

MEETING

LICENSING COMMITTEE

DATE AND TIME

THURSDAY 6TH JULY, 2017

AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BG

TO: MEMBERS OF LICENSING COMMITTEE (Quorum 3)

Chairman: Councillor John Hart BA (Hons) MA
Vice Chairman: Maureen Braun

Alison Cornelius
Claire Farrier
Jim Tierney

Val Duschinsky
Kitty Lyons
Zakia Zubairi

Wendy Prentice
Agnes Slocombe
Jack Cohen

In line with the Constitution's Public Participation and Engagement Rules, requests to submit public questions or comments must be submitted by 10AM on the third working day before the date of the committee meeting. Therefore, the deadline for this meeting is at 10AM on 3 July 2017. Requests must be submitted to Jan Natynczyk jan.natynczyk@barnet.gov.uk 020 8359 5129

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

Andrew Charlwood – Head of Governance

Governance Service contact: Jan Natynczyk jan.natynczyk@barnet.gov.uk 020 8359 5129

Media Relations contact: Sue Cocker 020 8359 7039

ASSURANCE GROUP

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes	5 - 6
2.	Absence of Members	
3.	Disclosable Pecuniary interests and Non Pecuniary interests	
4.	Report of the Monitoring Officer (if any)	
5.	Public Question and Comment (if any)	
6.	Members Item (if any)	
7.	Licensing Authority - Annual Report on licensing applications	7 - 14
8.	Delegation of Functions	15 - 22
9.	Any item(s) that the Chairman decides is urgent	

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Decisions of the Licensing Committee

28 February 2017

Members Present:-

AGENDA ITEM 1

Councillor John Hart (Chairman)

Councillor Brian Salinger (Vice-Chairman)

Councillor Alison Cornelius

Councillor Wendy Prentice

Councillor Claire Farrier

Councillor Agnes Slocombe

Councillor Jim Tierney

Councillor Jack Cohen

Apologies for Absence

Councillor Maureen Braun

Councillor Kitty Lyons

Councillor Zakia Zubairi

1. MINUTES

RESOLVED that the minutes of the meeting held on 21 November 2016, be agreed as a correct record.

2. ABSENCE OF MEMBERS

Councillors Braun, Lyons and Zubairi sent their apologies.

3. DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS

None.

4. REPORT OF THE MONITORING OFFICER (IF ANY)

None.

5. PUBLIC QUESTION AND COMMENT (IF ANY)

None.

6. MEMBERS ITEM (IF ANY)

None.

7. CONSULTATION ON STREET TRADING APPLICATIONS.

The Committee received the report.

RESOLVED that

1. consultation be extended to include Ward Members, in relation to new temporary and permanent street trading licence applications;

2. the current Street Trading Policy be amended appropriately to reflect the change in 1 above.
8. **ANY ITEM(S) THAT THE CHAIRMAN DECIDES IS URGENT**

None.

The meeting finished at 7.03pm

	AGENDA ITEM 7
	Licensing Committee 6th July 2017
Title	Licensing Authority – Annual Report on Licensing Applications.
Report of	Commissioning Director for Environment
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix 1 – Volumes of workflow
Officer Contact Details	Emma Phasey Group Manager Community Protection (Regulation) Emma.phasey@barnet.gov.uk

Summary

This report provides Members with a summary of the volume of work that the London Borough of Barnet, as a Licensing Authority has dealt with in the financial year April 2016- March 2017

Recommendations

- 1. That the Licensing Committee note and comment on the annual report of applications into the licensing department in relation to applications for 2016-2017**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Licensing Act 2003 makes the Council the Licensing Authority for licensing the sale of alcohol, the provision of regulated entertainment and late night refreshment in pubs, off-licences, clubs and restaurants in the Borough. There are approximately 1027 licensed premises within the London Borough of Barnet.
- 1.2 The Gambling Act 2005 makes the Council the licensing authority for gambling premises in the Borough. The Council has a number of important regulatory functions in relation to gambling. These include licensing premises, regulating gaming and gaming machines in clubs, granting permits to what the Guidance refers to as 'family entertainment centres' for the use of certain lower stake gaming machines, regulating gaming and gaming machines on alcohol licensed premises, granting permits for prize gaming, and registering small society lotteries. There are currently 80 gambling premises licences in the borough.
- 1.3 The Appendix provides the volumes of service requests, applications, sub committees and appeals undertaken in relation to applications by the Licensing Authority in 2016-2017. It also details cases of note in this period.
- 1.4 A comparison of the work flow shows that there was an 8.6% increase in applications last year as compared to the previous year.
- 1.5 We have also seen that the larger, more complex application types i.e. new and reviews applications, have significantly increased.
- 1.6 There have been 2 appeals made in relation to subcommittee hearings. 1 appeal was withdrawn as they applied for a new licence with a new individual specified as the licence holder. The other appeal has been postponed until September as they have also submitted a new application which is currently in the representation period. This is a similar level of challenges to previous years

2. REASONS FOR RECOMMENDATIONS

- 2.1 The data is presented to inform the Licensing Committee of the numbers and types of applications that are being processed by the Licensing department. It also highlights when there have been legal challenges to the decisions that Sub-Committees have made and their outcomes.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 None

4. POST DECISION IMPLEMENTATION

- 4.1 The report is for information and noting only.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The approach taken by the Licensing Authority in relation to applications fully supports objectives contained within the corporate plan. In particular it promotes delivering “quality services and striving to continually improve the standard of services”

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 Administration and enforcement is carried out by the Licensing team in Re, together with support from HB Public Law and from Governance Services, when arranging and co-ordinating arrangements for hearings.
- 5.2.2 In relation to the decisions made as the Licensing Authority there is always a risk of an appeal. However making consistent decisions in line with agreed policies, guidance and procedures minimises this risk.

5.3 Social Value

- 5.3.1 Not relevant to this report

5.4 Legal and Constitutional References

- 5.4.1 The Licensing Act 2003 placed the responsibility for making local licensing policies and considering applications for licenses on local authorities acting as licensing authorities. The Gambling Act 2005 performed a similar role in respect of gambling premises.

5.5 Risk Management

- 5.5.1 It is prudent to monitor performance to ensure that the Licensing function is delivered efficiently and effectively.
- 5.5.2 In particular it is important for the Licensing Authority to monitor the number of appeals made against decisions and the outcomes of these appeals. Low levels of appeals and instances of the Courts upholding the Licensing Authority's decisions are good indicators that the Licensing Authority is making legal and fair decisions within statutory timescales.

- 5.5.3 This performance report indicates that good consistent decisions are being made in good time by Barnet as the Licensing Authority.

5.6 Equalities and Diversity

- 5.6.1 The Council has a legal obligation under section 149 of the Equality Act 2010 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.
- 5.6.2 When considering applications, only issues provided for in the relevant legislation, in addition to the authority's policy will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

5.7 Consultation and Engagement

- 5.7.1 The information contained within this report will be published on the Local Authority website so that residents and businesses can monitor the work that is processed by the service.
- 5.7.2 Further performance information is provided in the quarterly report provided through Regional Enterprise Ltd delivery contact
- .

5.8 Insight

- 5.8.1 Not relevant to this report

6. BACKGROUND PAPERS

None

Appendix 1

Report on the work of the Licensing Authority.

The Licensing Team received the following applications in the past 6 years:

Premises licences (Licensing Act):

	Apr – Mar 2012	Apr – Mar 2013	Apr – Mar 2014	Oct 2014 – Sept 2015	Apr – Mar 2016	April – March 2017
NEW PREMISES LICENCES	54	50	54	55	49	51
VARIATIONS TO PREMISES LICENCE	14	21	15	19	15	19
TRANSFER OF PREMISES LICENCE	59	55	55	53	56	67
DPS VARIATION	154	120	155	153	159	159
MINOR VARIATION	16	15	25	19	16	26
DUPLICATE/ CHANGE OF DETAILS	50	35	32	50	84	35
NOTIFICATION OF INTEREST	6	8	7	2	2	
REVIEW	3	4	6	3	3	10

Temporary Events:

	Apr –Mar 2012	Apr – Mar 2013	Apr – Mar 2014	Oct 2014 – Sept 2015	Apr – Mar 2016	April – March 2017
TENS	500	542	478	453	441	488

Personal Licences (Licensing Act)

	Apr –Mar 2012	Apr – Mar 2013	Apr – Mar 2014	Oct 2014 – Sept 2015	Apr – Mar 2016	April – March 2017
NEW PERSONAL LICENCES	263	235	270	286	279	273
CHANGE ADDRESS/	71	90	118	114	152	106

DETAILS/DUPPLICATED PERSONAL LICENCE						
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Premises Licences (Gambling Act):

	Apr –Mar 2012	Apr – Mar 2013	Apr – Mar 2014	Oct 2014 – Sept 2015	Apr – Mar 2016	April – March 2017
NEW PREMISES LICENCE	4	3	4	0	3	2
VARIATION	4	3	3	0	0	1 0
TRANSFER	3	1	0		0	5
PROVISIONAL STATEMENTS	0	0	0	0	0	0
CHANGE ADDRESS/DETAILS	0	0	6	2	2	1

other applications:

	Apr –Mar 2012	Apr – Mar 2013	Apr – Mar 2014	Oct 2014 – Sept 2015	Apr – Mar 2016	April – March 2017
FIREWORKS STORAGE LICENCE/REGISTRATION	No data recorded	No data recorded	No data recorded	No data recorded	39	30
FIREWORKS ALL YEAR LICENCE	4	3	3	3	3	3
SCRAP METAL	No data recorded	No data recorded	23	13	2	15
FILM CLASSIFICATION	No data recorded	No data recorded	No data recorded	No data recorded	12	20
STREET TRADING DESIGNATION OF PITCH	No data recorded	No data recorded	No data recorded	No data recorded	No data recorded	67
STREET TRADING PERMANENT LICENCE	No data recorded	No data recorded	No data recorded	No data recorded	No data recorded	48
STREET TRADING TEMPORARY LICENCE	No data recorded	162	178	125	130	108

Hearings

In 2016-2017 the 28 following Licensing hearings have taken place:

- 10 Review applications (2 postponed 1 cancelled)
- 1 Expedited review interim measures
- 12 new premises licence applications (2 postponed 2 cancelled)
- 1 variation (1 cancelled)
- 2 DPS (2 cancelled)
- 2 transfer (2 cancelled)

2015-2016 the 20 following Licensing hearings have taken place:

- 3 review hearings
- 6 new premises licence applications (1 withdrawn)
- 3 TEN (2 cancelled)
- 5 variations (2 cancelled)
- 2 DPS variation (1 cancelled)
- 1 transfer (1 cancelled)

In 2014-2015 the 30 following Licensing hearings have taken place:

- 4 review hearings
- 1 expedited review hearing
- 12 new premises licence applications
- (5 withdrawn or cancelled 1 postponed)
- 5 TEN
- (3 withdrawn)
- 7 variations
- 1 transfer

In 2013-2014 there were a total of 41 applications referred to sub-committee:

- 25 Licensing Act
- 4 Review
- 1 Film classification
- 11 withdrawn/cancelled

In 2012-2013 there were 24 hearings:

- 19 Licensing Act applications
- 4 reviews
- 1 Gambling Act application

In 2012-2013 there were 14 hearings:

- 11 Licensing application
- 3 reviews

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	AGENDA ITEM 8
	Licensing Committee 6th July 2017
Title	Delegation of Functions
Report of	Commissioning Director for Environment
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix 1 – Decision of 11 July 2012 Appendix 2 – Table of Delegated Functions
Officer Contact Details	Emma Phasey Group Manager Community Protection (Regulation) Emma.phasey@barnet.gov.uk

Summary

To seek to change/clarify the delegation to officers for decisions in respect of acting on the Council's behalf as a responsible authority under the Licensing Act 2003, as amended by the Police Reform and Social Responsibility Act 2011

Recommendations

That the committee delegate authority to all Officers to act on the Council's behalf as a responsible authority under the Licensing Act 2003 (as amended).

1. WHY THIS REPORT IS NEEDED

- 1.1 The Police Reform and Social Responsibility Act 2011 gives licensing authorities greater powers and flexibility by amending the Licensing Act 2003 to make them responsible authorities in their own right.
- 1.2 As a responsible authority the Council, can submit representations and also seek a review of an existing licence without having to wait for the police or another responsible authority to make representations or commence a review.
- 1.3 At the Licensing Committee meeting on 11 July 2012 the power to act as the responsible authority was delegated to the Senior Licensing Officer. Please see the decision at Appendix 1. As at that time all applications were allocated by the Senior Licensing Officer. The Senior Licensing Officer would, upon receipt and prior to commencing work on an application, assess whether they needed to utilise their responsible authority function or not. If they believed they would need to use this function they would pass the unallocated application to the Trading Standards and Licensing Manager to allocate the application to another officer within the department. The Trading Standards and Licensing Manager would then act as line manager to this officer in respect of this application for the duration of the application process, thereby maintaining a clear separation of responsibility and avoiding a conflict of interest.
- 1.4 The scheme of delegation can be found in Appendix 2 The decision made on 11 July 2012 states 'Senior Licensing Officer' so the scheme of delegation is confusing as it does not accurately reflect this decision. Instead, it suggests all officers can act as the responsible authority, rather than the Senior Licensing Officer.
- 1.5 The role of Senior Licensing Officer no longer exists. This role now falls within the remit of Community Protection Regulation Team Leader.
- 1.6 Having only one officer delegated for this function is inefficient and should the current postholder leave before a replacement be recruited it would leave the licensing department with no ability to respond appropriately to applications as a responsible authority.
- 1.7 It is therefore appropriate to delegate the function of acting in the capacity of responsible authority to all officers within the Community Protection Regulation Team.
- 1.8 By delegating this function to all officers it would allow greater flexibility, efficiency and resilience. It will also make managing the separation of the responsibility authority function and the licensing authority functions much easier.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Failure to review and adopt the delegations would mean that these roles would have to be undertaken by the committee rather than the licensing department which would mean the Council, as the licensing authority, would not be able to perform this function as they would be unable to comment on the applications received.

Failure to adopt the responsible authority delegation correctly could lead to a conflict of interest between the decision maker and the responsible authority allowing for potential legal challenge.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Keep the current delegation which is incorrectly reflected in the delegation and is not efficient.

4. POST DECISION IMPLEMENTATION

- 4.1 If the suggested new delegation is approved these will come into effect immediately

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The approach taken by the Licensing Authority in relation to applications fully support objectives contained within the corporate plan. In particular it promotes “getting the basics right and delivering quality services”

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 There are no specific financial implications. There are no adverse costs associated with adoption of the scheme of delegation.

5.3 Social Value

- 5.3.1 Not relevant to this report

5.4 Legal and Constitutional References

- 5.4.1 The Licensing Act 2003 placed the responsibility for making local licensing policies and considering applications for licenses on local authorities acting as licensing authorities.
- 5.4.2 The Council's constitution delegates to the Licensing Committee all functions under the Licensing Act 2003 and the Gambling Act 2005 and associated Regulations, not otherwise delegated to the Licensing Sub-Committee.

5.5 Risk Management

- 5.5.1 Failure to adopt correctly the responsible authority delegation could lead to a conflict of interest between the decision maker and the responsible authority allowing for potential legal challenge.

5.6 Equalities and Diversity

- 5.6.1 The Council has a legal obligation under section 149 of the Equality Act 2010 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.
- 5.6.2 When considering applications, only issues provided for in the relevant legislation, in addition to the authority's policy will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

5.7 Consultation and Engagement

- 5.7.1 There is no consultation required in relation to this decision.

5.8 Insight

- 5.8.1 Not relevant to this report

6 BACKGROUND PAPERS

None

Appendix 1

Decision of the Licensing Committee 11 July 2012

That the committee delegate authority to the Senior Licensing Officer to act on the Council's behalf as a responsible authority under the Licensing Act 2003 (as amended).

Appendix 2

TABLE OF DELEGATED FUNCTIONS

Matter to be dealt with	Licensing Committee	Licensing Sub-Committee	Officers*
Application for a personal licence		If a Police objection	
Application for a personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representations made
Application for a provisional statement		If a representation made	If no representations made
Application to vary premises licence/club premises certificate		If a representation made	If no representations made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed designated premises supervisor		All cases	
Application for transfer of premises licence		If a Police Objection	All other cases
Application for Interim Authorities		If a Police Objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc			All cases

Decision to object when a local authority is a consultee and not a relevant authority considering an application		All cases	
Determination of a police representation to a temporary event notice		All cases	
Minor Variation (section 41A – 41D Licensing Act 2003)			All cases – Officers may consult with Responsible authorities
Fulfil the function of the responsible authority for the Licensing Authority under the Licensing Act 2003			All cases

*All Officers who have a joint contract

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