

**AGENDA ITEM:**

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| Meeting              | Licensing Committee   |
| Date                 | 5 January 2006  |
| <b>Subject</b>       | <b>Licensing Act 2003 and Gambling Act 2005 -<br/>Supplemental Paper – Use of Video<br/>Evidence</b>  |
| Report of<br>Summary | Interim Head of Environmental Services<br><br>This report asks the Committee to consider proposed<br>operational arrangements for the use of video evidence at<br>Licensing Sub – Committee meetings. |

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| Officer Contributors   | Borough Solicitor<br>Interim Head of Licensing |
| Status (public or exempt)  | Public   |
| Wards affected   | N/a  |
| Enclosures   | None   |
| For decision by  | Committee                                      |
| Function of  | Council  |
| Reason for urgency /<br>exemption from call-in (if<br>appropriate) | N/a  |

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## **1. RECOMMENDATIONS**

1.1 As set out in the main report.

1.2 That the principles of the practices operated by Westminster for the showing of video evidence at hearings, as set out in paragraph 8.3 of this Supplemental report be approved for operation in Barnet, subject:

- (i) to the evidence being presented in DVD format;
- (ii) to the Committee's instructions on whether this evidence should form part of the relevant party's five minutes opening remarks (see paragraph 8. 4.3 below).

1.3 That the Heads of Service concerned be instructed to take the appropriate action to introduce the ability for parties to use video evidence as quickly as possible, and the Democratic Services manager be instructed to amend the Council's procedures accordingly.

## **2. RELEVANT PREVIOUS DECISIONS**

2.1 See main report.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

3.1 See main report.

## **4. RISK MANAGEMENT ISSUES**

4.1 See main report.

## **5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS**

5.1 See main report.

## **6. LEGAL ISSUES**

6.1 See main report.

## **7. CONSTITUTIONAL POWERS**

7.1 See main report.

## **8 BACKGROUND INFORMATION**

8.1 The main report indicated that Officers would report further to this meeting on the operation arrangements for the use of video evidence at Licensing Sub-Committee meetings.

8.2 Officers have made enquiries of other London Authorities, and it appears that Westminster do operate a system of allowing video evidence at Sub-Committee hearings, the principles of which could easily be adopted for use in Barnet, with some adaptations, as listed below.

### **8.3 Westminster's model**

8.3.1 So far Westminster have had very few cases where video evidence has been requested. They do not have anything in their policy about video evidence as it is treated in the same way as any other evidence put in by parties. In this respect they do the following;

1. Any party that states that they wish to rely on video evidence is asked to provide a copy for the committee and enough copies for service on the other parties to the hearing. If the party relying on the evidence is a resident or responsible authority they must provide enough copies for the applicant and if the party relying on the evidence is the applicant, they must provide enough copies for the interested parties.

Westminster does not copy any of the evidence and insist that the party producing it should provide enough copies.

2. If any party turns up with video evidence on the day of the hearing without informing the committee beforehand or providing enough copies for service, it will not be shown unless all the parties agree, which in Westminster's experience rarely happens.

3. Westminster does not have any time limits in their procedure hearings as the Chairman is given discretion to run the hearing as he/she sees fit to ensure that all sides are heard. Therefore they do not have the issue that we would have to decide as to whether or not the video evidence would form part of the 5 minutes submission.

4. Westminster's members do not see the video evidence until the day of the Committee hearing. This is in case there are any legal arguments on the day about the validity or relevance of the video evidence and to ensure that no party is potentially prejudiced if the members have already seen the video.

5. Their Committee Services are required to provide a TV/Video/DVD for the use of the Committee in the event that video evidence is shown.

8.3.2 From the enquiries it appears that most of the other neighbouring boroughs have not had much experience with video evidence and tend to treat it as part of a party's representations.

### **8.4 Video evidence in Barnet**

8.4.1 It is considered that the practices in Westminster could easily be adapted for use in Barnet. A screen and DVD player is required at the Town Hall, Hendon which, as mentioned in the main report, can be funded from the Licensing budget.

It is proposed that Barnet use Westminster's procedure as detailed in 8.3.1 above, with the following amendments:

Should parties wish to show video evidence, this must be made available on disc only as recent trends show that the move away from video tapes has been very marked.

All copies provided to applicants, interested parties etc are to be identical in all respects.

The party submitting the video should provide a description of how, when and where the video was recorded and what it contains.

Video is to be edited down to highlights of what the party wants to show, containing relevant matter only.

- 8.4.2 As the Committee are aware at hearings each party's opening remarks are limited to five minutes, although there is no time limit on the time for the discussion. However, if the Committee are agreeable to the use of video evidence on the above basis the Committee are asked to consider whether this evidence should form part of the 5 minutes opening remarks time or whether it should form a separate category with a separate time limit. Video evidence could very easily use up all of the 5 minutes permitted for oral submissions, however, a video could be very long, and some limits may be necessary. If the option of it being a separate category is pursued, committee are asked to consider whether the time allowed should be at the Chairman's discretion in each instance, or limited to 5 minutes as are oral submissions.

In determining this, the Committee should bear in mind that each party should be given the same amount of time in which to show video evidence.

## **9 LIST OF BACKGROUND PAPERS**

- 9.1 None.

BS: SAM  
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