

## Proposed Amendment to Licensing Committee Scheme of Delegations

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

### SUMMARY

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

### RECOMMENDATION

**That the Committee:**

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

### INFORMATION

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

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

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

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

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

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

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

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

## **FINANCIAL IMPLICATIONS**

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

## **LEGAL IMPLICATIONS**

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

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

## **BACKGROUND PAPERS**

April 2011 Cabinet Report on Street Trading Licensing Delegations and Policy

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

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

## **STREET TRADING LICENSING DELEGATIONS AND POLICY**

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

### **HEADLINE INFORMATION**

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

### **RECOMMENDATIONS**

**That Cabinet:**

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

### **INFORMATION**

#### **Reasons for recommendation**

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

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

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

## **Comments of Policy Overview Committee(s)**

None at this stage.

## **Background**

### **Licensing Sub-Committee Delegations**

At its meeting on 14<sup>th</sup> January 2010, Council resolved:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Street Trading Licensing Policy**

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

### **Financial Implications**

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

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

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

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

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

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

## **CORPORATE IMPLICATIONS**

### **Corporate Finance**

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

### **Legal**

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

## **BACKGROUND PAPERS**

NIL.