

**MEETING**

**LICENSING COMMITTEE**

**DATE AND TIME**

**WEDNESDAY 12 DECEMBER 2007**

**at 7.00 PM**

**VENUE**

**THE TOWN HALL, THE BURROUGHS,**

**HENDON, NW4 4BG**

**TO: MEMBERS OF THE COMMITTEE (Quorum 4)**

Chairman: Councillor Andreas Tambourides

Vice Chairman: Councillor Kate Salinger

**Councillors:**

Terry Burton

Andrew McNeil

Joanna Tambourides

Claire Farrier

Susette Palmer

Jim Tierney

John Hart

Wendy Prentice

Maria Yannakoudakis

Julie Johnson

Hugh Rayner

Kath McGuirk

Lisa Rutter

You are requested to attend the above meeting for which an Agenda is attached.

Janet Rawlings, Democratic Services Manager

Democratic Services contact: Pauline Bagley, tel: 020 8359 2023

To view Agenda papers on the website: <http://committeepapers.barnet.gov.uk/democracy>

CORPORATE GOVERNANCE DIRECTORATE

**FACILITIES FOR PEOPLE WITH DISABILITIES**

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## ORDER OF BUSINESS

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7.	ANY OTHER ITEMS THAT THE CHAIRMAN DECIDES ARE URGENT		

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**AGENDA ITEM: 5** Page nos. 1-4

Meeting	Licensing Committee
Date	12 December 2007
<b>Subject</b>	<b>Review of the Licensing Policy</b>
Report of	Director of Corporate Governance
Summary	The Licensing Act 2003 places a responsibility on all local authorities to publish a licensing policy every 3 years. The last policy was published in January 2004. This is an interim report on the outcome of formal consultation on the Council's new draft policy.

Officer Contributors	Paul Lamb, Community Protection Group Manager Debra Allday, Senior Solicitor, Advocacy Division, Legal Services Emma Phasey, Acting Licensing Team Leader
Status (public or exempt)	Public
Wards affected	All
Enclosures	Not Applicable
For decision by	Licensing Committee
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	Not Applicable

Contact for further information: Emma Phasey, 0208 359 2119, [Emma.Phasey@Barnet.gov.uk](mailto:Emma.Phasey@Barnet.gov.uk)

## **1. RECOMMENDATIONS**

- 1.1 That the information in this report be noted and considered in conjunction with the information that is contained in the supplemental report on the outcome of the consultation exercise**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Decision of the Licensing Committee on 30<sup>th</sup> August 2007 to approve for consultation the draft licensing policy.

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

(as indicated in the previous report submitted to the Licensing Committee on 30<sup>th</sup> August 2007)

- 3.1 The licensing policy supports the corporate priority of Clean, Green and Safe by ensuring that the sale of alcohol and provision of entertainment is properly regulated. The objectives of the policy as determined by the Licensing Act 2003 are the prevention of crime and disorder, public nuisance, protecting children from harm and public safety, which further contribute to the corporate priorities of a bright future for children and young people, a successful suburb and strong and healthy.
- 3.2 The policy will support objectives and targets contained within the Sustainable Community Strategy 2006 – 2016, Local Area Agreement 2007/08 – 2009/10, Corporate Plan 2007/08 – 2010/11 and the Crime and Disorder and Drugs Strategy for Barnet 2005 – 2008.

## **4. RISK MANAGEMENT**

(as indicated in the previous report submitted to the Licensing Committee on 30<sup>th</sup> August 2007)

- 4.1 Failure to review and adopt a licensing policy would be in breach of a legislative requirement of the Licensing Act 2003 and would mean that decisions of the Licensing Committee would not be valid.
- 4.2 The adoption of an unsound policy may result in poor licensing decisions being taken and could cause difficulty to businesses, residents and responsible authorities. This would leave the policy open to challenge by way of Judicial Review in relation to the Statement of Licensing Policy and/or appeal of a Licensing Committee decision to the Magistrates' Court. This would adversely affect the Councils reputation

## **5. EQUALITIES AND DIVERSITY ISSUES**

(as indicated in the previous report submitted to the Licensing Committee on 30<sup>th</sup> August 2007)

- 5.1 The Council has a legal obligation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good

relations between persons of different groups. An impact assessment will therefore be performed on the policy.

- 5.2 When considering licensing applications and representations only issues provided for in the Licensing Act 2003 and associated guidance in addition to the authorities Statement of Licensing Policy will be taken into account. This will ensure a consistent approach is adopted. Every application under the terms of the policy will be considered on its own merits regardless of the race, colour, nationality, ethnic origin, sex, marital status, disability or age of the individuals involved.
- 5.3 The community in Barnet is diverse and rich with a broad range of cultural activities and entertainments. Applications will be dealt with in accordance with the Act. Guidance issued and licensing conditions will only be imposed that are reasonable, proportionate and strictly necessary for the promotion of the four licensing objectives. The impact of licensing on regulated entertainment will be monitored and reviewed to ensure that licensing requirements do not deter cultural activities.

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

(as indicated in the previous report submitted to the Licensing Committee on 30<sup>th</sup> August 2007)

- 6.1 There is a need to develop the IT system to support the efficient and effective administration of the licensing regime. A project to replace the current system is underway, led by Planning and Environmental Protection, which is planned to be operational May 2008. The project is in the capital programme approved at Council in March 2007 and changes required will be contained within that budget.

## **7. LEGAL ISSUES**

(as indicated in the previous report submitted to the Licensing Committee on 30<sup>th</sup> August 2007)

- 7.1 As set out in paragraphs 4.1 and 4.2 of this report.

## **8. CONSTITUTIONAL POWERS**

(as indicated in the previous report submitted to the Licensing Committee on 30<sup>th</sup> August 2007)

- 8.1 The Council's constitution delegates to the Licensing Committee:  
*'All functions under the Licensing Act 2003 and associated Regulations, not otherwise delegated to the Licensing Sub-Committee.'* (Part 3 "Responsibility for Functions" Section 2 "Responsibility for Council Functions").
- 8.2 The statutory and regulatory provisions reserve to full Council the decision to approve the licensing policy, and it will therefore be necessary for the Committee to make a recommendation to the Council meeting on 18

December 2007 *in* order to meet the statutory deadline for publication of the Final policy.

## **9 BACKGROUND INFORMATION**

- 9.1 The Council took over responsibility for licensing the sale of alcohol, the provision of regulated entertainment and late night refreshment in pubs, off-licences, clubs and restaurants on 7 February 2005 as required by the Licensing Act 2003. The Act required the Council to develop a licensing policy to state how it would exercise its licensing functions. The policy was adopted by Council on 14 December 2004 and subsequently published on 7 January 2005.
- 9.2 The Act further requires the Council to review and renew the policy every three years. A reviewed policy will therefore need to be published by 7 January 2008.
- 9.3 At its meeting on 30 August 2007 the Licensing Committee approved a draft Licensing Policy. The draft policy was prepared taking into account the statutory guidance from the Department of Culture, Media and Sport. It was subject to wide consultation.
- 9.4 Section 5 of the Act sets out the persons, that before determining its policy, the Licensing Authority must consult with. They are;
- The chief officer of police for the area
  - The fire authority for the area
  - Persons / bodies representative of local holders of premises licences
  - Persons / bodies representative of local holders of club premises certificates
  - Persons / bodies representative of local holders of personal licences
- 9.5 For 13 weeks ending on 21 November 2007, the Policy was subject to consultation. It was placed on the Council's web site, sent by post/email to statutory consultees, all Members and various other individuals and organisations. A questionnaire was included, and people were invited to comment on any aspect of the policy. The consultation period ended on the 21<sup>st</sup> November 2007 and the responses to this are currently being analysed and will be set out in the supplemental report.

## **10. LIST OF BACKGROUND PAPERS**

Legal:  
CFO:

**AGENDA ITEM: 6** Page nos. 5-8

Meeting	Licensing
Date	12 December 2007
<b>Subject</b>	<b>Appointment of Licensing Sub – Committees</b>
Report of Summary	Democratic Services Manager  This report requests the Committee to consider a proposal which has the support of the Special Committee (Constitution Review) that the Licensing Committee appoints a set of fixed Licensing Sub – Committees annually, instead of an Officer constituting panels from an all (Licensing Committee) Member Sub-Committee based on Member availability.
Officer Contributors	Janet Rawlings, Democratic Services Manager Donna Knight- Olds, Governance Manager,
Status (public or exempt)	Public
Wards affected	N/a
Enclosures	An illustration as to the appointment of Sub – Committees
For decision by	Committee
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	N/a

Contact for further information: Donna Knight – Olds; telephone 8359 7156

## **1. RECOMMENDATIONS**

- 1.1 That, in the interests of best governance practices, the Committee agree with the proposal which has the support of the Special Committee (Constitution Review) that this Committee annually appoints a set of fixed membership Licensing Sub – Committees at the Joint meeting of Committees, in the manner illustrated in Appendix A.**
- 1.2 That the Democratic Services Manager be instructed to advise the Special (Committee) Constitution Review of the Committee’s comments on the foregoing.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Council in 2005 agreed the current practice of appointing Licensing Sub – Committees.

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

- 3.1 Under the Council's Corporate Plan for 2007/08 to 2010/11, one of the corporate priorities is 'More Choice, Better Value' and a key objective within this priority is 'enhancing and further developing corporate governance'.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 Any risks involved in Members being appointed to serve on Sub – Committees where they may have prejudicial interests would be mitigated by the proposal that every other member would be a substitute

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 The Licensing Sub – Committees are designed to encourage engagement with all members of the community.

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

- 6.1 The Sub – Committees will continue to be managed by the Democratic Services team of the Corporate Governance Directorate.

## **7. LEGAL ISSUES**

- 7.1 None.

## **8. CONSTITUTIONAL POWERS**

- 8.1 Part 3 Responsibilities for Functions – Licensing Sub - Committees

## **9 BACKGROUND INFORMATION**

- 9.1 In accordance with the Constitution, the Democratic Services Manager arranges meetings of Licensing Sub –Committees, having regard to Member



availability from the pool of Members who serve on the Licensing Committee and form the Licensing Sub-Committee as well as the areas the Members represent.

- 9.2 This arrangement has worked well. However, it is considered that from the perspective of best governance practice it is preferable for a set of fixed membership Sub – Committees to be appointed by the Licensing Committee, as the parent Committee. This mirrors the practice for all other Council Sub – Committees.
- 9.3 It is proposed that each Chairman from the Panel of Chairmen will Chair two of the proposed fixed membership Sub – committees and they will be accompanied on each Sub-committee by two other members from the Licensing Committee. All other Members of the Licensing Committee will be appointed as Substitutes on each of the fixed membership Sub-Committees where they are not already appointed as members, with the Chairmen being able to substitute for each other. An illustration as to how this will work in practice is demonstrated at Appendix A.
- 9.4 If the above proposal is agreed and subsequently approved by Council, the Licensing Committee would appoint the fixed membership Sub – Committees annually at the Joint Meeting of Committees.
- 9.5 The suggestion outlined in paragraph 9.3 was considered by the Special Committee (Constitution Review), on 26 November 2007 who wished to seek this Committee's views on the matter before making any recommendation to the Council to change the Constitution.
- 9.7 Should the suggestion that a set of fixed membership Sub – Committees appointed by the Licensing Committee be adopted, it is proposed that dates would be allocated to the Sub – Committees.
- 9.8 The Democratic Services team would continue to manage the arrangements for the Sub – Committees, advising Members of cancellations and/or potential conflicts of interests at the earliest opportunity to allow for substitutions to be made as soon as possible.

## **10. LIST OF BACKGROUND PAPERS**

10.1 None

Legal: MM

CFO: CM

## LICENSING SUB-COMMITTEE PROPOSAL

### Current Position:

The Licensing Committee has 15 members, 3 of whom are Chairmen. Licensing Sub-committees are appointed from the pool of Members who serve on the Licensing Committee and form the Licensing Sub-Committee on an ad hoc basis by means of the Democratic Services Officer ascertaining availability.

### Context

Other Council Sub-committees are appointed at the Special Joint Meeting of Committees held after the Annual Meeting each year. For example, Planning and Environment Committee appoints the membership of the three Area Planning Sub-committees. Similarly, any membership changes within year are made by the parent committee

### Proposed position:

At the Special Joint Meeting of Committees held after the Annual Meeting the Licensing Committee will agree the membership of 6 fixed membership Sub-committees based on the following principles:

- Each fixed membership Sub-committee will have three members in total and one of these will be one of the three appointed Chairmen.
- Each of the three Chairmen will chair two of the six fixed membership Sub-committees.
- Each of the Chairmen will be able to substitute for each other and each of the other 12 'ordinary' Members will be able to substitute for the other two named serving Members on a fixed membership Sub-committee .

This should retain maximum flexibility whilst fulfilling the goal of having a set membership and Members knowing when they will be expected to attend a hearing.

For example purposes only, the fixed membership Licensing Sub-committees will be made up as follows. (The names of the current Chairman are used for demonstrative purposes)

Sub-cttee (A)	Sub-cttee (B)	Sub-cttee (C)	Sub-cttee (D)	Sub-cttee (E)	Sub-cttee (F)
(C) Cllr Prentice	(C) Cllr Prentice	(C) Cllr K Salinger	(C) Cllr K Salinger	(C) Cllr J Tambourides	(C) Cllr J Tambourides
Member 1	Member 3	Member 5	Member 7	Member 9	Member 11
Member 2	Member 4	Member 6	Member 8	Member 10	Member 12
Substitutes: Members 3-12 +other 2 Chairmen	Substitutes: Members 1-2 & 5-12 +other 2 Chairmen	Substitutes: Members 1-4 & 7-12 +other 2 Chairmen	Substitutes: Members 1-6 & 9-12 +other 2 Chairmen	Substitutes: Members 1-8 & 11-12 +other 2 Chairmen	Substitutes: Members 1-10 +other 2 Chairmen