breaking of the double-glazed window, he advises that the lady was refused entry to the premises. The incident was captured on CCTV but he was not asked to download it;
- The incident on 13 January 2011 took place on a night when the premises was let for a busy party. Security staff stayed longer than usual on the night. The first they knew about a stabbing was when the Police were called. He claims Police were on the scene immediately before anything was cleared away so forensic evidence could still be collected;
- The CCTV has been replaced;
- he will accept a condition requiring that staff be trained in the use of CCTV;
- A new cleaning company is in charge of the premises. The staff contract is Deepak who also lives above the premises;
- a new chef has been appointed

In response to questions from other parties including the Sub Committee; he advised that in relation to the incident on 26 December, the bag was found at 05h00 by Deepak in the toilet. Mr Bhambra was unable to answer a question from a Member of the Sub-Committee querying why the bag was found in such an obvious place long after the premises apparently closed.

Councillors emphasised that it was his duty as DPS to ensure that he was familiar with licence conditions and that these conditions were complied with. In response to questions relating to non-compliance with conditions about the CCTV and incident logging, Mr Bhambra advised that security staff has been changed and that original security staff had advised him there was no need to log incidents on all occasions. He confirmed that staff did not receive any training/guidance from him on security or licence conditions.

He further confirmed that apart from a fire risk assessment carried out prior to the grant of the licence; no risk assessment had been carried out following the opening of the Shisha Lounge, despite the Lounge being open for 3 months. The Shisha

Lounge was described as a temporary marquee structure that can be removed within 10 minutes, despite being highly decorated with furniture, cloth and the like. No answer was given to questions relating to why the advice given by officers was not adhered to. Instead Mr Bhambra advised that he was waiting for the Council to confirm the suitability of the structure. He conceded eventually that it was his duty and not the Council's duty to ensure that a compliant structure was erected.

In response to further questions, it took Mr Bhambra a significant amount of time to locate the fire exit on the plans and confirm that they were unobstructed by the Shisha Lounge. He conceded that there were problems with the premises but was willing to work to resolve it.

Sgt Meens was then invited to make closing remarks. He advised that there were significant problems with compliance at the premises – especially its management of the night time economy. It is a family run business which will fail if the licence is revoked. A revocation may also lead to new problems with new owners. However, a suspension would provide an opportunity to work with Mr Bhambra and improve compliance issues and the running of the premises.

Mr Smith crystallized the legal concerns and suggested the imposition of stringent conditions including a drugs policy, age restriction policy and log keeping.

## **CAUSES OF CONCERN**

The Causes of Concern can be isolated and identified as follows:

1. The DPS has failed to appreciate the seriousness and responsibility his position carries;
2. The premises have not been suitably managed;
3. The DPS has failed to demonstrate satisfactory knowledge of levels of compliance required in terms of the premises licence;
4. The premises itself is associated with numerous examples of crime and disorder and non-compliance with various primary legislation;
5. The family-run nature of the business, and its current operating record makes it doubtful conditions will be adhered to if they do not suit the type of business the family wishes to run;

6. The DPS is inexperienced in dealing with the challenges posed by the premises.
7. As advised by the Metropolitan Police Services, the revocation of the licence may lead to greater problems on the premises.

In reaching its decision, the Sub-Committee is mindful of the greater number of police hours spent in various investigations at the premises. Additionally, owing to the seriousness of the incidents detailed at the hearing the Licensing Sub-Committee has considered the revocation of the premises. This consideration has been balanced against advice from the police regarding the potential future problems in the event of a change in ownership. The Sub-Committee has noted that most of the problems at the premises are management related. The DPS appears to have been advised incorrectly by various members of staff. This situation is not helped by his lack of familiarity and awareness of the existing licence conditions. Effectively tackling management problems will require the introduction of robust independent management with full knowledge and awareness of the various responsibilities associated with owning and running such premises.

## **THE DECISION**

**The Sub-Committee has considered all the relevant evidence made available to it and in doing so has taken into account the Licensing Act 2003, the Guidance issued by the Secretary of State under section 182 of that Act, the Council's Statement of Licensing Policy and the Licensing objectives. It is confirmed that the wording of conditions to be attached to the licence has been discussed and agreed in open meeting with all parties to this hearing. The Licensing Sub-Committee has come to the following decision:**

**The premises licence for Tiger Bar and Grill is hereby suspended for a period of 2 months following the end of the licensing appeal period as a deterrent and to allow time for the compliance with the amended and new conditions listed below, such conditions to be fully complied with upon the re-opening of the premises for business:**

### **1. Change of hours**

The premises shall be licensed for licensable activity:

From 10h00-23h00 on Sundays – Thursdays;

From 10h00-23h30 on Fridays and Saturdays

The opening hours of the premises shall be:

From 10h00-23h30 on Sundays-Thursdays;

From 10h00-00h00 on Fridays and Saturdays.

For the avoidance of doubt, this means that all licensable activities shall stop at the terminal hour for licensable activity and the premises shall be cleared of customers and closed 30 minutes after conclusion of the licensable activity

The premises shall not be licensed for any additional timings for licensable activity and/or opening hours of the premises for Christmas Eve, Boxing Day, New Years Eve, the Sunday preceding Bank Holiday Mondays and Bank Holiday Mondays.

2. The premises shall not be licensed for off sales supply of alcohol.
3. Mr Saranjit Bhambra shall complete the advanced BII course for Designated Premises Supervisors prior to the re-opening of the premises;
4. Mr Saranjit Bhambra is removed as Designated Premises Supervisor.
5. The appointment of subsequent Designated Premises Supervisor(s) is subject to the additional condition that such person is not a member of Mr Saranjit Bhambra's family and is not in any way associated with Saz Investments Ltd.
6. The premises licence holder or DPS or other manager of the premises must regularly attend meetings of the Hayes Pub Watch.
7. On evenings where there is to be music for entertainment or dancing there shall be at least 2 door supervisors employed from 19h00 and rising by one supervisor to 3 supervisors where the number of persons present on the premises exceeds 100 persons and/or is expected to exceed 100 persons.
8. A challenge 21 scheme shall operate on the premises and the DPS shall have sight of the Challenge 21 book in order to verify entries

9. On evenings where there is to be music for entertainment or dancing, no person under the age of 21 shall be admitted to or remain on the premises.
10. No groups of males in excess of 5 will be admitted. Reasonable effort shall be made to ensure that groups of males do not artificially divide or pair off in order to gain entry;
11. A personal licence holder will be present on the premises at all times;
12. At least one staff member (in addition to the DPS) shall be trained in the operation of the CCTV. At least one staff member shall be present on the premises at all times to operate the CCTV system. The trained staff member must be able to show a police or authorised Council Officer recent data or footage with the absolute minimum of delay when requested and to provide a copy of the footage immediately if so requested.
13. The premises shall draw up and implement a written search and admission policy designed to restrict customers likely to be involved in crime and disorder and address search procedures, dress code, refusal to customers who appear intoxicated, or know drug users or persons known to have caused problems in the premises or other licensed premises. All staff shall be trained in this policy and a signed record of training and the policy shall be kept in a readily accessible place.
14. The premises will draw up a drinking policy addressing procedures to minimise the risk of customers becoming intoxicated whilst at the premises. All staff shall be given training in this policy and a signed record of training and the policy shall be kept in a readily accessible place
15. There shall be no complimentary drinks served to customers.
16. A daily incident log shall be maintained at the premises and signed at the end of each day by the duty manager. The daily incident log shall be made available upon request to an authorised Council Officer and/or the Police. The daily incident log will record at a minimum the following:
  - a. All crimes reported to the venue;
  - b. All ejections of patrons;
  - c. Any complaints;
  - d. Any incidents of disorder;
  - e. Seizure of drugs or weapons;

- f. Any faults in the CCTV system or searching equipment or scanning equipment;**
- g. Any refusal of a sale of alcohol;**
- h. Any visit by a relevant authority or emergency service**

**17. The premises may not carry out any licensable activity when the CCTV system is not operational and/or not on the premises.**

**In stipulating the above conditions the Sub-Committee notes that they have been discussed by all parties and the Premises Licence Holder has not objected to the conditions.**

**The Sub-Committee takes this opportunity to strongly recommend that a fire assessment for the Shisha Bar is carried out immediately in order to ensure the safety of patrons. It is also recommended that Mr Saranjit Bhambra ensure all relevant policies relating to food safety are up to date and practices comply with the requirements of the Food Health and Safety Team. It is strongly recommended, that both Mr Bhambra and the DPS are familiar with all these policies and licence conditions in order to ensure that the premises is run in a compliant manner. The Sub-Committee takes this opportunity to caution the Premises Licence Holder that the licence may be called in for review again if the licensing objectives are not upheld.**

#### **RIGHT OF APPEAL**

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the Council's decision to the Justice Clerk at the Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision. You will be deemed to have received the Decision Notice, two days after the date on the accompanying letter, which will be posted by 1st class mail.

## Update on Street Trading & Markets

<b>Committee</b>	Licensing Committee
<b>Officer Contact</b>	Stephanie Waterford x7232
<b>Papers with report</b>	Draft Street Trading Licensing Policy
<b>Ward(s) affected</b>	All

### SUMMARY

To update the committee in respect of the progress of the Street Trading and Markets Policy

### RECOMMENDATION

**That the committee note the report.**

### INFORMATION

On 26<sup>th</sup> May 2011, Cabinet approved the draft Street Trading & Markets Licensing Policy for public consultation. This was pursuant to a Cabinet decision in April 2011 to recommend delegation of decisions related to non-contested applications to the Deputy Chief Executive & Corporate Director of Planning Environment Education & Community Services and to instruct officers to prepare a street trading policy.

The draft street trading & markets policy, in Appendix A, contains the following key features or proposals for street trading activity in the borough:

1. A set of terms and conditions worded so that traders can understand what is expected of them;
2. The Deputy Chief Executive and Corporate Director of Planning, Environment, Education and Community Services, acting in consultation with the Leader, may make minor changes to the policy;
3. Street trading in the form of occasional street markets and charity / community events will be licensed under the Food Act 1984, so reducing administrative burdens on applicants and giving the Licensing Service and applicants greater flexibility in coordinating such events;
4. All applications will be subject to a 21 day consultation period. If objections to an application are received, the application will be determined by a Licensing Sub-Committee;
5. The criteria for accepting and refusing street trading applications is clarified.

The London Local Authorities Act 1990 (as amended) requires a public consultation be held for a minimum of 28 days before a decision is made on the final policy and licence conditions.

Officers will use the policy attached at Appendix A as the basis for the 28 day consultation with internal and external stakeholders. The proposed policy will be advertised on the Council's

website, the Street Champions e-mail bulletin and will take the form of a legal notice in the Uxbridge Gazette and London Gazette.

The draft policy will also be distributed to various partners and internal stakeholders including the Metropolitan Police Services, Food Safety Team, Highways Team and Waste Management, for comment.

Officers also propose to offer meetings to discuss the draft policy with various applicants and concerned traders, so as to address any concerns and to encourage a positive dialogue, setting this as the approach to the regulation of street trading.

Once consultation has been carried out and any representations made are analysed, officers will report back to Cabinet with any proposals for amendment.

Full Council will also need to amend the terms of reference of the Licensing Committee to take into account the licensing of markets.

### **FINANCIAL IMPLICATIONS**

The introduction of a street trading policy has no direct financial implications for the Council.

Delivery of the consultation process and the implementation of the street trading policy can be met from existing resources.

### **LEGAL IMPLICATIONS**

Legal comments have been included in the report where relevant. It is confirmed that the

London Local Authorities Act 1990 (as amended) places a mandatory requirement on the Council to consult on the policy prior to the introduction of the street trading policy.

### **BACKGROUND PAPERS**

London Local Authorities Act 1990

Food Act 1984





# HILLINGDON

LONDON

London Borough of Hillingdon  
Draft Street Trading & Markets Policy

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## 1.0 Introduction

This draft document sets out a proposal for a Council policy on the regulation of street trading, and a procedure for applications for street trading licences. The policy proposes a simplified process for licensing of street markets and community events and offers a simple prior approval process to support applicants so that their proposals have the greatest chance of success when a final application is made.

Cabinet will be asked to approve this general approach to regulation and the principles and procedures within, before the policy is made available for a statutory 28 day consultation period. After this period has elapsed, any significant responses can be reported to Cabinet prior to the policy becoming adopted Council policy.

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## 2.0 Intention of this policy

The development of a street trading policy presents an opportunity to encourage small independent businesses and traders and increase employment opportunities, by minimising bureaucratic licensing burdens, but at the same time maintaining sensible levels of public protection and complimenting trading from permanent businesses.

The policy will be reviewed in light of developing practice, guidance and changing legislation as necessary and covers the regulation of:

- Street trading pitches
- Tables & chairs
- Shop fronts
- Markets
- Community trading events

The policy sets out the Council's approach and requirements clearly, to help applicants and operators. It also aims to guide and re-assure the public, and other public authorities, ensuring transparency and consistency in decision making. This policy is meant as a guide to the Council's decision making process; all relevant factors will be taken into consideration in determining any application.

The grant of a licence for street trading does not override the need for licensees to comply with planning, building control, environmental, consumer protection, health and safety and other legislation. If necessary, the policy will be amended to prevent conflict with other legislation.

### 3.0 Street Trading Licences

Unless in respect of a market (see para 12.0), street trading licences will be determined under Part III of the London Local Authorities Act 1990 (as amended), referred to as “the Act” in this policy.

- Applications can be for permanent or temporary licences.
- The term “street trading” covers “pitches” (a defined or licensed area where a stall may be set up), “tables and chairs” – for example serving a café, and shop fronts – where there may be a display of goods outside a shop, directly concerned with that shop.
- The legislation says that “street trading” means the sale, and exposing or offering for sale of any article (including a living thing) in a street. A display of goods or services within seven metres of the Highway will require a street trading licence.

Street trading without a licence is an offence under licensing and possibly highways legislation. Through this policy, and by working with traders, the Council wishes to avoid using enforcement, but they may do so if circumstances demand this.

### 4.0 Eligibility criteria & suitability of applicants

- Applicants must be aged 17 years or older.
- Suitability will be assessed on a case by case basis and information about an applicant’s enforcement history with the Council may be referred to.

### 5.0 Making an application – the documentation needed

Applications for street trading licences must be in writing, using the Council’s application form, and must include the following;

- Two standard full face passport photographs;
- Evidence of public liability insurance for a minimum of £2 million cover;
- Proof of address;
- National Insurance number;
- Identification that includes a photograph of the applicant; (such as a new style photo driving licence)

Sometimes, the Council may be able to accept alternative supporting documents, but by individual agreement.

### 6.0 Fees

Fees may be reviewed on an annual basis, and will be advertised in accordance with the legislation. Fees must be paid in full when the application for the grant, renewal, variation or transfer of a street trading licence is made. There will be no refund of licence fees should a licence for any reason become revoked or surrendered.

A list of current street trading fees can be found on the Council’s website [www.hillingdon.gov.uk](http://www.hillingdon.gov.uk) or by contacting the Licensing Service on xxxxxxxx.

## 7.0 Temporary applications - pitches

All applicants licensed as temporary traders under the London Local Authorities Act 1990 will have the same conditions as those for permanent street trading licences. However, the legislation does not give temporary licence holders the right of appeal to the Council or the relevant committee against a decision not to grant a licence, or to revoke or vary a licence.

The issue of a temporary licence is without prejudice to the Council's application process for a permanent licences – this means that if a trader is issued with a temporary licence, it does not guarantee that permanent licence will be issued.

The Council reserves the right to issue licences to traders who offer things for sale or goods (“commodities”) which will enhance a shopping area or locale, before any other trader or applicant offering other commodities.

The Council reserves the right, *but only when appropriate*, to suspend the licence of any trader holding a temporary licence, without notice and without any reason having been given in writing. A trader who holds a temporary street trading licence must therefore stop trading straight away, when asked to do so by the Council, or a police officer.

## 8.0 Permanent applications - pitches

A pitch trader must have traded continuously under a temporary licence for a minimum of three years within the London Borough of Hillingdon prior to applying for a permanent licence.

Permanent licences must be renewed annually. Officers will advise licensees on the period of renewals and applications for permanent licences. However, responsibility for ensuring that a renewal occurs before the expiry of permanent licence lies with the licensee.

## 9.0 Succession of licences

“Succession” means when a permanent licence is transferred or “passed on” to a relation. There are rules about this in the legislation.

Succession of the street trading licence may only be granted by the Licensing Committee to a relation of the licence holder specified in the legislation and under the following circumstances, listed in the legislation:

- a) When the licensee dies; or
- b) When licensee retires, having reached the normal age for retirement; or
- c) When licensee advises the Council that owing to ill-health, he is unable to continue to operate the licence, and submits evidence to satisfy the Council as to his ill-health.

Licensing officers can provide more detail on the subject of succession and it is always best to clarify what may be involved before any assumptions about any entitlement are made.

## 10.0 Renewals

The licensee must apply to the Council for a renewal, at least 28 days before the current licence's expiry. If an application for renewal is not granted by the expiry date, then licence lapses, and the trader will have to cease trading.

The licensing service will aim to send renewal reminder notices to licensees up to 8 weeks before the date of expiry. No renewals should be accepted after the expiry date and in such cases any application should be treated as a new application, undergoing the full application process. No trading will be permitted unless a renewed licence has been issued.

#### 11.0 Variation

Licensees may apply to the Council to vary their licence at any time during the licence period. Applications may be made to vary the commodities traded, the pitch size and any assistants.

#### 12.0 Licensing of Markets and Occasional Street Markets - a Simplified Procedure

To simplify application processes and reduce administrative burdens on businesses and residents, the Council is now "invoking its market rights" under the Food Act 1984 (as amended) in the Borough.

The Food Act 1984 allows a local authority to establish a market within its area, and may designate a market place within its area and the days and hours during which markets may be held.

#### 13.0 A Single Licence for Markets

With this approach, all events in Uxbridge, Hayes, Ruislip, Ruislip Manor, Eastcote, Northwood and Northwood Hills town centres to which there is a free public access, and which may have multiple stalls or pitches to sell commodities, will now only require a single licence from the Council, as per Schedule 3 of The Food Act 1984. All areas not listed above where markets or street trading take place will still be regulated under the London Local Authorities Act 1990. Markets held in the following locations are also exempt from the market provisions of the Food Act 1984

- Any Council park or green space
- Any private building
- Enclosed shopping centres
- Any enclosed school / community hall or similar

Before, when using the London Local Authorities Act approach, every single trader or stall holder was required to provide full personal and business details to the Council.

Under the new approach, the licence issued will authorise a number of traders in a particular area, on predetermined days or dates (a market), or where trading takes place from a stall, a series of stalls or pitches, on an occasional basis.

The market licences may be granted to private market operators, resident's associations or similar, or community / charitable groups. The Council does need to

enforce its market rights in the interests of public safety, and so will decide on the area, size of stalls etc and their layout as well as relevant timings for trading to take place. Efforts will always be made to work with operators or groups, to agree and explain matters.

#### 14.0 Occasional Street Markets

Occasional street markets can encourage economic activity and enhance shopping areas by offering variety and by increasing visitor numbers.

A market operator or a group of traders may apply to the market authority for a licence to hold an occasional street market, for commercial trading purposes. This is a market which takes place on specified dates or days.

#### 15.0 Charity & Community Markets

It is recognised that regulation can sometimes have unwanted impacts on residents, businesses and community groups based in the borough. To minimise these burdens, specific arrangements for local community and charitable group events are outlined below.

- A charity or community group may apply for a licence to hold a market for the purpose of supporting a community event e.g. a fun day, or Christmas event.
- Applicants for a charity or community market must supply a statement to demonstrate community benefit, or evidence of charitable status and intention, when the application is made.
- Charity or community applicants may also ask the Council for a reduction or waiver of market application fees. The Council will consider any applications for waivers or reductions on a case by case basis, and in light of the paragraph immediately above.
- Where a charity or community event market includes trading by large commercial enterprises, other than small sole traders (whose presence at event brings community benefit) then the Council reserves the right to charge the standard fee to these commercial traders.
- Licensees must ensure that the terms and conditions that come with the overall market licence are kept to by the individual traders, that they have adequate insurances, and where it makes sense to do so, that they have the required food hygiene training and registration certificates.
- Charity or community market operators will be required to make their market applications at least two months prior to the market event taking place.
- Where road closures are required, approval must be obtained from the Highway Authority before the market application is made. Evidence of the approval will be required as part of the market application.

#### 16.0 "Approval in Principle"

The Council wants good markets or events to go ahead, rather than fall at administrative or bureaucratic hurdles, or for community organisers to be dissuaded by paper work. To save wasted effort, increase convenience and to ensure that applications have the smoothest possible journey to approval, the Licensing Service will give support in the form of “approval in principle”.

- Where early applications are submitted, and do not include full details of traders and their commodities, the Council may approve the application in principle, pending full details of the traders and their commodities being submitted by the market operator, at least two weeks prior to the market event.
- Operators or organisers will be able to hold early meetings with licensing officers to encourage general dialogue, discuss proposals and the Council’s requirements, and agree layouts etc, before a full application is made. No fee is to be charged for these meetings. However, it is anticipated that most events will need one, or perhaps two meetings to agree matters.

Clearly, there will be times when community organisers cannot be available for daytime meetings within short time scales, or when circumstances prevent meetings taking place. The Council will be flexible around deadlines so far as is reasonably practicable and officers will be proactive in anticipating problems and positive about applications.

#### 17.0 Applications and supporting information

Market operators must make applications using the Council’s own form and should provide the following information and documents as part of the application;

- Two standard full face passport photographs;
- Evidence of public liability insurance for a minimum of £2 million cover;
- Proof of address;
- National Insurance number;
- Identification that includes a photograph of the applicant; (such as a new style photo driving licence)
- Plan of the proposed market showing location, sizes and layout of stalls/pitches;
- Evidence of a trade waste disposal agreement or similar;
- Photos showing the appearance and style of stall / pitch;
- A list of stall / pitch traders and what they want to sell - the commodities – this may be given a minimum of two weeks before the event in the “approval in principle” process.

Sometimes the Council may be able to accept alternative supporting documents, by agreement.

#### 18.0 Fees



Market operators for occasional street markets are required to pay a fee for each stall / pitch in line with the current fee schedule.

As already stated, applicants for charity / community markets may apply to the market authority for a reduction or waiver of market licence fees. Information on current street trading fees is on [www.hillingdon.gov.uk](http://www.hillingdon.gov.uk) or can be obtained from the Licensing Service.

#### 19.0 Consultation and advertisement

On receipt and acceptance of any application for a new street trading licence or application for a variation to an existing one, the Licensing Service will carry out consultation with residents in the area, relevant ward members, town centre management, traders or businesses in the area, and any other body in the area that the Council sees as appropriate. The consultation period will be 21 days starting the working day after the fully completed application is received.

In addition to the above, for applications for shop front and / or tables and chairs licences, consultation and advertisement will take the form of a “Notice of Application” which must be placed in the window of the relevant premises – so that it can be easily seen from outside. The notice will be at least A4 in size and must be in place and easily visible from the outside throughout the consultation period.

Where market applications are received, the Licensing Service will carry out consultation with ward members, town centre management, traders / businesses in the area and any other body in the area that the Council sees as appropriate. The consultation period will be 21 days, starting the working day after the fully completed application is received.

#### 20.0 Objections

Objections must be made in writing and made by those persons, bodies, or their representatives, who are likely to be affected (in the “vicinity”, or area) by the operation of the licence. Frivolous, vexatious, repetitious and competition based representations will not be accepted.

Officers will help explain these terms to objectors, but essentially:

“Vicinity” has the common sense meaning of the word and is taken to mean the area in which objectors who are likely to be affected by the operation of the licence are located.

“Frivolous” objections may be based on a one off issue concerning a licence that has previously been managed well.

“Repetitious” means the objection is identical or substantially similar to an objection already discounted or a ground for review already made;

“Vexatious” means the objection is not genuine – ie. It could have been made as a result of a dispute between neighbouring residents or businesses.

#### 21.0 Consideration of Applications

Applications that have not been objected to in the above way will be considered by the Deputy Chief Executive and Corporate Director of Planning, Environment and Education Services or by officers authorised for the purpose of determining street trading applications.

If relevant objections are received during the consultation period for a licence application, a Licensing Sub-Committee will determine the outcome of the application. Where relevant objections are received outside of the consultation period, a Licensing Sub-Committee may exercise its discretion on accepting late representations.

## 22.0 Hearings

Where the Licensing Sub Committee is to determine an application for the grant, variation or revocation of a street trading licence, the hearing will be held as soon as is reasonably practicable.

Where a permanent trader wishes to appeal a decision to grant/vary or revoke his/her licence, an appeal, and the reasons for the appeal, must be made in writing to the Licensing Service within 21 days of the decision being made. The appeal will be heard by a Licensing Sub-Committee as soon as reasonably practicable.

## 23.0 Decision-Making & Grounds for Refusal

All applications will be considered by the Deputy Chief Executive and Corporate Director of Planning, Environment and Education Services or by officers authorised for the purpose of determining street trading applications. Where objections are received to an application, a Licensing Sub-Committee will determine the application.

The complete application process may take up to three months and this is to take into account the 21 day consultation period, and also, if required, the arrangement of hearings of the relevant Licensing Sub-Committee.

Where there are no objections to an application, the Council aims to determine applications within one month of receipt of a fully completed application.

Standard conditions will be attached to every street trading licence and these may be varied by the Council at any time. Where relevant, specific trading conditions may be attached to a street trading licence by a Licensing Sub-Committee.

In considering applications for the grant or renewal of a street trading licence the following factors will be considered, and may be grounds for refusal, when the authority may refuse a street trading licence application.

- (a) Public safety - Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction of the highway to emergency vehicles, or otherwise, a fire hazard, unhygienic conditions or other danger that may occur when a trader is using the site.
- (b) Prevention of crime and disorder - whether the street trading activity represents, or is likely to represent, a substantial risk to public order. This is potentially more of a problem for licences operating late in the evening.

- (c) Prevention of public nuisance or environmental damage - whether the street trading activity represents, or is likely to represent, a substantial risk of problems from damage to street surfaces, or from noise, litter, refuse, vermin, fumes, odours or antisocial behaviour, particularly in residential areas.
- (d) For markets licensed under the Food Act 1984, appearance and suitability of the stall or vehicle from which trading takes place - the stall or vehicle must be of a good quality design, of good appearance and meet the criteria, including size, laid down in the standard licence conditions. It is advised that applicants provide photographs or sketches including dimensions of the stall with all new applications.
- (e) Needs of the area – amongst other things, the Council will consider the demand for the articles for sale, and the geographical location of the proposed site.
- (f) History of the applicant - the suitability of the applicant must be considered. Previous failures, without reasonable excuse, to comply with licence conditions or failure or neglect in paying licence fees may result in a licence being refused, revoked or not renewed.
- (g) Pedestrian or vehicular access – whether there is sufficient space for pedestrians and vehicles (including pedestrians using mobility aids and parents with pushchairs/buggies) to continue to use the public highway safely and unhindered.

Occasionally, if some grounds for refusal do exist, the Council may still decide to award a licence – but this could be for fewer days than required, or to allow trading only in certain items, for example.

#### 24.0 Appeals

A Licensing Sub-Committee will determine appeals from permanent licence holders unhappy with a decision to grant / revoke / vary their street trading licence. In the event that a permanent licence holder is unhappy with the decision of the Licensing Sub-Committee, an appeal may be lodged with the Magistrates Court within 21 days of the date of the decision of the Licensing Sub Committee.

In the case of temporary licences, the legislation gives no right of appeal. Temporary licence holders may apply for a judicial review of decisions, though.

#### 25.0 Duration of licences

Permanent licences will last for one year. Temporary licence holders may apply for permanent licences after 3 years of continuous trading within the London Borough of Hillingdon.

Temporary licences are issued for six months, or a shorter period if the Licensing Committee / Applicant specifies otherwise. A shop front licence shall be a temporary licence, and a permanent licence may not be issued to a trader who applies for a shop front licence. Market licences will be issued for a period in accordance with the application and / or any Sub-Committee decision made to alter the licence period.

## 26.0 Enforcement Action

The decision to use enforcement action will be taken on a case by case basis and, to ensure consistency of approach, in accordance with this and any other more specific policies which may be applicable. The action taken, which may be immediate, will be proportionate to the seriousness and nature of the non-compliance.

Factors that will be taken into consideration include, but are not limited to:

1. The risk that the non-compliance poses to the safety, health or economic welfare of the public at large or to individuals;
2. Evidence suggests that there was pre-meditation in the commission of an alleged offence;
3. The alleged offence involved a failure to comply in full or in part with the requirements of this policy and / or the terms of the street trading licence;
4. There is a history of previous warnings or the commission of similar offences;
5. Aggravated circumstances such as obstruction of an officer or aggressive behaviour towards the public;
6. If the alleged offence, though not serious itself, is widespread in the area where it is committed;
7. The gravity of an alleged offence, taken together with the seriousness of any actual or potential harm;
8. There has been a repetition of a breach that was subject to a formal caution or issue of a Fixed Penalty Notice;
9. False information has deliberately been supplied.

The Council may take the following types of enforcement action:

1. Verbal warnings – e.g. where contraventions are easily resolved;
2. Written warnings – a more serious contravention and / or where the verbal warning has not resolved the contravention;

3. Simple cautions;
4. Licence review or application for licence revocation e.g. when fees go unpaid, a breach of a licence condition;
5. Fixed Penalty Notices;
6. Prosecution.

Any decision to prosecute will be taken as a last resort and such a decision will be made in accordance with the Code for Crown Prosecutors. Council enforcement services will carry out their enforcement-related work with due regard to the Enforcement Concordat. Information concerning non-compliance may be shared with other enforcement agencies. Any such action will only be undertaken in the public interest and in compliance with the Data Protection Act 1998.

Officers will regularly inspect street trading areas to ensure compliance with the licence terms and conditions i.e. the trader is only trading in the licensed pitch area. In addition, all complaints of unlicensed street trading will be investigated.

The Licensing Committee will hear all applications for the revocation, variation, or suspension of a street trading licence in the event that a trader significantly or persistently breaches such a licence.

Any trader who is convicted of an offence that is contrary to the Act or regulations made in pursuance of it may be requested to appear before the Licensing Committee or a Licensing Sub committee, when the determination of the recommendation to revoke the licence will be made.

Any contravention of licence terms and conditions by an assistant to the licensee will be viewed as a contravention by the licensee whether present or not.

#### 27.0 Designation of Licence Streets

If the Council considers that street trading should be allowed or licensed in any area, it may pass a resolution designating any street or part of a street as a licence street under Section 24 of the Act. In deciding if a street or site should be designated for street trading, the following may be considered;

1. The presence of any existing or planned street furniture;
2. The proximity and nature of any road junctions and pedestrian crossing points;
3. The number of street trading sites already licensed in the vicinity;
4. Whether the proposed site for designation would impact on accessibility for members of the public i.e. pedestrians, pushchairs, wheelchairs etc.
5. If the safety of the public will be put at increased risk;
6. Whether the proposed site will leave the recommended clearance of 2 metres clear passage between the trading area and the edge of the kerb or footway;
7. If there will be a negative impact on the character or appearance of the area.

For designation, there is a consultation period of 28 days, when the Council consults with the Police and Highways Authority, and any other relevant body. The Council may also pass a resolution to rescind or vary the designation of a licence street, and must consult on any intentions to do so in a notice published in a local paper. After publishing the consultation notice, the Council will consider any representations received, before making a decision.

A street does not have to be designated as a licence street for street trading purposes where a temporary street trading licence is issued.

A list of current licence streets found in **Appendix 1**

## 28.0 Other legislative considerations

Apart from the legislative requirements of the London Government Act 1990 (as amended) and the Food Act 1984, the Council will take into account its duties under other legislation including, but not limited to;

- Section 17 of the Crime & Disorder Act 1998, which places the Council under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent crime and/or disorder in the Borough.
- The Regulator's Compliance Code (set out in the Regulatory Reform Act 2006) which requires the Council not to impede economic progress by its regulations, and particularly to consider the impact on small businesses.
- The Provision of Services Regulations 2009 which requires the Council to ensure that its requirements are non-discriminatory; proportionate to the public interest; objective; clear and unambiguous; made public in advance; transparent and accessible.
- The Disability Discrimination Act 1995 which makes it unlawful to treat disabled persons less favourably than other people, for a reason related to their disability.

## EU Services Directive

Tacit consent will apply to street trading licence applications if no objections are received and the applicant is not notified within 28 days after receipt of a valid application.

## 29.0 Policy review

This Policy may be reviewed by Cabinet. Minor changes to this Policy may be made by the Deputy Chief Executive and Corporate Director of Planning, Environment and Education Services, acting in consultation with the Leader of Council.

## 30.0 Exemptions

TO FOLLOW

## 31.0 Commodities

Applications for street trading licences must be made in accordance with the Council's approved list of commodities and banned commodities (Included as Appendix 2). The Licensing Service will consider commodities that are not on the approved list at its own discretion.

The Council may amend this list in order to ensure fair trading opportunities to all traders in the relevant area. The Council may, from time to time, ban certain commodities in certain areas where there is a need to do so. If the Authority amends the list of banned commodities, a 21 day consultation with traders will be held in the affected area prior to a decision being made.

### 32.0 Ice Cream Traders

Ice cream trading means the selling, exposing or offering for sale of goods consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle.

Itinerant ice cream trading means ice cream trading from a vehicle which goes from place to place remaining in any one location in the course of trading for periods of 15 minutes or less and not returning to the same location or any other location in the same street on the same day.

The Council may, from time to time, ban ice cream traders in certain areas where there is a need to do so. The Council will carry out the statutory consultation and advertisement before any decision is made. A full list of areas where a ban on ice cream traders is in force can be found in **Appendix 3**.

### 33.0 Licence Conditions

The various licences in this policy are issued under the terms and conditions below. These are effectively the rules by which licensees must operate. They are meant to allow trading to be carried out safely, responsibly and in harmony with the surroundings, other traders and residents.

#### Definitions

The definitions used in the conditions and elsewhere are from the legislation that the Council is given to manage licensing in the borough. Some of the meanings may not be clear – Licensing officers will try to answer any queries from residents, organisers or licence holders.

- a. "The Act" means Part III of the London Local Authorities Act 1990 as amended by the London Local Authorities Acts 1994, 1999, 2004 & 2007";
- b. "Assistant" means a named person, or persons, under the direction of the licensee, who is in control of the trading activities when the licensee is not present. Details of this person(s) must be formally notified in writing to the Council;
- c. "Licensed Street Trader" means any person who is licensed for a street trading under Part III of the Act;
- d. "Licensed Street Trading Pitch" means an area in any authorised street or place at which street trading may be conducted in by a licensed street trader, and includes any temporary alternative place approved by the Council.

- e. "Premises" means any land, building or part of a building and includes any commercial premises adjacent to a licensed street trading pitch.
- f. "Shop Front Trading" refers to a licence which permits the display of shop goods on a street in a manner permitted by the Act.
- g. "Street trading" shall have the meaning described in Section 21 (1) of the Act.
- h. "Tables and Chairs Licence" refers to a licence authorising the placement of tables and chairs on a street.
- i. "Trader" means a person or that person's assistant in whose name a current street trading licence is held, authorising street trading from a licensed street trading pitch. The street trading licence may be a permanent or temporary licence.

### 34.0 Terms and Conditions for Street Trading Licences

#### 1. FEES

A fee is payable to the Council for consideration of the grant, renewal or variation of a street trading licence. The prevailing fees can be found on the Council's website. Fees must be paid at the time of application for the application to be accepted as "duly made".

#### 2. SURRENDER OF LICENCES

A street trading licence shall cease to have effect when it is returned to the Council by the licence holder. A receipt shall be provided by the Council confirming this. All fees and charges are due, up to and including the day accepted as the day of surrender of the street trading licence.

#### 3. TRADING LOCATION OR POSITION

The trader shall trade only from the position indicated on the licence, unless otherwise directed by an authorised officer. The Council reserves the right to suspend any licensed street pitch if the highway is obstructed or if health and safety concerns emerge. If this happens, another street trading pitch may be allocated by the Licensing Committee, if one is available.

#### 4. PITCH SIZE

The street trading area must be within the dimensions shown on the licence, or any relevant pitch limits marked out on the ground by the Council. An awning may be permitted to extend 30 cm (12 inches) at the front of the trading pitch, but no articles are to be suspended from the awning beyond the permitted pitch area.

#### 5. COMMODITIES / ITEMS TO BE TRADED OR SOLD



Only those commodities or groups of specified on the street trading licence may be sold from the licensed street trading pitch.

## 6. ADVERTISEMENTS

No advertisement shall be displayed on the licensed pitch for goods, commodities or services other than those licensed for sale or provided on that pitch.

## 7. DAYS AND TIMES OF TRADING OR BUSINESS

Trading may only take place on the days and during the times specified on the licence. The Council shall advise traders of any extension of trading times for specified trading periods when and as relevant.

## 8. TRADING ALONGSIDE PERMANENT BUSINESSES

Street trading times shall be the same as trading times applicable to shops in the vicinity of the licensed street trading pitch. However, traders may trade only during the times stated on the street trading licence.

## 9. REFUSE OR WASTE

It is the trader's responsibility to ensure that all litter and waste generated by their street trading activity is collected for recycling or disposal, in ways that are compliant with legislation. This can mean storage in suitable bins or containers within the trading pitch until collection can take place by a registered carrier of waste.

To prevent blockages, odours or nuisance to others, road gullies or surface water drains may not be used for the disposal of food based liquid wastes or other noxious substances.

## 10. PORTABLE GENERATORS

A portable generator can sometimes cause nuisance if not carefully sited or if it is in poor condition. To help control nuisance from noise or fumes, the use of and positioning of generators must be agreed with the Council. Sometimes it may be that it is not possible to agree the use of a generator, but each pitch will be different.

Generators will always be positioned so that they do not present problems for other street users or traders. Flammable fuel must be used safely and stored in suitable containers.

## 11. STREET CLEANLINESS

The trader must keep the immediate pitch area, and the area within 5 metres in any direction from the pitch, free of any wastes or spillages resulting from the trading activity, throughout the trading day. When trading is finished or upon leaving the site the trader must leave it in a clean condition.

## 12. DISPLAY OF LICENCE

The licence must be shown at all times, in a prominent position, so that it can be easily read.

### 13. SAFETY OF EQUIPMENT

Electrical equipment must be approved by the Council before being used on a trading pitch. Regular testing may be required.

### 14. USING A MAINS VOLTAGE ELECTRICAL SUPPLY

Traders using a mains electrical supply must have consent from the Council before seeking installation from an electricity supplier. Where relevant, the trader and the electricity supplier will be required to provide the Council with certification for the safety of the electricity supply.

### 15. INTERFERENCE WITH ELECTRICAL SUPPLIES

A trader will be subject to suspension of a street trading licence if they tamper with, or use an electricity supply belonging to the Council without a prior arrangement to do so. A trader causing damage to any Council installation or equipment will be required to pay the full cost of any repair or replacement.

### 16. PITCH EQUIPMENT, OR TRADING STALLS

Licensing law refers to these as "*Receptacles*". To the Council, this really means tables, stalls, coverings for stalls, framework for displays, boxes to hold goods etc. Basically, these are the items a trader would use to trade from, or perhaps to provide cover for goods.

Pitch equipment or stalls should be easily and quickly assembled and removed. The Council reserves the right to inspect for stability and safety and to ensure that they are fit for purpose. Any obviously dangerous item must be made safe or immediately removed on request. It is the trader's responsibility to ensure that items and structures are put up and taken down safely, are properly designed, well sited and in a good, clean condition.

### 17. GENERAL CONDUCT

A trader and any assistants employed by them shall conduct themselves in a decent manner and ensure that all members of the community are fairly treated and shown courtesy and respect. Trading activities should not give rise to noise inappropriate to the area, or cause other nuisance.

### 18. PRODUCTION OF LICENCES ON REQUEST

All licensed street traders shall produce their licence when requested to do so by an authorised officer the Council or a police officer.

### 19. NOTIFICATION OF LOCATION FOR STORAGE OF FOOD COMMODITIES, PITCH EQUIPMENT, OR TRADING STALLS etc.

Traders in foodstuffs must notify the Council in writing of any change of address or addresses at which the pitch equipment stalls etc (the "receptacles") and any

commodities are stored. Such notice must be given within 7 days of the change. Checks may be made to confirm details and suitability.

## 20. EMPLOYED ASSISTANTS

Traders shall notify the Council in writing of the name, address and national insurance number of every assistant who may be given responsibility for the pitch in the absence of the trader. Details of any subsequent change of assistant or any other relevant information regarding assistants should be given in writing to the Council.

## 21. EMPLOYMENT OF CHILDREN

A licensed street trader shall not employ any person under the age of 17 years in any capacity in the course of his trade or business.

## 22. ASSISTANCE TO COUNCIL OFFICERS

A trader shall give immediate assistance to Council officers when requested to do so. In dealing with an emergency, this might mean moving a stall or equipment away from the area, quickly.

## 23. CHANGE OF ADDRESS AND CIRCUMSTANCES

A trader shall give notice in writing to the Council of the change of any of the addresses and circumstances. Unless a trader is unable to do so for good reason, notice of a change of address should be given within seven days of any change. Proof of new address will need to be submitted to the Council, and a home visit may be carried out to confirm occupancy.

## 24. FOOD RELATED TRADING

Food traders shall comply with the necessary food hygiene, food hygiene training and food registration requirements as required by the Councils Food, Health & Safety Team.

### 35.0 Conditions Specific to Tables & Chairs Licences

These conditions apply to “Tables and Chairs” licences.

1. The grant of a tables and chairs trading licence does not give any approval or consent which may be needed under any other legislation other than under the Act(s).
2. A tables and chairs licence is a temporary licence. A permanent licence may not be issued to a trader who applies for a tables and chairs licence.
3. A copy of the tables and chairs licence must to be displayed in the window of the licensed premises. The copy licence is to be displayed so as to be clearly visible and legible from the street.
4. Only those commodities sold in the relevant shop premises can be served under the tables and chairs licence.
5. Only those services provided within the relevant shop premises can be provided in the licensed area where a licence permits tables and chairs to be placed on the street.
6. A tables and chairs licence is not transferable.

### 36.0 Conditions Specific To Shop Front Licences

The conditions below apply to “Shop Front” licences only

1. Any display or part of a display of goods or services sold or offered within a shop and that is located on a public forecourt adjacent to the shop shall require a shop front licence, if the display is placed within 7 metres of the boundary at the rear of the footway delineating between the private property and the public Highway, as may be evidenced by Deeds of the property and / or the Highway register.
2. A copy of the shop front trading licence must to be displayed in the window of the premises outside which trading is permitted. The copy licence is to be displayed so as to be clearly visible and legible from the street.
3. Food Traders shall comply with the necessary food hygiene and food registration requirements as required by the Councils Food, Health & Safety Team.
4. Monetary exchange or payment cannot be made in the licensed street trading pitch.
5. The dimensions of a licensed street trading pitch shall be such that a minimum of 2m clear of any obstruction shall be maintained on the Public Highway for the safe pass, re-pass and free flow of pedestrian and vehicular traffic.
6. No equipment, stall, container, or display or tables(s) or chair(s) shall at any time be permitted to obstruct an entrance or exit to any adjacent premises or to any part of the building to which the licence applies that is under separate occupation.
7. Temporary barriers of an approved type must be in place during licensed hours and the same must be removed outside of the hours permitted by the licence
8. A shop front trading licence is not transferable.
9. Only those commodities sold in shop premises can be displayed outside premises provided they are not excluded items as defined in these regulations.
10. A separate street trading licence shall be required in the event that a commodity that is not sold in the shop is displayed or offered for sale on the licensed street trading pitch.
11. Only that equipment, stall, container, or display or tables(s) or chair(s) and containers which is suitable and fit for purpose and approved by the Council shall be used by the licence holder and assistants for shop front trading or ancillary to shop front trading.

12. The following items may not form part of the commodities displayed under a shop front licence:
- a. Alcoholic beverages, tobacco and tobacco products;
  - b. Lottery tickets, phone cards, raffles, tombola and/or other games of chance;
  - c. Medicines, drugs and other prescribed substances
  - d. Uncooked meat or fish
  - e. New and used cars and motorcycles
  - f. Pets and livestock
  - g. Containers of Liquid Petroleum Gas (LPG) including any which are fully or partly discharged or emptied;
  - h. Explosives, including fireworks;
  - i. Goods considered by the Council to pose a Health and Safety risk to the public.
13. The dimensions of a licensed street trading pitch shall be such that a minimum of 2m clear of any obstruction shall be maintained on the public highway for the safe pass, re-pass and free flow of pedestrian and vehicular traffic.
14. Items that are likely to cause damage the street or street furniture may not be used.
15. An awning may be permitted to extend up to a maximum of 30 cm (12 inches) at the front of the licensed shop front pitch but no articles are to be suspended from the awning beyond the permitted area. Additionally, the placement of the awning must permit safe pass and re-pass by pedestrian traffic.

### 37.0 Standard licence conditions for markets:

- 1) No person shall sell in a market place any goods other than during market hours;
- 2) No person shall bring a vehicle into the market place during market hours unless in case of emergency;
- 3) No person in charge of a vehicle shall, during market hours allow it be halted in the market place, or in its immediate approaches, for longer than is reasonably necessary for the loading or unloading of goods;
- 4) No person shall bring any goods into the market place more than one hour before the market hours begin or allow them to remain there more than one hour after the market hours end;
- 5) No person shall erect, occupy or deposit any goods on any stall or pitch without the permission of the licensed market operator.
- 6) Every tenant or occupier of a stall / pitch shall;
  - a. Ensure that the stall/pitch is properly cleansed before and after market hours as often as may be necessary during those hours;
  - b. Ensure that all refuse accumulated in connection with the stall is placed in a bin or container provided or approved by the Council for that purpose;
  - c. As often as is necessary, ensure that the contents of the bin or receptacle are removed to an area designated by the Council for that purpose.
- 7) No person shall light a fire in the market place;
- 8) No person shall keep or sell any explosive or highly flammable substance in the market place;
- 9) No person shall post or display any bill, placard or poster, other than a description of goods advertised for sale, in any part of the market place except with the prior permission of the market authority;
- 10) No person in the market place or in its immediate approaches shall, except by way of sale, distribute or attempt to distribute to the public any printed matter unless prior consent has been obtained from the market authority;
- 11) No person shall bring into or allow to remain in the market place any animal;
- 12) Food traders shall comply with the necessary food hygiene and food registration requirements as required by the Council's Food, Health & Safety Team.

## Appendix 1

### SCHEDULE OF LICENCE STREETS

Pursuant to Section 24(10) of the London Local Authorities Act 1990 (as amended) the following streets are designated as “licence streets” for the purposes of street trading.

Bakers Road, Uxbridge  
Barra Hall Circus, Hayes  
Belmont Road, Uxbridge  
Betam Road  
Botwell Lane, Hayes  
Bourne Avenue, Gloucester Parade, Hayes  
Byron Way, West Drayton  
Cocks Yard, Uxbridge  
Coldharbour Lane, Hayes  
Coleridge Way, West Drayton  
Cowley Road 100-118, Uxbridge  
Cowley Road 18-20, Uxbridge  
Dawley Road 1-19, Hayes  
Dawley Road, Dawley Parade, Hayes  
East Lane, Hayes  
Eastcote High Road, Black Horse Parade, Eastcote  
Falling Lane, Yiewsley  
Field End Road, Eastcote  
Field End Road 702-724, South Ruislip  
Green Lane, Northwood  
Harlington Road 305-315, Hillingdon  
Harmondsworth Road, West Drayton  
Harlington Road 305-315, Hayes  
Harvil Road, Harefield  
Hayes By-Pass (The Parkway)  
Hercies Road, Hillingdon  
High Road 28-34, Cowley  
High Road 81-97, Ickenham  
High Road, Ickenham  
High Street, Cowley  
High Street, Dellfield Parade, Cowley  
High Street, Harefield  
High Street, Harlington  
High Street, The Parade, Cowley  
High Street, Uxbridge  
High Street, Uxbridge – pedestrianised area between Vine Street and Belmont Road.  
High Street, Ruislip  
High Street, Yiewsley  
High Street 110-118, Northwood  
High Street 2-88, Northwood  
Hillingdon Hill, Hillingdon  
Horton Road, Yiewsley  
Howletts Lane, Ruislip  
Ickenham Road, Station Parade, West Ruislip

### Appendix 1 (Cont)



Ickenham Road, Ruislip  
Joel Street, Northwood Hills  
Kingshill Avenue, Hayes  
Lansbury Drive, Hayes  
Laurel Lane, West Drayton  
Long Lane 1-12, Ickenham  
Long Lane 305-321, Hillingdon  
Long Lane 370-396, Hillingdon  
Long Lane, Crescent Parade, Hillingdon  
Long Drive, South Ruislip  
Manor Way, Ruislip Manor  
Maxwell Road, Northwood  
Moorfield Road, Cowley  
Moorhall Road, Harefield  
Mulberry Crescent, West Drayton  
North Hyde Road 141-171, Hayes  
Old Stockley Road  
Park Way, Ruislip Manor  
Park Lane, Harefield  
Pasadena Close  
Pembroke Road, Ruislip Manor  
Pield Heath Road, Cowley  
Pinner Road, Northwood  
Pinner Road, Northwood Hills  
Pump Lane, Hayes  
Pump Lane (Eastern end)  
Redmead Road, Hayes  
Rickmansworth Road, Harefield  
Romney Road, Romney Parade, Hayes  
Royal Lane, Yiewsley  
Ryefield Avenue, Hillingdon  
Salisbury Road, Eastcote  
Silverdale Road  
Sipson Road, West Drayton  
Skyport Drive  
Springfield Road  
Station Approach, South Ruislip  
Station Road, West Drayton  
Station Road, Cowley  
Station Road, Hayes (NOT pedestrianised)  
Station Road Hayes, pedestrianised area between Pump Lane and Crown Close;  
St Dunstons Road, Hayes  
Sutton Court Road, Hillingdon  
Swakeleys Road 1-31, Ickenham  
Swallowfield Way  
Swan Road 58-66 and 81, West Drayton  
The Green 1-16, West Drayton  
Victoria Road, South Ruislip  
Victoria Road, Ruislip Manor

**Appendix 1 (Cont)**

Victoria Road 439-445 and 490, South Ruislip  
Violet Avenue 53-65, Yiewsley  
West Drayton Road 177-183, Yiewsley  
West End Road, Ruislip Gardens  
Whitby Road 143-163 and 208-218, South Ruislip  
Windmill Hill, Ruislip Manor  
Uxbridge Road 1172-1380, Hayes End  
Uxbridge Road 124-152, Hayes  
Uxbridge Road 641-693, Hayes  
Uxbridge Road 759-849, Hayes End  
Uxbridge Road, Blenheim Parade, Hillingdon  
Uxbridge Road, Byron Parade, Hillingdon  
Uxbridge Road, Crescent Parade, Hillingdon  
Uxbridge Road, Heathside Parade, Hillingdon  
Uxbridge Road, Marlborough Parade, Hillingdon  
Uxbridge Road, Westbourne Parade, Hillingdon  
Uxbridge Road, Whiteleys Parade, Hillingdon  
Vine Street, Uxbridge  
Welbeck Avenue, Yeading  
Willow Tree Lane, Hayes  
Windsor Street, Uxbridge  
Yeading Lane, Yeading

## **Appendix 2**

### Commodities

Category	Commodity
Clothing	<ul style="list-style-type: none"> <li>• Womens clothing</li> <li>• Gents clothing</li> <li>• Childrens clothing</li> <li>• Babywear</li> <li>• Sportswear</li> <li>• Clothing accessories i.e. hats scarves, ties, belts etc</li> <li>• Underwear/Nightwear</li> <li>• Footwear/slippers</li> <li>• Other items (must be specified)</li> </ul>
Flowers	<ul style="list-style-type: none"> <li>• Cut flowers and plants</li> <li>• Uncut flowers and plants</li> <li>• Artificial flowers</li> <li>• Flower accessories i.e. pots, food, hanging baskets etc.</li> <li>• Seasonal i.e. Christmas Trees, Holly, Mistletoe etc</li> <li>• Other items (must be specified)</li> </ul>
Fruit & Vegetables	<ul style="list-style-type: none"> <li>• Raw fruit/vegetables</li> <li>• Other items (must be specified)</li> </ul>
Food	<ul style="list-style-type: none"> <li>• Pre-packed groceries</li> <li>• Dried fruit, seeds, pulses, beans etc</li> <li>• Cheese and dairy</li> <li>• Meat/fish</li> <li>• Bread/cakes</li> <li>• Deli food i.e olives, pickles, nuts etc</li> <li>• Confectionary</li> <li>• Other items (must be specified)</li> </ul>
Household goods	<ul style="list-style-type: none"> <li>• Cleaning products</li> <li>• Laundry products</li> <li>• Cleaning utensils</li> <li>• Plastic storage and accessories e.g. crates, boxes etc</li> <li>• Lightbulbs</li> <li>• Other items (must be specified)</li> </ul>
Toiletries & Cosmetics	<ul style="list-style-type: none"> <li>• Toiletries</li> <li>• Hair products</li> <li>• Make-up</li> <li>• Perfume</li> <li>• Other items (must be specified)</li> </ul>

**Appendix 2 (Cont)**

Soft furnishings	<ul style="list-style-type: none"> <li>• Cushions &amp; throws</li> </ul>
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	<ul style="list-style-type: none"> <li>• Bedding</li> <li>• Curtains &amp; blinds</li> <li>• Rugs &amp; mats</li> <li>• Dining linen</li> <li>• Other items (must be specified)</li> </ul>
Kitchen/Dining	<ul style="list-style-type: none"> <li>• Cookware</li> <li>• Serveware</li> <li>• Glassware</li> <li>• Tablewear</li> <li>• Other items (must be specified)</li> </ul>
Electrical & Audio/Visual	<ul style="list-style-type: none"> <li>• Audio/amplification equipment</li> <li>• Visual/display equipment</li> <li>• Computer hardware and accessories</li> <li>• Games consoles</li> <li>• Musical Instruments</li> <li>• Cameras</li> <li>• Electrical accessories</li> <li>• Other items (must be specified)</li> </ul>
Travel Accessories	<ul style="list-style-type: none"> <li>• Luggage</li> <li>• Sports bags</li> <li>• Handbags</li> <li>• Other items (must be specified)</li> </ul>
Jewellery and accessories	<ul style="list-style-type: none"> <li>• Costume jewellery</li> <li>• Precious jewellery</li> <li>• Hair accessories</li> <li>• Sunglasses</li> <li>• Watches</li> <li>• Other items (must be specified)</li> </ul>
Stationery	<ul style="list-style-type: none"> <li>• Office supplies</li> <li>• Paper</li> <li>• Greetings cards</li> <li>• Wrapping supplies/giftbags</li> <li>• Other items (must be specified)</li> </ul>
Toys	<ul style="list-style-type: none"> <li>• Childrens toys</li> <li>• Outdoor games and toys</li> <li>• Baby/nursery equipment</li> <li>• Other items (must be specified)</li> </ul>
Textiles	<ul style="list-style-type: none"> <li>• Fabric</li> <li>• Haberdashery</li> <li>• Yarn/Wool</li> <li>• Knitting/Sewing supplies</li> <li>• Other items (must be specified)</li> </ul>

### Appendix 2 (Cont)

Tools, DIY & Gardening	<ul style="list-style-type: none"> <li>• Tools</li> <li>• Garden tools</li> <li>• DIY supplies</li> </ul>
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	<ul style="list-style-type: none"> <li>• Other items (must be specified)</li> </ul>
Furniture	<ul style="list-style-type: none"> <li>• Furniture including antiques</li> <li>• Other items (must be specified)</li> </ul>
Sports equipment	<ul style="list-style-type: none"> <li>• Exercise equipment</li> <li>• Track &amp; Field</li> <li>• Golf</li> <li>• Sports equipment</li> <li>• Other items (must be specified)</li> </ul>
Pet supplies	<ul style="list-style-type: none"> <li>• Pet food</li> <li>• Pet beds</li> <li>• Pet cages/hutches/tanks/carriers</li> <li>• Grooming and care supplies</li> <li>• Other items (must be specified)</li> </ul>
Arts & Crafts (original handmade goods)	<ul style="list-style-type: none"> <li>• Art</li> <li>• Sculpture</li> <li>• Craft items</li> <li>• Handmade textiles</li> <li>• Other items (must be specified)</li> </ul>
Miscellaneous	<ul style="list-style-type: none"> <li>• Other items not in any category above (must be specified by the applicant)</li> </ul>

#### Banned Commodities

Commodity	Ward/Area of ban
Continuous or regular street trading of food (e.g. Mobile food traders)	Uxbridge Town Centre ( <i>as agreed by Cabinet 17<sup>th</sup> March 2011</i> )

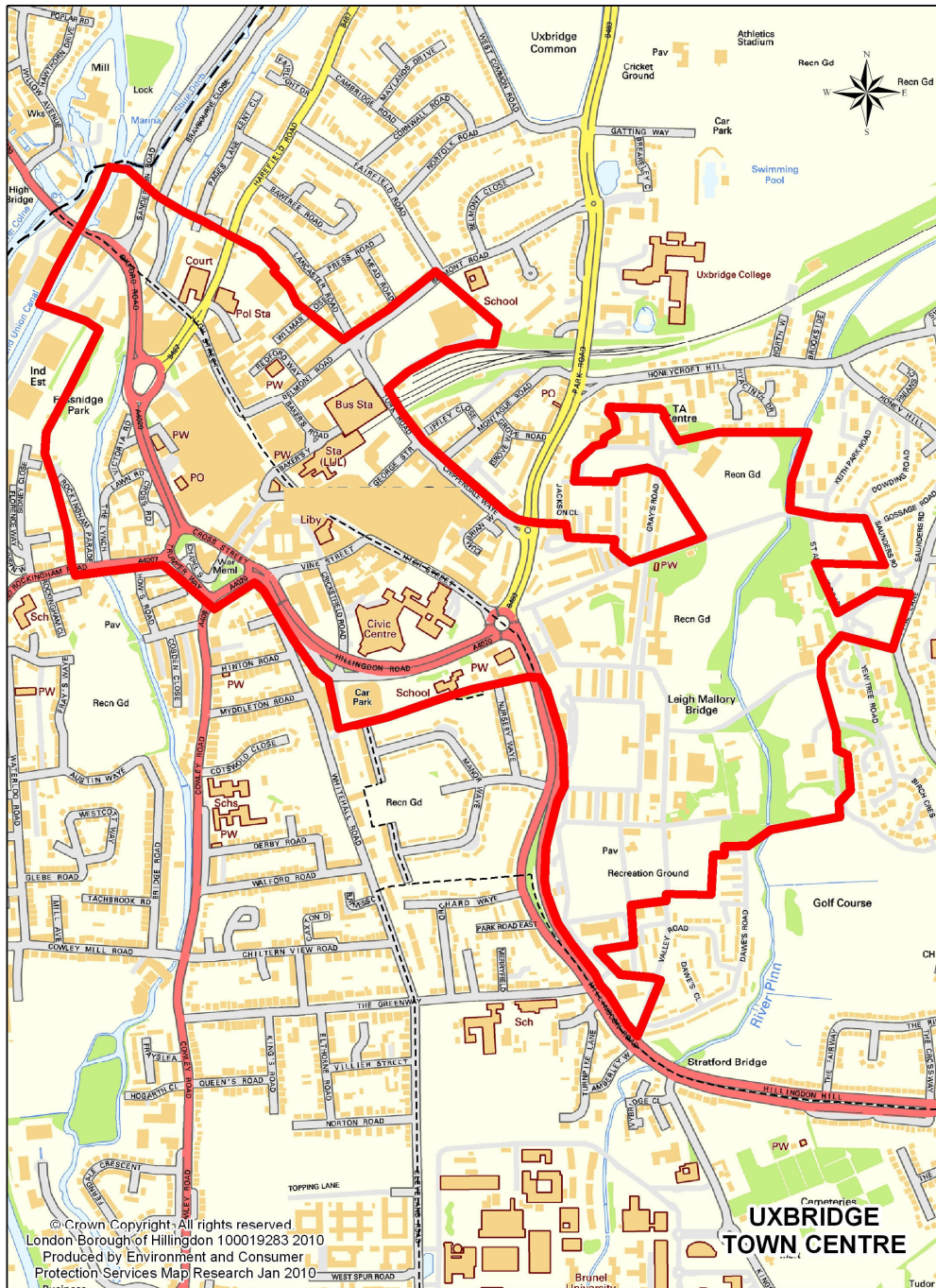
### Appendix 3

Prohibition of mobile or “itinerant” ice cream trading.

1. Any street or part of streets or side streets within 65 metres of any exit used by children from the following premises:
  - (i) Primary schools
  - (ii) Under 5 centres
  - (iii) Day nurseries
  - (iv) Secondary schools
  - (v) Special schools
  
2. Any street or side street falling within the Uxbridge Town Centre. The Uxbridge Town centre falls within the area bordered in red on the map below.
  
3. All streets, part of streets and side streets falling within major retail areas in
  - (i) Eastcote
  - (ii) Harefield
  - (iii) Harlington
  - (iv) Hayes
  - (v) Hillingdon Circus Area
  - (vi) Ickenham
  - (vii) Northwood
  - (viii) Northwood Hills
  - (ix) Ruislip
  - (x) Ruislip Manor
  - (xi) South Ruislip
  - (xii) Uxbridge
  - (xiii) Uxbridge Road Hayes
  - (xiv) Yiewsley and West Drayton

# Appendix 3 (Cont)

Area of Uxbridge town centre.



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# Agenda Item 9

## TOTAL NUMBER OF PREMISES AND PERSONAL LICENCES GRANTED UNDER OFFICER DELEGATED POWERS AND BY LICENSING SUB-COMMITTEES UP TO 27<sup>th</sup> MAY 2011

### Premises Licences

Type of Licence	No. issued
Clubs	83
Entertainment Premises	53
Hotels	34
Off Licences	267
Public Houses	136
Restaurants	154
Take Aways	77
Other	20
<b>Total</b>	<b>824</b>

### Personal Licences

Personal Licences	<b>2116</b>
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### Temporary Event Notices (TENS)

Issued from June 2010 to May 2010	452
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<b>Period June 2010 to May 2011</b>														
<b>New premises licence applications by type and month</b>														
	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Totals	
<b>Clubs</b>											1		1	
<b>Entertainment prems</b>													0	
<b>Hotels</b>													0	
<b>Off Licences</b>		1	3	3	5	3	1	3	1		1	2	23	
<b>Pubs</b>												1	1	
<b>Restaurants</b>	2	1					2	1	1	1	3	1	12	
<b>Take Aways</b>					2				1				3	
<b>Other</b>											1	1	2	
<b>Totals</b>	<b>2</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>7</b>	<b>3</b>	<b>3</b>	<b>4</b>	<b>3</b>	<b>1</b>	<b>6</b>	<b>5</b>	<b>42</b>	
<b>Variation and Minor Variation applications by type and month</b>														
	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Totals	
<b>Clubs</b>					2								2	
<b>Entertainment prems</b>						1							1	
<b>Hotels</b>						2							2	
<b>Off Licences</b>				2	1			1					4	
<b>Pubs</b>	1				1		1				1	1	5	
<b>Restaurants</b>					2			1	1			1	5	
<b>Take Aways</b>													0	
<b>Other</b>													0	
<b>Totals</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>6</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>13</b>	

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

<b>Date Determined</b>	<b>Premises</b>	<b>Applicant</b>	<b>Licensable Activities</b>	<b>Operating Hours</b>
04/04/11	Sahibs, 22 The Broadway, Joel Street, Northwood	Rajmoor Ltd	Sale of alcohol	11.00 - 01.00 Monday to Thursday
<i>Minor Variation</i>	<i>Removal of restrictive condition relating to children on the premises</i>		Regulated Entertainment	11.00 - 01.30 Friday to Saturday
			Late Night Refreshment	12.00 - 24.00 Sunday
11/04/11	Lomito, 41 Green Lane, Northwood	David Palmer & Nicholas Palmer	Sale of alcohol	10.30 - 23.00 each day
<i>New premises licence</i>	<i>New restaurant licence application</i>		Regulated Entertainment	
05/05/11	Sports Pavilion, Brunel University	Brunel University	Sale of alcohol	10.00 - 23.00 each day
<i>New premises licence</i>	<i>New premises licence for alcohol sales</i>			
05/05/11	Paddington Packet Boad, Packet Boat Lane, Cowley	Fuller Smith & Turner	Sale of alcohol	10.00 - 00.30 Sunday to Thursday
<i>Minor Variation</i>	<i>Alterations to internal layout</i>		Regulated Entertainment	10.00 - 01.30 Friday to Saturday
			Late night refreshment	
16/05/11	Orange Tree Barbecue Ltd, 108-110 Pembroke Road, Ruislip	Orange Tree Barbecue Ltd	Sale of alcohol	12.00 - 23.00 each day
<i>New premises licence</i>	<i>New premises licence for a restaurant</i>			
16/05/11	Metro Piazza, 34 High Street, Ruislip	Piazza Foods Ltd	Sale of alcohol	12.00 - 23.30 each day
<i>New premises licence</i>	<i>New premises licence for a restaurant</i>			
18/05/11	Hayes Bowls Club, Central Avenue, Hayes	Hayes Bowls Club	Sale of alcohol	09.00 - 24.00 each day
<i>New Club Certificate</i>	<i>New club premises certificate</i>		Regulated Entertainment	
19/05/11	Ask Restaurant, 35A Green Lane, Northwood	Ask Restaurants Ltd	Sale of alcohol	10.00 - 24.00 Monday to Saturday
<i>Minor Variation</i>	<i>Minor variation to internal layout</i>		Regulated Entertainment	12.00 - 23.30 Sunday
			Late Night Refreshment	

Public

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<b>AMENDMENTS TO SUB-COMMITTEE HEARING PROTOCOLS</b>	
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<b>Committee</b>	The Licensing Committee
<b>Officer Contact</b>	Beejal Soni -
<b>Papers with report</b>	Amended Protocols for sub-committee hearings

## HEADLINE INFORMATION

<b>Purpose of report</b>	Following changes to the composition of Licensing Sub-Committees, the hearing protocols require amendment in order to give effect to the decision of the Council of the London Borough of Hillingdon
<b>Contribution to our plans and strategies</b>	A Safer Borough
<b>Financial Cost</b>	Nil
<b>Relevant Policy Overview Committee</b>	Not Applicable
<b>Ward(s) affected</b>	All

## RECOMMENDATION

The Licensing Committee is asked to consider this report and to:

- (a) approve the amendment of the following protocols for sub-committee hearings:
  - a. Protocol for non-urgent street trading applications
  - b. Protocol for urgent street trading applications
  - c. Licensing Sub-Committee Hearing Protocol for determining new & variation premises/club licences
  - d. Sub-Committee Hearings Protocol for determining applications for Reviews of Premises Licences or Club Premises Certificates
  - e. Hearing Protocol: Gambling Act 2005

## INFORMATION

### Reasons for recommendation

On 12 May 2011 the Council of the London Borough of Hillingdon amended the composition of the Licensing Sub Committees such that 5 members now sit on each Sub-Committee. The proposed amendments to the protocols are necessary in order to give effect to this decision.

## **Alternative options considered / risk management**

No alternative decision is available

## **Financial Implications**

Nil

## **EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

### **What will be the effect of the recommendation?**

The new process will assist sub-committees in addressing all concerns before it.

## **CORPORATE IMPLICATIONS**

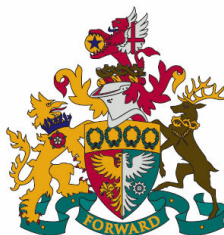
### **Legal**

The Legal implications have been incorporated into the body of this report. In order for the amended protocol to come into effect, the amendment must be approved by the full Licensing Committee.

## **BACKGROUND PAPERS**

- The Licensing Act 2003.
- The Licensing Act 2003 (Hearings) Regulation SI 2005 No. 44





HILLINGDON  
LONDON

## Gambling Act 2005

# Sub-Committee Hearings Protocol for determining applications under the Gambling Act 2005

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**This protocol outlines the procedures that will apply:**

Full details of the regulations surrounding sub-committee hearings are available for download on the Department of Culture, Media and Sport's website by [clicking here](#).

**It is important that you carefully read these procedures if you wish to attend and be heard at a Licensing sub-committee hearing**

Published by Democratic Services

# 1. On receiving the Notice of Hearing

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## What is the Notice of Hearing?

Hillingdon Democratic Services will give appropriate notice of the hearing, which depends upon the type of application to be considered. Exact timings are shown on the front page of the Agenda (attached to the front of the Notice of Hearing).

A Notice of the Hearing will be sent to all parties accompanied by:

- Date, time and location of the actual hearing and a procedural briefing to be held beforehand;
- This procedure note, the report from the Council's Licensing Officer with relevant requests attached;
- Confirmation that a party may be assisted / represented by a person who does not have to be legally qualified;
- Confirmation that a party to the hearing may address the authority, give further information on a point on which the authority requires clarification and, if considered by the authority to be required, question another party to the hearing;
- The consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the party's absence); and
- A note of any particular points on which the Hillingdon Licensing Service wants clarification.

### Contact Information:

To give notice or any queries relating to the hearing please contact:

Clerk to the Committee

Tel: 01895 277655

Email: [democratic@hillington.gov.uk](mailto:democratic@hillington.gov.uk)

Write to: Democratic Services 3E/05, Civic Centre, Uxbridge, UB8 1UW

## What do I do when I receive the Notice of Hearing?

On receipt of the Notice of Hearing, all parties must inform the Clerk to the Committee – **normally no later than 2 working days before the hearing\*** – whether they:

- Intend to attend or to be represented at the hearing;
- Consider a hearing to be unnecessary; and
- Wish to request that another person appear at the hearing (other than their representative) as a witness. If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the hearing.

\*Full details are given in the front of the Notice of Hearing of the deadline by which you should give your notice. All those who have made a request and the premises licence holder are also reminded of their right to have a legal representative at the hearing.

**If a party does not notify the above to the Clerk to the Committee before the relevant deadline they will not be entitled to speaking rights at the hearing.**

**IT IS IMPORTANT THAT YOU REPLY TO THE NOTICE**

## **If I want to withdraw my request - how do I do this?**

Any party may withdraw their request by contacting the Clerk to the Committee by telephone, letter or email, providing they give notice no later than 24 hours before the hearing. If, during the hearing, any party wishes to withdraw their request they may do so orally by informing the Chairman.

## **What happens if I cannot attend the sub-committee hearing?**

When a party informs the authority that he/she cannot attend the hearing or, without prior notice, fails to attend or be represented at the hearing, the sub-committee may either adjourn the hearing to a specified date, but **only** where it considers this to be necessary in the public interest or necessary for its consideration of any representations. Alternatively, the sub-committee may hold the hearing in the party's absence.

Where the sub-committee adjourns the hearing it shall notify the parties of the new date, time and place to which the hearing has been adjourned. Where the hearing is held in the absence of a party the sub-committee will still consider the application or any representations submitted by that party.

## **Can the date of the hearing be changed?**

Only if the Licensing sub-committee scheduled for that hearing, considers it to be necessary in the public interest or necessary for its consideration of any representations made by a party. In all other circumstances, the licensing authority cannot be flexible in the dates for hearings as the Gambling Act 2003 sets a strict legal deadline by which hearings must be heard.

## **Can you accommodate any special needs I may have?**

Yes, if any person, who intends to be present at the hearing, has any special needs, (for example in connection with access, hearing, language or vision) this should be brought to the attention of the Clerk to the Committee prior to the hearing in order that appropriate provision may be made.

## 2. Before the Hearing

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You will have been notified of the date and time of the Licensing Sub-committee hearing. The hearings will normally take place at the Civic Centre, High Street, Uxbridge in one of the Committee Rooms.

### **How do I get to the Civic Centre?**

Parking may be available via the entrance to the Civic Centre in the High Street by contacting the Clerk to the Committee in advance. Parking is also available in the nearby Chimes Shopping Centre Car Park. Bus routes 607, 427, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away.

Please enter from the main reception where you will be directed to the relevant Committee Room. Please switch off your mobile phone when entering the room and note that Hillingdon Council operates a no-smoking policy in its offices.

### **Will the hearing be in public?**

There may be other members of the public and press that attend the hearing to observe the proceedings, but they will not be allowed to speak. At any hearing, the person who has made the application may attend in person or, if the application is made by an organisation or corporate body, a duly authorised representative may be present, who is able to speak on their behalf can do so.

The hearing will take place in public. However, in exceptional circumstances, when the sub-committee considers that it is in the public interest, it may exclude the public from all or any part of a hearing. Hearings will normally take place during the day.

### **I have some new evidence - may I present it?**

The sub-committee **will not** normally allow the production of new written evidence not previously submitted by any party. In the case where the sub-committee does allow new evidence, all other parties must give their consent before it is heard.

If new material is permitted, the hearing may need to be adjourned to allow time to consider it and for other parties to respond to it. Accordingly, any application to have new material considered should demonstrate exceptional reasons for its admission. It is, therefore important for parties to ensure that all evidence is submitted in writing as soon as possible and in accordance with the relevant timescales.

### **Will I be briefed on procedure before the hearing?**

Yes, in the notice of hearing, you will have been asked to attend a procedural briefing before the hearing starts. All parties will be asked to attend this briefing so that the Council's Legal Advisor can outline the procedures to be followed at the hearing.

## **What if there is more than one Applicant or a number of different Parties to the review attend the hearing?**

At the briefing, the Legal Advisor may ask that a spokesman is agreed amongst those present who have similar requests for a review or representations in support.

## **Who are the people on the Licensing sub-committee?**

Five elected councillors of the London Borough of Hillingdon sit on a Licensing sub-committee and it is only they who can determine the application. Its minimum membership is two. Councillors who sit on the sub-committees have been trained in the Gambling regulations and have experience of determining applications of various kinds.

One of the Councillors will be the Chairman of the hearing and it will be he/she who will call interested parties and responsible authorities to speak and ensure time limits are adhered to as set out in the procedures.

Other people who will be present along with the Councillors include:

- The **Council's Licensing Officer** who will introduce the Officer report and outline his/her role.
- A **Legal Advisor** whose role is to assist the Committee with legal advice and to ensure that a fair and balanced hearing takes place.
- A **Clerk to the Committee** whose role is to summarise and record decisions on individual matters and to provide help and assistance to members of the public attending such meetings.

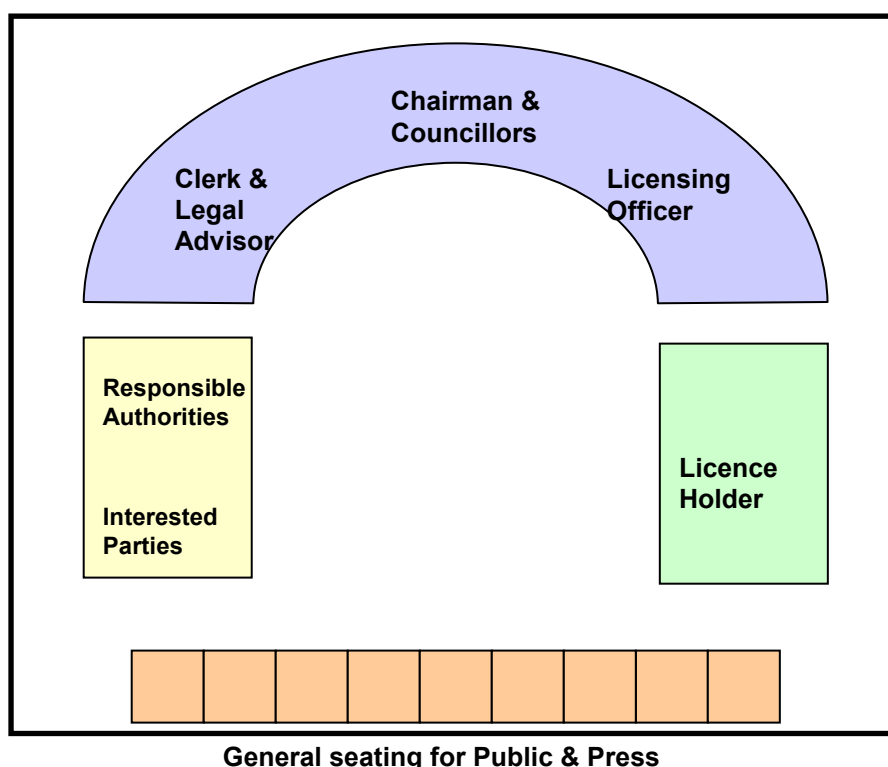
### 3. During the Hearing

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The procedure at the sub-committee hearing will, in general, be based on those used in a court of law. Although the strict rules of evidence will not apply, they will be observed to a great extent, because this is the best way of hearing the evidence from all parties. The hearing will take the form of a discussion led by the sub-committee councillors. The sub-committee will seek clarification on the issues from the parties as it considers appropriate.

#### Where shall I sit at the hearing?

The hearing will begin immediately after the procedural briefing and the set up of the room for those involved will generally be as shown below:



#### In general, how will the hearing be conducted?

The procedure to be followed at the hearing will normally be as shown in the flow chart below, although all procedural matters will be subject to the discretion of the Chairman. All persons present will be requested to identify themselves and to give the reason for their presence. The sub-committee may consider any request from a party for another person to appear at the hearing as their representative.

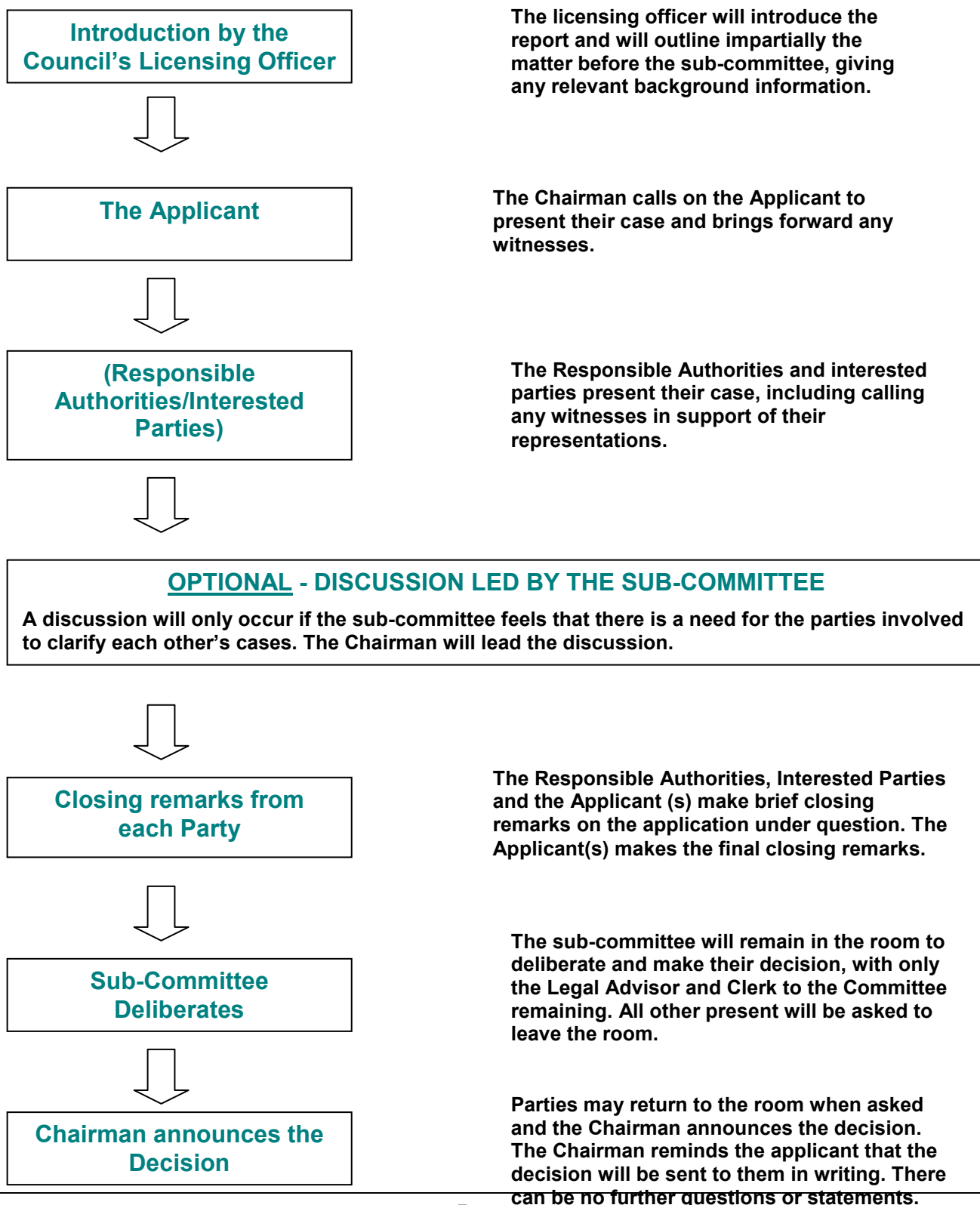
It is important to note that cross-examination will not normally be permitted. Evidence, discussion and address must be relevant to the three licensing objectives under the 2005 Gambling Act. Repetition should also be avoided. The sub-committee will seek to prevent irrelevant and repetitive matters.

If, during its deliberations, the sub-committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point the

hearing may be reconvened to deal with that issue. The sub-committee can also ask for procedural, technical or legal matter from officers present at any time during the proceedings.

## What is the order of proceedings?

The Chairman of the sub-committee will open the hearing by introducing the Councillors explaining the purpose of the proceedings and the general procedure. The Chairman will then check that there are no additions or alterations to the list of those appearing at the hearing, which will have been prepared in advance by the Clerk to the Committee and will then outline the procedure that will be followed for the remainder of the hearing. The procedure is as follows:



## **Can a councillor sit on a sub-committee if the application is in their ward?**

Councillors who sit on a sub-committee are advised to take steps to minimise their involvement in any application prior to its consideration by the sub-committee so that decisions are seen to be reached at the hearing impartially and with an open mind. Councillors should not appear to be acting both as an advocate on behalf of their residents and as an adjudicator on an application.

If a Councillor on the sub-committee has already taken a view on an application in advance of the hearing, they should not be present for the hearing of the application and should leave the meeting room for that item. They should also not visit any premises under consideration prior to the hearing. In any cases of doubt, the Councillor should not sit on the sub-committee for a particular application. In this instance, a substitute Councillor may need to be found from the main Licensing committee of the Council or the hearing may continue as long as two of the three Councillors are still present.

The agenda papers will show which ward each Councillor sits for and the reports from the Council's Licensing Officer will detail which ward the application is in.

## **Can a ward Councillor make a representation and or speak at a hearing?**

If a ward Councillor, who does not sit on the sub-committee, wishes to make a formal objection to an application they may only do so if they make a written relevant representation as would apply to an Interested Party and in the same way as any other member of the public using the procedures outlined in this protocol. If the ward Councillor believes they have a personal or prejudicial interest in the application, they may still submit a relevant representation.

Ward Councillors, who do not sit on the sub-committee, may also speak at a sub-committee hearing in support or against an application, for example on behalf of their constituents without notice. They may also speak as an advocate or witness on behalf of the applicant or an Interested Party, even if they believe they have a personal or prejudicial interest. However, for the purposes of transparency, at the hearing, the ward Councillor should disclose what their personal or prejudicial interest is and whether they have been in contact with the applicant, agent, Interested Party or responsible authority beforehand or have visited the premises concerned.

Ward Councillors making either a written relevant representation or wish to speak at a hearing should not communicate about the application before the hearing with any Councillors who sit on the sub-committee. This is so the sub-committee makes their decision with an open mind.

## **What power does the Chairman have to control the meeting?**

Under the Gambling Act 2005, the Chairman may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or may permit the person to return only on such conditions as he or she may specify.

## **How will the sub-committee make its final decision?**

Once the sub-committee has heard from officers and the parties to the hearing and has had answers to its questions, the sub-committee will remain in the room to deliberate and make their decision on the application with only the Legal Advisor and Clerk to the sub-committee remaining. The sub-committee must disregard any information given or evidence produced by



a party or witness, which is not relevant to the application, representations or notice or the promotion of the gambling objectives.

Members of the sub-committee have a duty to behave impartially, not to predetermine the issue and not to discuss matters with press or residents. In making its decision the sub-committee must state the reasons for that decision, taking into account the evidence presented by all parties during the hearing.

## 4. After the Hearing

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### **When will we get formal notice of the decision?**

The Chairman will normally announce the Sub-committee's decision in public at the end of the hearing and the reasons for the sub-committee's decision. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

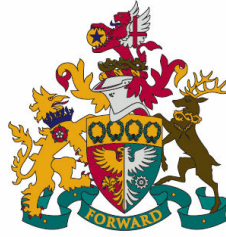
The Council's Legal Advisor will send the premises licence holder a decision letter/notice shortly after the meeting outlining the decision and any conditions that are attached to the licence. In addition, a copy of the decision letter will be sent to all those who made an application for a review in connection with the premises. This will confirm the decision made; any conditions attached to a review application or the reasons for revocation. Details of the respective appeal rights will also be sent with this notice.

The minutes of the meeting will be made available on the Council's website at:  
[www.hillingdon.gov.uk](http://www.hillingdon.gov.uk)

### **Can we appeal against the decision?**

Following the decision, the premises licence holder or any person who has made an application for a review can appeal to the Magistrates Court.

All applications once they are lodged will be available for viewing on Hillingdon Council's website at [www.hillingdon.gov.uk](http://www.hillingdon.gov.uk) and in the Civic Centre Offices by appointment with the Licensing Service during working hours.



HILLINGDON  
LONDON

## Licensing Act 2003

# Sub-Committee Hearings Protocol for determining applications for Reviews of Premises Licences or Club Premises Certificates

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---

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Email: [democratic@hillingsdon.gov.uk](mailto:democratic@hillingsdon.gov.uk)

Write to: Democratic Services 3E/05, Civic Centre, Uxbridge, UB8 1UW

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Any party may withdraw their request by contacting the Clerk to the Committee by telephone, letter or email, providing they give notice no later than 24 hours before the hearing. If, during the hearing, any party wishes to withdraw their request they may do so orally by informing the Chairman.

## **What happens if I cannot attend the sub-committee hearing?**

When a party informs the authority that he/she cannot attend the hearing or, without prior notice, fails to attend or be represented at the hearing, the sub-committee may either adjourn the hearing to a specified date, but **only** where it considers this to be necessary in the public interest or necessary for its consideration of any representations. Alternatively, the sub-committee may hold the hearing in the party's absence.

Where the sub-committee adjourns the hearing it shall notify the parties of the new date, time and place to which the hearing has been adjourned. Where the hearing is held in the absence of a party the sub-committee will still consider the application or any representations submitted by that party.

## **Can the date of the hearing be changed?**

Only if the Licensing sub-committee scheduled to hear the review considers it to be necessary in the public interest or necessary for its consideration of any representations made by a party. In all other circumstances, the licensing authority cannot be flexible in the dates for hearings as the Licensing Act 2003 sets a strict legal deadline by which hearings must be heard.

## **Can you accommodate any special needs I may have?**

Yes, if any person, who intends to be present at the hearing, has any special needs, (for example in connection with access, hearing, language or vision) this should be brought to the attention of the Clerk to the Committee prior to the hearing in order that appropriate provision may be made.

## 2. Before the Hearing

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You will have been notified of the date and time of the Licensing Sub-committee hearing. The hearings will normally take place at the Civic Centre, High Street, Uxbridge in one of the Committee Rooms.

### **How do I get to the Civic Centre?**

Parking may be available via the entrance to the Civic Centre in the High Street by contacting the Clerk to the Committee in advance. Parking is also available in the nearby Chimes Shopping Centre Car Park. Bus routes 607, 427, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away.

Please enter from the main reception where you will be directed to the relevant Committee Room. Please switch off your mobile phone when entering the room and note that Hillingdon Council operates a no-smoking policy in its offices.

### **Will the hearing be in public?**

There may be other members of the public and press that attend the hearing to observe the proceedings, but they will not be allowed to speak. At any hearing, the person who has requested the review may attend in person or, if the review is made by an organisation or corporate body, a duly authorised representative may be present, who is able to speak on their behalf can do so.

The hearing will take place in public. However, in exceptional circumstances, when the sub-committee considers that it is in the public interest, it may exclude the public from all or any part of a hearing. Hearings will normally take place during the day.

### **I have some new evidence - may I present it?**

The sub-committee **will not** normally allow the production of new written evidence not previously submitted by any party. In the case where the sub-committee does allow new evidence, all other parties must give their consent before it is heard.

If new material is permitted, the hearing may need to be adjourned to allow time to consider it and for other parties to respond to it. Accordingly, any application to have new material considered should demonstrate exceptional reasons for its admission. It is, therefore important for parties to ensure that all evidence is submitted in writing as soon as possible and in accordance with the relevant timescales.

### **Will I be briefed on procedure before the hearing?**

Yes, in the notice of hearing, you will have been asked to attend a procedural briefing before the hearing starts. All parties will be asked to attend this briefing so that the Council's Legal Advisor can outline the procedures to be followed at the hearing.

Members of the Sub-Committee may question any party or other person appearing at the hearing in connection with any evidence submitted.

## **What if there is more than one Applicant or a number of different Parties to the review attend the hearing?**

At the briefing, the Legal Advisor may ask that a spokesman is agreed amongst those present who have similar requests for a review or representations in support.

## **Who are the people on the Licensing sub-committee?**

Five elected councillors of the London Borough of Hillingdon sit on a Licensing sub-committee and it is only they who can determine the application. Its minimum membership is two. Councillors who sit on the sub-committees have been trained in the new Licensing regulations and have experience of determining applications of various kinds.

One of the Councillors will be the Chairman of the hearing and it will be he/she who will call interested parties and responsible authorities to speak and ensure time limits are adhered to as set out in the procedures.

Other people who will be present along with the Councillors include:

- The **Council's Licensing Officer** who will introduce the Officer report and outline his/her role.
- A **Legal Advisor** whose role is to assist the Committee with legal advice and to ensure that a fair and balanced hearing takes place.
- A **Clerk to the Committee** whose role is to summarise and record decisions on individual matters and to provide help and assistance to members of the public attending such meetings.

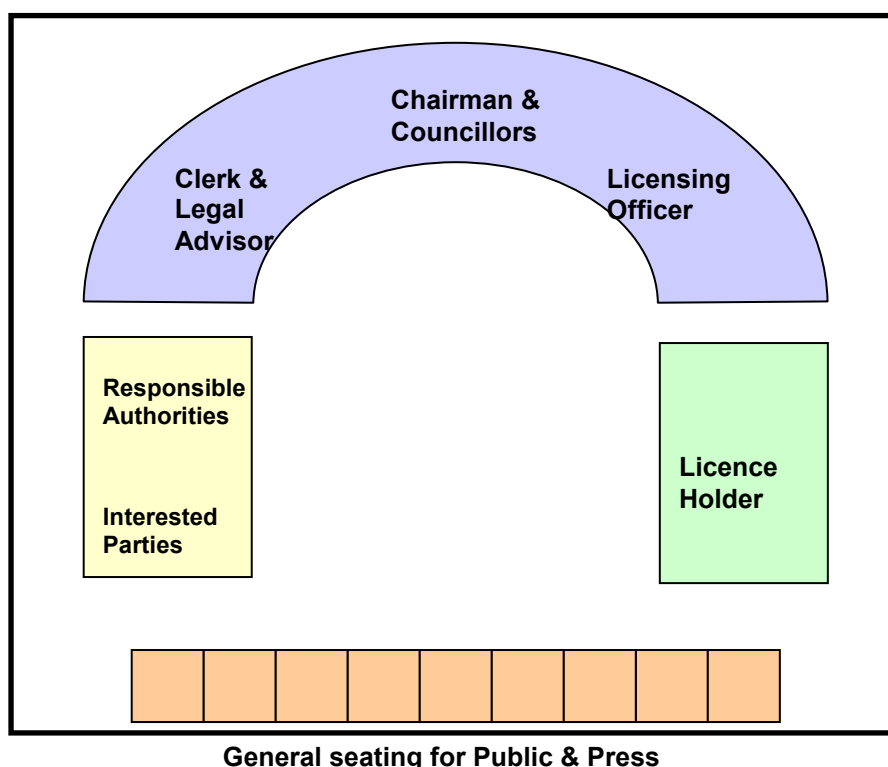
### 3. During the Hearing

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The procedure at the sub-committee hearing will, in general, be based on those used in a court of law. Although the strict rules of evidence will not apply, they will be observed to a great extent, because this is the best way of hearing the evidence from all parties. The hearing will take the form of a discussion led by the sub-committee councillors. The sub-committee will seek clarification on the issues from the parties as it considers appropriate.

#### Where shall I sit at the hearing?

The hearing will begin immediately after the procedural briefing and the set up of the room for those involved will generally be as shown below:



#### In general, how will the hearing be conducted?

The procedure to be followed at the hearing will normally be as shown in the flow chart below, although all procedural matters will be subject to the discretion of the Chairman. All persons present will be requested to identify themselves and to give the reason for their presence. The sub-committee may consider any request from a party for another person to appear at the hearing as their representative.

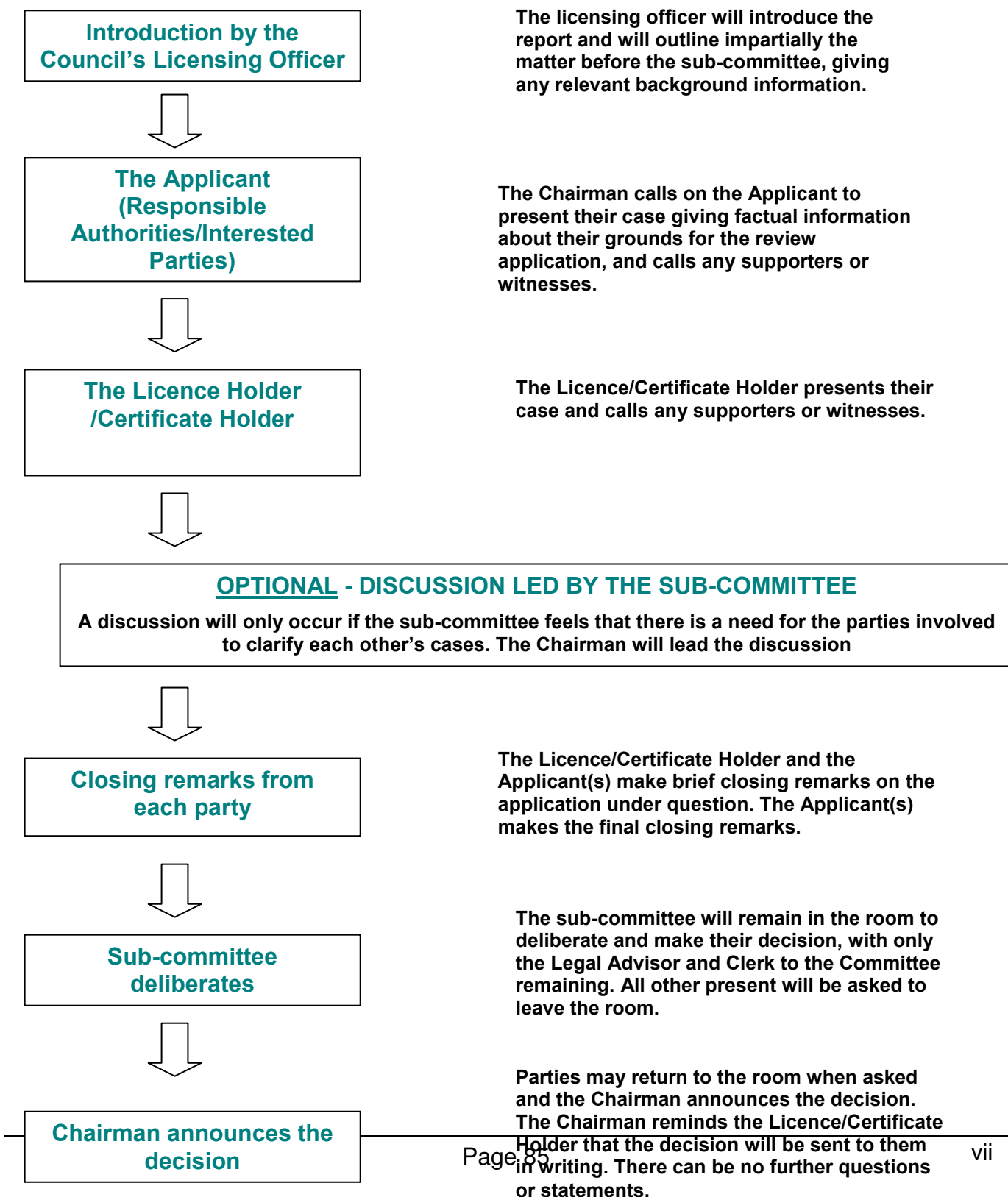
It is important to note that cross-examination will not normally be permitted. Evidence, discussion and address must be relevant to the four licensing objectives. Repetition should also be avoided. The sub-committee will seek to prevent irrelevant and repetitive matters.



If, during its deliberations, the sub-committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point the hearing may be reconvened to deal with that issue. The sub-committee can also ask for procedural, technical or legal matter from officers present at any time during the proceedings.

## What is the order of proceedings?

The Chairman of the sub-committee will open the hearing by introducing the Councillors explaining the purpose of the proceedings and the general procedure. The Chairman will then check that there are no additions or alterations to the list of those appearing at the hearing, which will have been prepared in advance by the Clerk to the Committee and will then outline the procedure that will be followed for the remainder of the hearing. The procedure is as follows:



## **Can a councillor sit on a sub-committee if the application is in their ward?**

Councillors who sit on a sub-committee are advised to take steps to minimise their involvement in any application prior to its consideration by the sub-committee so that decisions are seen to be reached at the hearing impartially and with an open mind. Councillors should not appear to be acting both as an advocate on behalf of their residents and as an adjudicator on an application.

If a Councillor on the sub-committee has already taken a view on an application in advance of the hearing, they should not be present for the hearing of the application and should leave the meeting room for that item. They should also not visit any premises under consideration prior to the hearing. In any cases of doubt, the Councillor should not sit on the sub-committee for a particular application. In this instance, a substitute Councillor may need to be found from the main Licensing committee of the Council or the hearing may continue as long as two of the five Councillors are still present.

The agenda papers will show which ward each Councillor sits for and the reports from the Council's Licensing Officer will detail which ward the application is in.

## **Can an Elected Member make a representation and or speak at a hearing?**

If an Elected Member, who does not sit on the sub-committee, wishes to make a formal objection to an application they may only do so if they make a written relevant representation as would apply to an Interested Party and in the same way as any other member of the public using the procedures outlined in this protocol. If the Elected Member believes they have a personal or prejudicial interest in the application, they may still submit a relevant representation.

Elected Members, who do not sit on the sub-committee, may also speak at a sub-committee hearing in support or against an application, for example on behalf of their constituents. They may also speak as an advocate or witness on behalf of the applicant or an Interested Party, even if they believe they have a personal or prejudicial interest. However, for the purposes of transparency, at the hearing, the Elected Member should disclose what their personal or prejudicial interest is and whether they have been in contact with the applicant, agent, Interested Party or responsible authority beforehand or have visited the premises concerned.

Elected Members making either a written relevant representation or wish to speak at a hearing should not communicate about the application before the hearing with any Councillors who sit on the sub-committee. This is so the sub-committee makes their decision with an open mind.

## **What power does the Chairman have to control the meeting?**

Under the Licensing act 2003, the Chairman may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or may permit the person to return only on such conditions as he or she may specify.

## **How will the sub-committee make its final decision?**

Once the sub-committee has heard from officers and the parties to the hearing and has had answers to its questions, the sub-committee will usually withdraw to make its decision on the application. The sub-committee must disregard any information given or evidence produced by

a party or witness, which is not relevant to the application, representations or notice or the promotion of the licensing objectives.

Members of the sub-committee have a duty to behave impartially, not to predetermine the issue and not to discuss matters with press or residents. In making its decision the sub-committee must state the reasons for that decision, taking into account the evidence presented by all parties during the hearing.

## 4. After the Hearing

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### **When will we get formal notice of the decision?**

The Chairman will normally announce the Sub-committee's decision in public at the end of the hearing and the reasons for the sub-committee's decision. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

The Council's Legal Advisor will send the premises licence holder a decision letter shortly after the meeting outlining the decision and any conditions that are attached to the licence. In addition, a copy of the decision letter will be sent to all those who made an application for a review in connection with the premises. This will confirm the decision made; any conditions attached to a review application or the reasons for revocation. Details of the respective appeal rights will also be sent with this notice.

The minutes of the meeting will be made available on the Council's website at: [www.hillingdon.gov.uk](http://www.hillingdon.gov.uk)

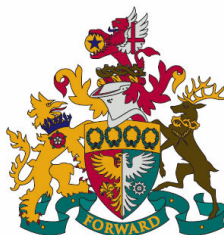
### **Can we appeal against the decision?**

Following the decision, the premises licence holder or any person who has made an application for a review can appeal to the Magistrates Court.

### **How can I find out about other applications in my area?**

The council's Licensing Service is required to arrange for a poster to be displayed at, or near, the premises in question when applications for Reviews of premises licences or club premises certificates are received. A poster is also displayed at the Civic Centre.

All applications once they are lodged will be available for viewing on Hillingdon Council's website at [www.hillingdon.gov.uk](http://www.hillingdon.gov.uk) and in the Civic Centre Offices by appointment with the Licensing Service during working hours.



HILLINGDON  
LONDON

## Licensing Act 2003

# Licensing Sub-Committee Hearing Protocol for determining new & variation premises/club licences

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**This protocol outlines the procedures that will apply:**

Full details of the regulations surrounding sub-committee hearings are available for download on the Department of Culture, Media and Sport's website by [clicking here](#).

**It is important that you carefully read these procedures before you make a representations to an application or wish to attend and be heard at a Licensing sub-committee hearing**

Version agreed by the Licensing Committee – **TBC\*\*\*\***  
Published by the Cabinet Office, Democratic Services

# 1. On receiving the Notice of Hearing

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## What is the Notice of Hearing?

The Licensing Sub-committee hearing will normally be held within the period of 20 working days from when the consultation period ends. The Hillingdon Licensing Service will give appropriate notice of the hearing, which depends upon the type of application to be considered. Exact timings are attached in the Appendix (parts 2&3).

A Notice of the Hearing will be sent to all parties accompanied by:

- Date, time and location of the actual hearing and a procedural briefing to be held beforehand;
- This procedure note, the report from the Council's Licensing Officer with relevant representations attached;
- Confirmation that a party may be assisted / represented by a person who does not have to be legally qualified;
- Confirmation that a party to the hearing may address the authority, give further information on a point on which the authority requires clarification and, if considered by the authority to be required, question another party to the hearing;
- The consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the party's absence); and
- A note of any particular points on which the Hillingdon Licensing Service wants clarification.

### Contact Information:

To give notice or any queries relating to the hearing please contact:

Clerk to the Committee

Tel: 01895 277655

Email: [nwilliams@hillingdon.gov.uk](mailto:nwilliams@hillingdon.gov.uk)

Write to: Clerk to the Committee, Cabinet Office, 3E/05, Civic Centre, Uxbridge, UB8 1UW

## What do I do when I receive the Notice of Hearing?

On receipt of the Notice of Hearing, all parties must inform the Clerk to the Committee – **normally no later than 2 working days before the hearing\*** – whether they:

- Intend to attend or to be represented at the hearing;
- Consider a hearing to be unnecessary; and
- Wish to request that another person appear at the hearing (other than their representative) as a witness. If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the hearing.

\*In the Appendix (part 4), full details are given of the deadline by which you should give your notice. All objectors and applicants are also reminded of their right to have a legal representative at the hearing.

**If a party does not notify the above to the Clerk to the Committee before the relevant deadline they will not be entitled to speaking rights at the hearing.**

**IT IS IMPORTANT THAT YOU REPLY TO THE NOTICE**

## **If I want to withdraw my representations - how do I do this?**

Any party may withdraw their representations by contacting the Clerk to the Committee by phone, letter or email, providing they give notice no later than 24 hours before the hearing. If, during hearing, any party wishes to withdraw their representations they may do so orally by informing the Chairman.

## **What happens if I cannot attend the sub-committee hearing?**

If you have made a representation and are unable to attend the sub-committee hearing, the sub-committee will only hear and consider any evidence and arguments put forward by or on behalf of the applicant and other parties present in relation to the written objections received. The sub-committee will take into account, in considering the importance to be attached to the objection, that the objector was not available to be questioned about their statements.

## **Can you accommodate any special needs I may have?**

Yes, if any person, who intends to be present at the hearing, has any special needs, (for example in connection with access, hearing, language or vision) this should be brought to the attention of the Clerk to the Committee prior to the hearing in order that appropriate provision may be made.

## **Can the date of the hearing be changed?**

Unfortunately, the Hillingdon Licensing Service cannot be flexible in the dates for hearings as the Licensing Act 2003 sets a strict legal deadline by which hearings must be heard.

## 2. Before the Hearing

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You will have been notified of the date and time of the Licensing Sub-committee hearing. The hearings will normally take place at the Civic Centre, High Street, Uxbridge in one of the Committee Rooms.

### **How do I get to the Civic Centre?**

Parking may be available via the entrance to the Civic Centre in the High Street by contacting the Clerk to the Committee in advance. Parking is also available in the nearby Chimes Shopping Centre Car Park. Bus routes 207, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away.

Please enter from the main reception where you will be directed to the relevant Committee Room. Please switch off your mobile phone when entering the room and note that Hillingdon Council operates a no-smoking policy in its offices.

### **Will the hearing be in public?**

There may be other members of the public and press that attend the hearing to observe the proceedings, but they will not be allowed to speak. At any hearing, the applicant may attend in person or, if the application or objection is made by an organisation or corporate body, a duly authorised representative may be present, who is able to speak on their behalf can do so.

The hearing will take place in public. However, in exceptional circumstances, when the sub-committee considers that it is in the public interest, it may exclude the public from all or any part of a hearing. Hearings will normally take place during the day.

### **I have some new evidence - may I present it?**

The sub-committee **will not** normally allow the production of new written evidence not previously submitted as relevant representations by any party. In the case where the sub-committee does allow new evidence, all other parties must give their consent before it is heard.

If new material is permitted, the hearing may need to be adjourned to allow time to consider it and for other parties to respond to it. Accordingly, any application to have new material considered should demonstrate exceptional reasons for its admission. It is, therefore important for parties to ensure that all evidence is submitted in writing as soon as possible and in accordance with the relevant timescales.

### **Will I be briefed on procedure before the hearing?**

Yes, in the notice of hearing, you will have been asked to attend a procedural briefing before the hearing starts. All parties will be asked to attend this briefing so that the Council's Licensing Officer or Legal Advisor can outline the procedures to be followed at the hearing.



## **What if there are a number of objectors present?**

At the briefing, in the event of a large number of representations, the Licensing Officer or Legal Advisor will ask that a spokesman is agreed amongst those present who have similar representations.

## **Who are the people on the Licensing sub-committee?**

Five elected councillors of the London Borough of Hillingdon sit on a Licensing sub-committee and it is only they who can determine the application. Its minimum membership is two.

Councillors who sit on the sub-committees have been trained in the new Licensing regulations and have experience of determining applications of various kinds.

One of the Councillors will be the Chairman of the hearing and it will be he/she who will call interested parties and responsible authorities to speak and ensure time limits are adhered to as set out in the procedures.

Other people who will be present along with the Councillors include:

- The **Council's Licensing Officer** who will introduce the Officer report and outline his/her role.
- A **Legal Adviser** whose role is to assist the Committee with legal advice and to ensure that a fair and balanced hearing takes place.
- A **Clerk to the Committee** whose role is to summarise and record decisions on individual cases and to provide help and assistance to members of the public attending such meetings.

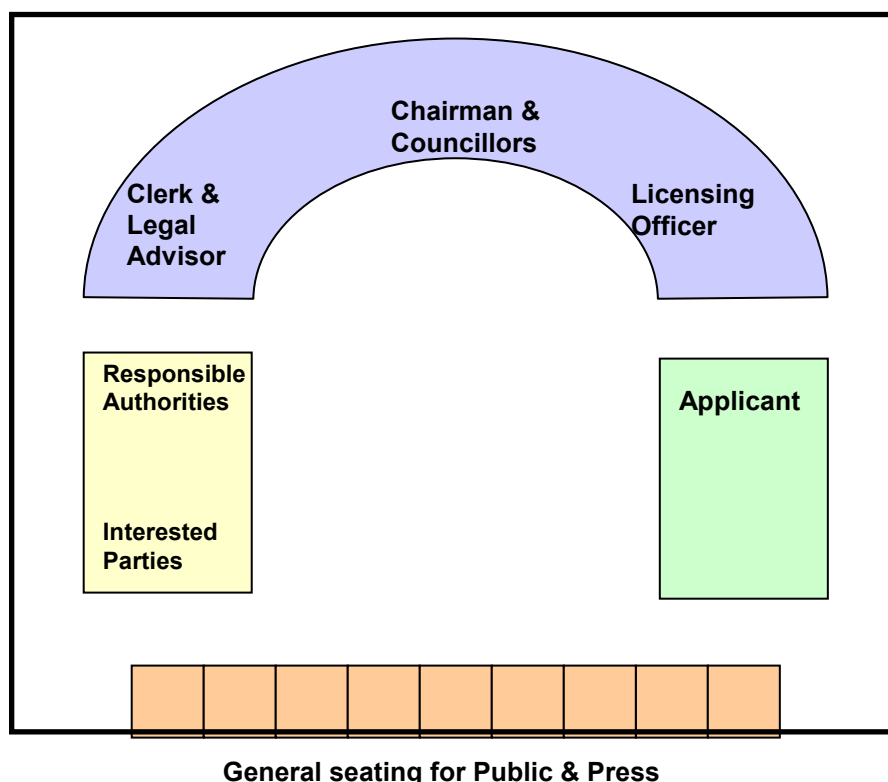
### 3. During the Hearing

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The procedure at the sub-committee hearing will, in general, be based on those used in a court of law. Although the strict rules of evidence will not apply, they will be observed to a great extent, because this is the best way of hearing the evidence from all parties. The hearing will take the form of a discussion led by the sub-committee councillors. The sub-committee will seek clarification on the issues from the parties as it considers appropriate.

#### Where shall I sit at the hearing?

Once you have attended the procedural briefing, you will be directed into the relevant Committee Room. The set up of the room for those involved will generally be as shown below:



#### In general, how will the hearing be conducted?

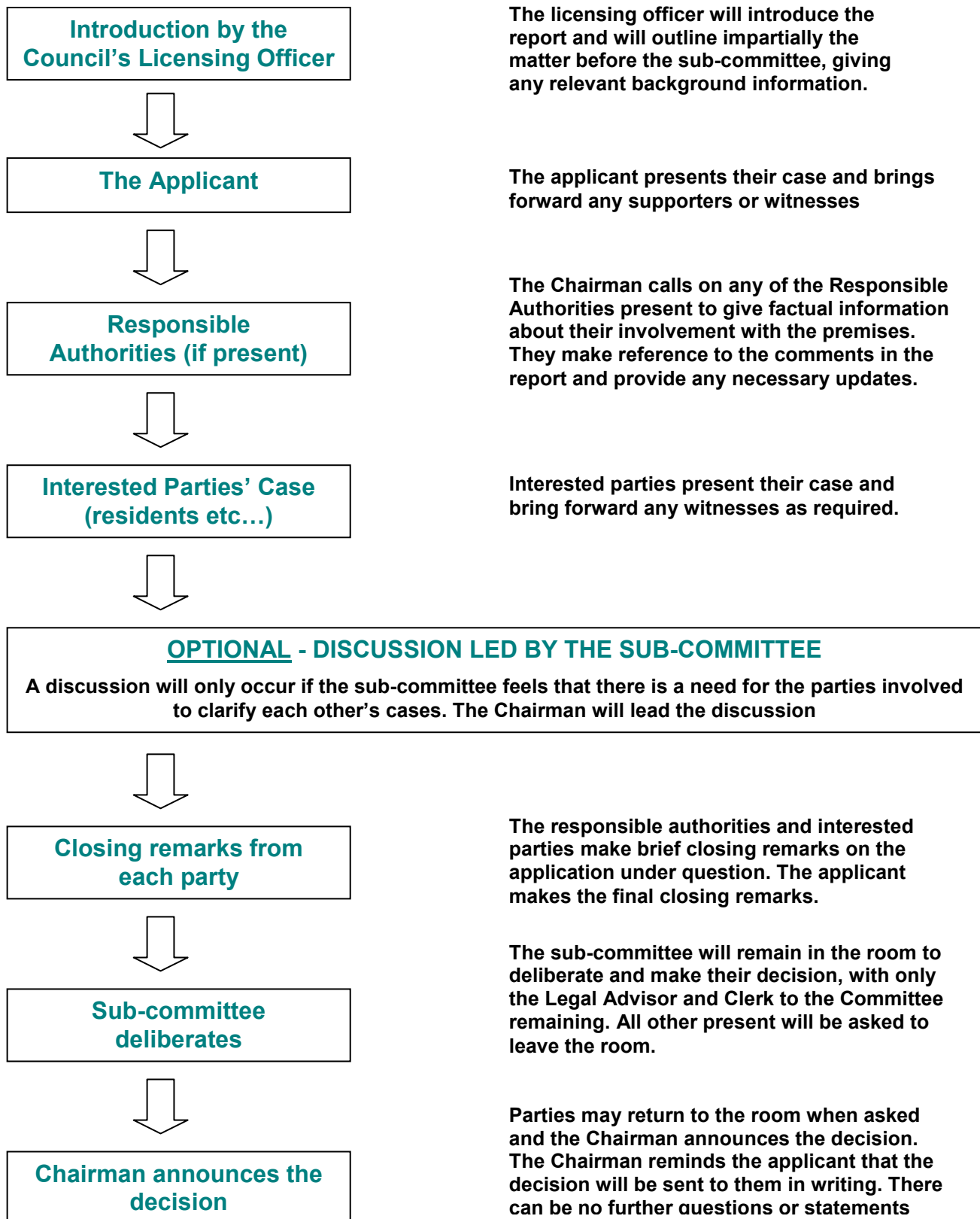
The procedure to be followed at the hearing will normally be as shown in the flow chart below, although all procedural matters will be subject to the discretion of the Chairman. All persons present will be requested to identify themselves and to give the reason for their presence. The sub-committee may consider any request from a party for another person to appear at the hearing as their representative.

It is important to note that cross-examination will not normally be permitted. Evidence, discussion and address must be relevant to the four licensing objectives. Repetition should also be avoided. The sub-committee will seek to prevent irrelevant and repetitive matters.

If, during its deliberations, the sub-committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point the hearing may be reconvened to deal with that issue. The sub-committee can also ask for procedural, technical or legal matter from officers present at any time during the proceedings.

## What is the order of proceedings?

The Chairman of the sub-committee will open the hearing by introducing the Councillors explaining the purpose of the proceedings and the general procedure. The Chairman will then check that there are no additions or alterations to the list of those appearing at the hearing, which will have been prepared in advance by the Clerk to the Committee and will then outline the procedure that will be followed for the remainder of the hearing. The procedure is as follows:



## **Can a Councillor sit on a sub-committee if the application is in their ward?**

Councillors who sit on a sub-committee are advised to take steps to minimise their involvement in any application prior to its consideration by the sub-committee so that decisions are seen to be reached at the hearing impartially and with an open mind. Councillors should not appear to be acting both as an advocate on behalf of their residents and as an adjudicator on an application.

If a Councillor on the sub-committee has already taken a view on an application in advance of the hearing, they should not be present for the hearing of the application and should leave the meeting room for that item. They should also not visit any premises under consideration prior to the hearing. In any cases of doubt, the Councillor should not sit on the sub-committee for a particular application. In this instance, a substitute Councillor may need to be found from the main Licensing committee of the Council or the hearing may continue as long as two of the five Councillors are still present.

The agenda papers will show which ward each Councillor sits for and the reports from the Council's Licensing Officer will detail which ward the application is in.

## **Can an Elected Member make a representation and or speak at a hearing?**

If an Elected Member, who does not sit on the sub-committee, wishes to make a formal objection to an application they may only do so if they make a written relevant representation as would apply to an Interested Party and in the same way as any other member of the public using the procedures outlined in this protocol. If the Elected Member believes they have a personal or prejudicial interest in the application, they may still submit a relevant representation.

Elected Members, who do not sit on the sub-committee, may also speak at a sub-committee hearing in support or against an application, for example on behalf of their constituents. They may also speak as an advocate or witness on behalf of the applicant or an Interested Party, even if they believe they have a personal or prejudicial interest. However, for the purposes of transparency, at the hearing, the Elected Member should disclose what their personal or prejudicial interest is and whether they have been in contact with the applicant, agent, Interested Party or responsible authority beforehand or have visited the premises concerned.

Elected Members making either a written relevant representation or wish to speak at a hearing should not communicate about the application before the hearing with any Councillors who sit on the sub-committee. This is so the sub-committee makes their decision with an open mind.

## **What power does the Chairman have to control the meeting?**

Under the Licensing act 2003, the Chairman may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or may permit the person to return only on such conditions as he or she may specify.

## **How will the sub-committee make its final decision?**

Once the sub-committee has heard from officers and the parties to the hearing and has had answers to its questions, the sub-committee will usually withdraw to make its decision on the application. The sub-committee must disregard any information given or evidence produced by a party or witness, which is not relevant to the application, representations or notice or the promotion of the licensing objectives.

Members of the sub-committee have a duty to behave impartially, not to predetermine the issue and not to discuss matters with press or residents. In making its decision the sub-committee must state in respect of premises licences why refusal or attachment of conditions is necessary in order to promote a particular licensing objective, and in respect of all other applications the reasons why applications are refused or revoked, taking into account the evidence presented by all parties during the hearing.

Members of the Sub-Committee may question any party or other person appearing at the hearing in connection with any evidence submitted.

## 4. After the Hearing

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### **When will we get formal notice of the decision?**

The Chairman will normally announce the Sub-committee's decision in public at the end of the hearing and the reasons for the sub-committee's decision. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

The Council's Legal Advisor will send applicants a decision letter shortly after the meeting outlining the decision and any conditions that are attached to the application. In addition, a letter will be sent to all those who made relevant written representations in connection with the application. This will confirm the decision made; any conditions attached to an approval or the reasons for refusal. Details of the respective appeal rights will also be sent with this notice.

The minutes of the meeting will be made available on the Council's website at:  
[www.hillingdon.gov.uk](http://www.hillingdon.gov.uk)

### **Can we appeal against the decision?**

Following the decision, the applicant or any person who has made a relevant representation in respect of a particular application can appeal to the Magistrates Court.

### **How can I find out about other applications in my area?**

Applicants for new premises licences and club premises certificates; applications for provisional statements and applications for variations of existing premises licences or club premises certificates must display a notice on the premises and advertise the application in a local newspaper.

All applications once they are lodged will be available for viewing on Hillingdon Council's website at [www.hillingdon.gov.uk](http://www.hillingdon.gov.uk) and in the Civic Centre Offices by appointment with the Licensing Service during working hours.

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HILLINGDON  
LONDON

# Part III of the London Local Authorities Act 1990 (as amended): Street Trading

## Rules of Procedure for Licensing Sub-Committee Hearings

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### **1. SCOPE**

- 1.1 These procedure rules apply to Licensing Sub-Committees established by the Licensing Committee of Hillingdon Council acting as Licensing Authority. The rules are subject to Street Trading legislation as contained in Part III of the London Local Authorities Act 1990 (as amended)
  
- 1.3 The purpose of these procedure rules is to guide the Licensing Sub-Committees through the various stages of the hearing process and to direct the sub-committee hearing a case, and all other parties involved, on the essential procedural requirements to be followed before, during and after a hearing.

## 2. SUB-COMMITTEES

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### Role, Composition and Quorum

- 2.1 All hearings under these procedure rules will be conducted by licensing sub-committees for the sole purpose of determining applications for and in relation to licences as required under Street Trading legislation as contained in Part III of the London Local Authorities Act 1990 (as amended) [the “Act”].
- 2.2 A sub-committee will usually consist of five members drawn from the Licensing Committee. The quorum for hearings and meetings of a sub-committee is two members. Each meeting shall be chaired by a designated Licensing Sub-Committee Chairman.
- 2.3 The Head of Democratic Services, or his representative (usually the Clerk to the Licensing Committee) shall appoint each sub-committee taking into account the need for it to be politically balanced, where possible; the need to involve all members of the Licensing Committee as equally as possible; the need to avoid involving members with an interest in the item to be discussed or members from the ward in which the subject premises is located; and the timescale available for determining applications.
- 2.3 Where hearings are convened, sub-committees are not ordinarily subject to the normal committee procedures established under the Local Government Act 1972 and the Council Procedure Rules. For example, a Member who is not on the sub-committee hearing the case cannot address the proceedings in his/her capacity as an elected member, except where the member has properly made a representation or is formally representing objectors.



## **Power to adopt own Procedure**

- 2.4 Except where otherwise prescribed by the Act, the sub-committee has wide powers to adopt its own procedures as to the general order and manner in which the hearing is to be conducted. For example, it may in any particular case dispense with or modify these Rules of Procedure.

## **3. BEFORE THE HEARING**

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### **Time Limits for Setting up Hearings**

- 3.1 The Act does not prescribe a specific period of time within which a hearing is to be held. It is expected that a hearing will to be commenced as soon as is reasonably practicable after the deadline for making representations and in any case where a hearing is likely to exceed more than one day it must be arranged to take place on consecutive days.
- 3.2 The relevant sub-committee may at any time postpone the original date on which the hearing is to be held to a new date that it may specify if it considers it necessary to enable it to consider any information or documents provided by a party or having regard to the ability of any party, person representing a party or witness to attend the hearing
- 3.3 Without prejudice to paragraphs 3.1 and 3.32, every effort will be made to arrange for hearings to be held within 10 working days after the end of the period within which representations may be made by responsible authorities and interested parties.

### **Notice Procedures**

- 3.4 In order to hold a fair and transparent hearing, the Licensing Service and parties to proceedings are required to notify each other of relevant information in advance of the hearing as follows:

### Notice of Hearing from the Licensing Authority

- 3.5 Notice shall given to all parties to the hearing specifying the date, time and place at which the hearing is to be held.
- 3.6 The Notice of Hearing shall be sent so that, in the ordinary course of events, it is received no later than 10 working days before the first day on which the hearing is to be held.
- 3.7 However, when the sub-committee has postponed the original hearing date it shall, as soon as reasonably practicable, notify the parties of the new date, time and place for the hearing.
- 3.8 The Notice of Hearing shall be accompanied by information in writing regarding the following:
- (i) This procedure note or a procedure guide , the report from the Licensing Officer and copies of written objections / petitions received;
  - (ii) Confirmation that a party may be assisted / represented by a person who does not have to be legally qualified;
  - (ii) The consequences if a party:
    - (a) Informs the sub-committee that he/she does not wish to attend or be represented at the hearing, or
    - (b) Fails to inform the relevant committee whether he/she wishes to attend or be represented at the hearing, or
    - (c) Informs the sub-committee that he/she wishes to attend or be represented at the hearing, but fails to attend or be represented.
  - (iii) The legal requirements imposed on the sub-committee in conducting the hearing.

- (iv) The procedure the sub-committee will follow at the hearing.
- (v) Time limits and method by which a party should inform the sub-committee whether he/she wishes: to attend or address the hearing, be assisted or represented by another person, call a witness to give evidence and in relation to what matters that witness will give evidence, to withdraw any representations or to consent to the application being determined without a hearing
- (vi) Any matters on which the Licensing Service considers that it will want clarification from a party.

#### Notice of Attendance from the Parties

- 3.9 Upon receipt of the Notice of Hearing, and by no later than 2 working days before the day or first day on which the hearing is to be held, each party must give to the sub-committee a notice stating:
- (i) Whether he/she wishes to attend or address the hearing;
  - (ii) Whether he or she wishes to be assisted or represented by another person;
  - (iii) Whether he/she wishes to call a witness to give evidence at the hearing and the matters in relation to which he/she wishes that witness to give evidence;
  - (iii) Whether he/she wishes to consent to the application being determined without his/her presence
  - (iv) Any special needs (for example language translation) to be accommodated
- 3.10 Such notice may be given either by completing and returning to the authority the pro-forma "Notice of Attendance" that accompanies the Notice of Hearing, or by providing any other form of written notification. Notices may be sent by post, fax or email.

### Notice of Withdrawal of Representations

- 3.11 A party who wishes to withdraw any objection they have made may do so:
- (i) By giving notice to the licensing authority no later than 24 hours before the day of the hearing; or
  - (ii) Orally at the hearing

### **Licensing Officer's Report**

- 3.12 A report on the application to be determined will be formulated by the authority's Licensing officers, which will contain a summary of the application, objections, their technical observations and recommendations.

### **Agenda for the Hearing**

- 3.13 The Head of Democratic Services or Clerk to the Licensing Committee shall send out the agenda for the hearing (which will include the Licensing Officer's report) to all parties in advance of the hearing.

### **Consequences of failure to Attend Hearing**

- 3.14 The sub-committee committee may proceed with a hearing in the absence of a party or a party's representative if the party has:
- (i) informed the sub-committee that he/she does not intend to attend or be represented at the hearing (and has not subsequently advised the sub-committee otherwise);
  - (ii) failed to inform the sub-committee whether he/she intends to attend or be represented at the hearing; or
  - (iii) left the hearing in circumstances enabling the sub-committee reasonably to conclude that he/she does not intend to participate further.

- 3.15 Where the hearing is held in the absence of a party, the relevant committee shall consider at the hearing the application or objections made by that party.
- 3.16 If a party has indicated that he does intend to attend or be represented at the hearing, but fails to so attend or be so represented, the relevant committee may
- (i) adjourn the hearing to a specified date if it considers it to be in the public interest, or
  - (ii) proceed with the hearing in the party's absence.
- 3.17 Where, the relevant committee adjourns the hearing to a specified date it shall, as soon as reasonably practicable, notify the parties of the date, time and place to which the hearing has been adjourned.

## **4. THE HEARING**

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### **Principles to be applied**

- 4.1 Subject to paragraph 4.2 and 4.3 below, the hearing shall take place in public.
- 4.2 The sub-committee may direct that all or part of a hearing must be held in private if it is satisfied that it is necessary in all the circumstances of the case, having had regard to:
- (i) Any unfairness to a party that is likely to result from hearing in public; and
  - (ii) The need to protect as far as possible, the commercial or other legitimate interests of a party.

- 4.3 Issues that involve personal details such as medical conditions or criminal records will normally be held in private session.
- 4.4 Changes to the membership of the sub-committee will be announced at the beginning of the hearing.
- 4.5 The hearing will take the form of a discussion led by the Chairman of the relevant committee. As the hearing is not a court:
- (i) Strict rules of evidence will not apply (see paragraphs 5.3 below for further details as to evidence).
  - (ii) Evidence will not be taken on oath.
  - (iii) Comments and questions are to be directed through the sub-committee Chairman.
  - (iv) Cross - examination will not be permitted unless the sub-committee considers that cross-examination is required for it to consider the representations or application.
  - (v) Evidence, discussion and address must be relevant to the Act.
  - (vi) all representations and other information received from absent parties will be considered.
- 4.6 The sub-committee will have regard to the common law rules of natural justice and the Human Rights Act 1998 when exercising its decision-making functions, with particular reference to Article 6 of the European Convention of Human Rights which provides that:
- “...in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by independent and impartial tribunal established by law”.*
- 4.7 A party may be assisted or represented at the hearing by any person whether or not that person is legally qualified. For the avoidance of doubt, a party may be assisted or represented by their Ward Councillor. However, no member sitting on the relevant sub-committee

hearing the case can represent any of the interested parties or applicant.

## **Procedure at the Hearing**

- 4.8 The order of business shall be at the discretion of the sub-committee, but will normally proceed in accordance with the following paragraphs or as shown in the flow chart attached at *Appendix 1*:
- 4.9 The Chairman shall at the beginning of the hearing introduce the members of the sub-committee, invite the parties to identify themselves and then explain to the parties the procedure that the sub-committee intends to follow.
- 4.10 The Licensing Officer will then be invited by the Chairman to present the relevant details of his/her report (referred to in paragraph 3.11 above), and any other information regarding any details relevant to the application or representations which may have come to light since the report was written. Alternatively, the Chairman may proceed directly to paragraph 4.11 below.
- 4.11 Parties or their representatives will normally be invited to address the sub-committee in the following order:
- (i) Applicant
  - (ii) Objectors
- 4.12 Where there is more than one objection raising the same or similar grounds, the Chairman will encourage parties to agree that only one party address the sub-committee on behalf of the parties who have made the representations in question.
- 4.13 Each party shall be entitled to:
- (i) Address the sub-committee or call witnesses

- (ii) Provide further information on, or explanation of, any matter on which the licensing authority has indicated that it would want further clarification under paragraph 3.7(vi) above.
  - (iii) Subject to paragraph 4.4(iv) above, question any other party or person representing a party on any matter that is relevant to the application, or representation made on the application, where in all the circumstances the sub-committee considers it is appropriate to do so.
- 4.14 The sub-committee will take into consideration documentary or other information in support of the application or objections produced by a party:
- (i) Before the hearing; or
  - (ii) At the hearing, with the consent of all other parties attending the hearing.
- 4.15 At any time during the hearing, parties or their representatives or any of their witnesses may be asked questions upon their presentation or evidence by any member of the sub-committee.
- 4.16 At any time during the hearing, the sub-committee may decide to adjourn hearing to the earliest possible date or to a later time on the same date in order to conduct a site inspection of the relevant application. All site inspections will preferably be conducted in the presence of all parties to a Hearing. A party to a hearing may decline to attend such a site inspection. In such a situation, the site inspection may take place in the absence of the relevant party.
- 4.16 The parties shall be entitled to make closing submissions and will normally be invited to do in the following order:
- (i) Licensing Officer
  - (ii) Objector
  - (iii) Applicant



- 4.17 The sub-committee may place a time limit on a party's speaking rights as set out in paragraphs 4.13 and 4.16 above, but all parties shall be allowed an equal maximum period of time.
- 4.18 The sub-committee may require any person who in his/her opinion is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or to return upon complying with such conditions as the relevant committee may specify. However, any such person will be allowed to submit any evidence in writing that they proposed to give orally, provided they do so before the end of the hearing.
- 4.19 At the conclusion of evidence and closing submissions, the sub-committee will adjourn into closed session in order to deliberate and reach a decision. During this process only the Legal Adviser and the Committee Clerk will remain with them.
- 4.20 If, during its deliberations, the sub-committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point, the hearing may be reconvened to deal with that issue before reaching a decision.

### **Role of Legal Advisor**

- 4.21 The sub-committee may seek advice or clarification of any procedural, technical or legal matter from the legal adviser at any time during the course of the hearing.
- 4.22 The legal adviser will provide the Sub-Committee with any advice it requires properly to perform its functions whether or not the Sub-Committee requested that advice, on:
- (i) Questions of law or of mixed fact and law;
  - (ii) Matters of practice and procedure;
  - (iii) The range of options available to the Sub-Committee;

- (iv) Relevant national guidance, policy or codes;
- (v) Other issues relevant to the matter before the Sub-Committee;
- (vi) The appropriate decision-making structure to be applied in any given case.

4.23 The legal adviser may ask questions of witnesses and the parties in order to clarify the evidence and any issues in the case. The legal adviser is under a duty to ensure that every case is conducted fairly.

4.23 The legal adviser will play no part in making findings of fact but may assist the Sub-Committee by reminding it of the evidence taken from his/her own or the committee clerk's notes.

4.25 The legal adviser will assist the Sub-Committee where appropriate as to the formulation of reasons and the recording of those reasons.

## **5. THE DECISION**

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### **Principles to be applied**

5.1 Each application will be determined on its own merits and the sub-committee shall make its decision based upon the merits of the individual circumstances of each case and its considerations shall be restricted to the evidence placed before it (see paragraph 5.3 and 5.4 below on how evidence will be assessed).

5.2 All decisions reached by a sub-committee shall be supported by reasons and a summary of the relevant evidence supporting those reasons. All decisions reached by a sub-committee must comply with the Act.

## **Evidence**

- 5.3 While court rules of evidence will not strictly apply, they will, however, be followed to a great extent because sub-committee decisions must be based upon an objective assessment of the evidence. Hearsay evidence is permitted but will be given less weight than direct evidence. Evidence given in person where the testing of that evidence is possible through questioning, or cross-examination if appropriate, is likely to be given more weight than evidence or representations which are presented only in writing.
- 5.4 If the sub-committee considers that the evidence of a party is not relevant to the issue(s) to be decided, it shall be disregarded.

## **Time Limit**

- 5.6 The relevant sub-committee shall determine the application on the last day on which the hearing was held. So, if the hearing finishes on a Monday, the determination must occur on the same day.
- 5.7 A verbal decision is given to the public at the end of the hearing or at the end of the relevant agenda item.

## **6. AFTER THE HEARING**

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### **Notification of Decision**

- 6.1 After the hearing, formal notice of the sub-committee's decision and related information, such as any conditions that may be imposed on the street trading licence, shall be communicated to all parties to the proceedings, in writing, within 5 working days of a verbal decision being given.
- 6.2 The decision notice shall further point out that if the applicant (who is also the holder of a Permanent Street Trading Licence) is dissatisfied

with the decision of the sub-committee there is a right of appeal to the Registrations and Appeals Committee which must be exercised within 21 days from the date of receipt of the written notice of decision.

- 6.3 All decisions upon an application shall further be published for viewing on the Council's official website.

# APPENDIX 1

## ORDER OF PROCEEDINGS

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**Introduction by the Council's Licensing Officer**

The Licensing Officer will introduce the report and will outline impartially the matter before the sub-committee, giving any relevant background information.



**The Applicant (if present)**

The applicant presents their case and brings forward any witnesses. Members of the sub-committee or the Legal Adviser may ask questions to clarify evidence given.



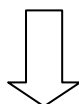
**Objectors (if any objections are made)**

The Objectors present their case, including any written correspondence and/or calling any witnesses in support of their objections. Members of the sub-committee or the Legal Adviser may ask questions to clarify evidence given.



**OPTIONAL - DISCUSSION LED BY THE CHAIRMAN**

A discussion may occur if there is a need for the parties involved to clarify each other's cases. At this point parties may ask questions of each other on any matter relevant to the application or any representations.



**Closing Submissions from Each Party**

The Licensing Officer, Applicant and Objectors make brief closing submissions on the application for decision. The applicant makes the final closing remarks.



**Sub-Committee Deliberates**

The sub-committee will remain in the room to deliberate and make their decision, with only the Legal Advisor and Clerk to the Committee remaining. All other present will be asked to leave the room.



**Chairman may announce Decision**

Parties may return to the room when asked and the Chairman announces the decision. The Chairman reminds the applicant that the decision will be sent to them in writing. There can be no further questions or statements

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HILLINGDON  
LONDON

# Part III of the London Local Authorities Act 1990 (as amended) : Street Trading

## Rules of Procedure for Urgent Licensing Sub-Committee Hearings

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### 1. SCOPE

- 1.1 These procedure rules apply to Licensing Sub-Committees established by the Licensing Committee of Hillingdon Council acting as Licensing Authority. The rules are subject to Street Trading legislation as contained in Part III of the London Local Authorities Act 1990 (as amended)
  
- 1.3 The purpose of these procedure rules is to guide the Licensing Sub-Committees through the various stages of hearing urgent applications for street trading licences and to direct the sub-committee hearing a case, and all other parties involved, on the essential procedural requirements to be followed before, during and after a hearing.
  
- 1.4 Urgent applications to be determined in accordance with this procedure shall include but is not limited to:
  - a. Applications for charitable street trading;
  - b. Applications for street trading linked to community events, for example, fairs
  - c. Applications linked to Shop Front or Tables and Chairs Licences which seek to amend / vary the named Licence Holder;

- d. Applications for pitch licences which seek to amend / vary the assistants licensed to the pitch;
- e. Any other unopposed application which the relevant Council Officer considers to be urgent.

## **2. SUB-COMMITTEES**

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### **Role, Composition and Quorum**

- 2.1 All hearings under these procedure rules will be conducted by licensing sub-committees for the sole purpose of determining urgent applications for and in relation to licences as required under Street Trading legislation as contained in Part III of the London Local Authorities Act 1990 (as amended) [the “Act”].
- 2.2 A sub-committee will usually consist of two members drawn from the Licensing Committee. The quorum for hearings and meetings of a sub-committee is two members. Each meeting shall be chaired by a designated Licensing Sub-Committee Chairman.
- 2.3 The Head of Democratic Services, or his representative (usually the Clerk to the Licensing Committee) shall appoint each sub-committee taking into account the need for it to be politically balanced, where possible; the need to involve all members of the Licensing Committee as equally as possible; the need to avoid involving members with an interest in the item to be discussed or members from the ward in which the subject premises is located; and the timescale available for determining applications.
- 2.3 Where hearings are convened using this procedure, Section 100A of the Local Government Act 1972 permits a Sub-Committee meeting to be convened with less than five clear days notice.

### **Power to adopt own Procedure**

- 2.4 Except where otherwise prescribed by the Act, the sub-committee has wide powers to adopt its own procedures as to the general order and manner in which the hearing is to be conducted. For example, it may in any particular case dispense with or modify these Rules of Procedure.



### 3. BEFORE THE HEARING

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#### Time Limits for Setting up Hearings

- 3.1 The Act does not prescribe a specific period of time within which an urgent hearing is to be held. It is expected that a hearing will to be commenced within 72 hours of Democratic Services receiving a report related to an unopposed application for a street trading licence / variation of a street trading licence from the relevant Council Officer

#### Notice Procedures

- 3.2 In order to hold a fair and transparent hearing, the relevant Council division and parties to proceedings are required to notify each other of relevant information in advance of the hearing as follows:

##### Notice of Hearing from the Licensing Authority

- 3.3 Notice shall given as soon as possible by Democratic Services to all parties to the hearing specifying the date, time and place at which the hearing is to be held.
- 3.4 The Notice of Hearing shall be accompanied by information in writing regarding the following:
- (i) This procedure note, confirmation from the relevant Council Officer that the matter is unopposed and details of the application as provided by the relevant Council Officer.
  - (ii) Confirmation that a party may be assisted / represented by a person who does not have to be legally qualified;
  - (ii) The consequences if a party:
    - (a) Informs the sub-committee that he/she does not wish to attend or be represented at the hearing, or
    - (b) Fails to inform the relevant committee whether he/she wishes to attend or be represented at the hearing, or
    - (c) Informs the sub-committee that he/she wishes to attend or be represented at the hearing, but fails to attend or be represented.

- (iii) the legal requirements imposed on the sub-committee in conducting the hearing.

### **Licensing Officer's Report**

- 3.5 A report on the application to be determined will be presented at the hearing by the relevant Council Officer, which will contain a summary of the application, their technical observations and recommendations.

### **Consequences of failure to Attend Hearing**

- 3.6 The sub-committee committee may proceed with a hearing in the absence of the Applicant.
- 3.7 Where the hearing is held in the absence of a party, the relevant committee shall consider at the hearing the application or objections made by that party.

## **4. THE HEARING**

---

### **Principles to be applied**

- 4.1 Subject to paragraph 4.2 and 4.3 below, the hearing shall take place in public.
- 4.2 The sub-committee may direct that all or part of a hearing must be held in private if it is satisfied that it is necessary in all the circumstances of the case, having had regard to:
  - (i) any unfairness to a party that is likely to result from hearing in public; and
  - (ii) the need to protect as far as possible, the commercial or other legitimate interests of a party.
- 4.3 Issues that involve personal details such as medical conditions or criminal records will normally be held in private session.
- 4.4 Changes to the membership of the sub-committee will be announced at the beginning of the hearing.

- 4.5 The hearing will take the form of a discussion led by the Chairman of the relevant committee. As the hearing is not a court:
- (i) strict rules of evidence will not apply
  - (ii) comments and questions are to be directed through the sub-committee Chairman.
  - (iii) cross-examination will not be permitted unless the sub-committee considers that cross-examination is required for it to consider the representations or application.
  - (iv) information, discussion and address must be relevant to the Act.
- 4.6 The sub-committee will have regard to the common law rules of natural justice and the Human Rights Act 1998 when exercising its decision-making functions, with particular reference to Article 6 of the European Convention of Human Rights which provides that:
- “...in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”.*
- 4.7 A party may be assisted or represented at the hearing by any person whether or not that person is legally qualified. For the avoidance of doubt, a party may be assisted or represented by their Ward Councillor. However, no member sitting on the relevant sub-committee hearing the case can represent any of the interested parties or applicant.

### **Procedure at the Hearing**

- 4.8 The Chairman shall at the beginning of the hearing introduce the members of the sub-committee, invite the parties to identify themselves and then explain to the parties the procedure that the sub-committee intends to follow.
- 4.9 The relevant Council Officer will then be invited by the Chairman to present the relevant details of his/her report (referred to in paragraph 3.11 above), and any other information regarding any details relevant to the application or representations which may have come to light since the report was written. Alternatively, the Chairman may proceed directly to paragraph 4.10 below.
- 4.10 The Applicant (s) or their representatives will normally be invited to address the sub-committee.
- 4.11 Each party shall be entitled to:

- (i) address the sub-committee or call witnesses
- (ii) provide further information on, or explanation of, any matter on which the licensing authority has indicated that it would want further clarification under paragraph 3.7(vi) above.
- (iii) subject to paragraph 4.4(iv) above, question any other party or person representing a party on any matter that is relevant to the application, or representation made on the application, where in all the circumstances the sub-committee considers it is appropriate to do so.

4.12 The sub-committee will take into consideration documentary or other information in support of the application or objections produced by a party:

- (i) before the hearing; or
- (ii) at the hearing, with the consent of all other parties attending the hearing.

4.13 At any time during the hearing, parties may be asked questions upon their presentation or evidence by any member of the sub-committee.

4.14 The parties shall be entitled to make closing submissions and will normally be invited to do in the following order:

- (i) Street Scene Enforcement Officer
- (ii) Applicant

4.15 The sub-committee may require any person who in his/her opinion is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or to return upon complying with such conditions as the relevant committee may specify. However, any such person will be allowed to submit any evidence in writing that they proposed to give orally, provided they do so before the end of the hearing.

4.16 At the conclusion of evidence and closing submissions, the sub-committee will adjourn into closed session in order to deliberate and reach a decision. During this process only the Legal Adviser and Committee Clerk will remain with them.

4.17 If, during its deliberations, the sub-committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point, the hearing may be re-convened to deal with that issue before reaching a decision.

## **Role of Legal Advisor**

- 4.18 The sub-committee may seek advice or clarification of any procedural, technical or legal matter from the legal adviser at any time during the course of the hearing.
- 4.19 The legal adviser will provide the Sub-Committee with any advice it requires properly to perform its functions whether or not the Sub-Committee requested that advice, on:
- (i) questions of law or of mixed fact and law;
  - (ii) matters of practice and procedure;
  - (iii) the range of options available to the Sub-Committee;
  - (iv) Relevant national guidance, policy or codes;
  - (v) Other issues relevant to the matter before the Sub-Committee;
  - (vi) The appropriate decision-making structure to be applied in any given case.
- 4.20 The legal adviser may ask questions of witnesses and the parties in order to clarify the evidence and any issues in the case. The legal adviser is under a duty to ensure that every case is conducted fairly.
- 4.21 The legal adviser will play no part in making findings of fact but may assist the Sub-Committee by reminding it of the evidence taken from his/her own or the committee clerk's notes.
- 4.22 The legal adviser will assist the Sub-Committee where appropriate as to the formulation of reasons and the recording of those reasons.

## **5. THE DECISION**

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### **Principles to be applied**

- 5.1 Each application will be determined on its own merits and the sub-committee shall make its decision based upon the merits of the individual circumstances of each case and its considerations shall be restricted to the evidence placed before it (see paragraph 5.3 and 5.4 below on how evidence will be assessed);

- 5.2 All decisions reached by a sub-committee shall be supported by reasons and a summary of the relevant evidence supporting those reasons. All decisions reached by the sub-committee must comply with the Act.

## **Time Limit**

- 5.3 The relevant sub-committee shall determine the application on the last day on which the hearing was held. So, if the hearing finishes on a Monday, the determination must occur on the same day.
- 5.4 A verbal decision is given to the public at the end of the hearing or at the end of the relevant agenda item.

## **6. AFTER THE HEARING**

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### **Notification of Decision**

- 6.1 After the hearing, formal notice of the sub-committee's decision and related information, such as any conditions that may be imposed on the street trading licence, shall be communicated to all parties to the proceedings, in writing, within 5 working days of a verbal decision being given.
- 6.2 All decisions upon an urgent application shall further be published for viewing on the Council's official website.