



Meeting of the

# LICENSING COMMITTEE

---

Tuesday, 3 June 2008 at 6.30 p.m.

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## A G E N D A

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### VENUE

Room M72, 7th Floor, Town Hall, Mulberry Place, 5 Clove Crescent,  
London, E14 2BG

Members:	Ward Represented
<b>Chair: Councillor Carli Harper-Penman</b>	Bethnal Green South
<b>Vice-Chair:</b>	
<b>Councillor Rajib Ahmed</b>	East India & Lansbury
<b>Councillor Rupert Bawden</b>	Mile End East
<b>Councillor Fazlul Haque</b>	Weavers
<b>Councillor Alexander Heslop</b>	Bow East
<b>Councillor Waiseul Islam</b>	Whitechapel
<b>Councillor Azizur Rahman Khan</b>	Bethnal Green North
<b>Councillor Fozol Miah</b>	Spitalfields & Banglatown
<b>Councillor Oliur Rahman</b>	St Dunstan's & Stepney Green
<b>Councillor M. Mamun Rashid</b>	Shadwell
<b>Councillor Bill Turner</b>	Mile End & Globe Town
<b>Councillor Motin Uz-Zaman</b>	Mile End East

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact:

Amanda Thompson, Democratic Services,

Tel: 020 7364 4651, E-mail: [amanda.thompson@towerhamlets.gov.uk](mailto:amanda.thompson@towerhamlets.gov.uk)

# LONDON BOROUGH OF TOWER HAMLETS

## LICENSING COMMITTEE

Tuesday, 3 June 2008

6.30 p.m.

### 1. ELECTION OF VICE-CHAIR FOR THE MUNICIPAL YEAR 2008/2009

To elect a Vice-Chair for the Licensing Committee for the Municipal Year 2008/2009.

### 2. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

### 3. DECLARATIONS OF INTEREST (Pages 1 - 2)

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note from the Chief Executive.

	PAGE NUMBER	WARD(S) AFFECTED
4. MINUTES	3 - 6	
To confirm the minutes of the meeting of the Licensing Committee held on 2 October 2007 as an accurate record of the proceedings.		
5. ITEMS FOR CONSIDERATION		
5.1 SCHEDULE OF DATES	7 - 12	
5.2 ESTABLISHMENT OF LICENSING SUB-COMMITTEES	13 - 30	
5.3 GAMBLING ACT 2005	31 - 42	
6. LICENSING TRAINING		
A short training session will be taking place at the end of the meeting.		
7. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT		

# Agenda Item 3

## DECLARATIONS OF INTERESTS - NOTE FROM THE CHIEF EXECUTIVE

This note is guidance only. Members should consult the Council's Code of Conduct for further details. Note: Only Members can decide if they have an interest therefore they must make their own decision. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending at a meeting.

### Declaration of interests for Members

Where Members have a personal interest in any business of the authority as described in paragraph 4 of the Council's Code of Conduct (contained in part 5 of the Council's Constitution) then s/he must disclose this personal interest as in accordance with paragraph 5 of the Code. Members must disclose the existence and nature of the interest at the start of the meeting and certainly no later than the commencement of the item or where the interest becomes apparent.

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- (a) An interest that you must **register**
- (b) An interest that is not on the register, but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of inhabitants of the ward affected by the decision.

Where a personal interest is declared a Member may stay and take part in the debate and decision on that item.

**What constitutes a prejudicial interest?** - Please refer to paragraph 6 of the adopted Code of Conduct.

**Your personal interest will also be a prejudicial interest in a matter if (a), (b) and either (c) or (d) below apply:-**

- (a) A member of the public, who knows the relevant facts, would reasonably think that your personal interests are so significant that it is likely to prejudice your judgment of the public interests; AND
- (b) The matter does not fall within one of the exempt categories of decision listed in paragraph 6.2 of the Code; AND EITHER
- (c) The matter affects your financial position or the financial interest of a body with which you are associated; or
- (d) The matter relates to the determination of a licensing or regulatory application

The key points to remember if you have a prejudicial interest in a matter being discussed at a meeting:-

- i. You must declare that you have a prejudicial interest, and the nature of that interest, as soon as that interest becomes apparent to you; and
- ii. You must leave the room for the duration of consideration and decision on the item and not seek to influence the debate or decision unless (iv) below applies; and

- iii. You must not seek to improperly influence a decision in which you have a prejudicial interest.
- iv. If Members of the public are allowed to speak or make representations at the meeting, give evidence or answer questions about the matter, by statutory right or otherwise (e.g. planning or licensing committees), you can declare your prejudicial interest but make representations. However, you must immediately leave the room once you have finished your representations and answered questions (if any). You cannot remain in the meeting or in the public gallery during the debate or decision on the matter.

**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE EXTRAORDINARY LICENSING COMMITTEE**

**HELD AT 6.30 P.M. ON TUESDAY, 2 OCTOBER 2007**

**ROOM C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG**

**Members Present:**

Councillor Carli Harper-Penman (Chair)

Councillor M. Shahid Ali  
Councillor Rupert Eckhardt  
Councillor Marc Francis  
Councillor Alexander Heslop

**Other Councillors Present:**

**Officers Present:**

John Cruse	– (Team Leader, Licensing)
Paul Greeno	– (Criminal Litigation and Enforcement Lawyer)
Carriann Scott	– (Principal Environmental Health Officer)
Alan Ingram	– (Democratic Services)
Paul Ward	– (Democratic Services)

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors S. Houghton, W. Islam, M.M. Rashid and B. Turner.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

**3. MINUTES**

**RESOLVED**

That the minutes of the meeting held on 12<sup>th</sup> June, 2007 be agreed as an accurate record of the proceedings and the Chair be asked to sign them.

#### 4. ITEMS FOR CONSIDERATION

##### 4.1 Application to Increase License Fee for the London Tattoo Convention (LC006/708)

Mr P. Greeno, Criminal Litigation and Enforcement Lawyer, indicated that the London Tattoo Convention was held annually at the Truman's Brewery location.

Ms C. Scott, Principal Environmental Health Officer, explained the role of Council Officers who would be attending the event and the reasons for the increased charge made by the Council.

#### **RESOLVED**

That the fee of £2,156.00 relating to the recovery of administrative costs for the Special Treatment Licence and monitoring of the London Tattoo Convention, 2007 be approved.

At 6.39 p.m., the Chair **adjourned** the meeting to enable the observance of Iftar. The meeting **reconvened** at 7.10 p.m.

##### 4.2 Licensing Act 2003 - Three Year Review (LC007/708)

The Chair invited questions relating to the report and Officers responded to queries relating to:

- the number of Temporary Events Licences (TENs) over the last 12 months (some 415);
- the effects on residents of entertainments events resulting from the mix of residential and commercial premises in the Borough;
- the specific nature of TENs relating to particular areas of premises.

Mr J. Cruse, Licensing Team Leader, referred to the intention in the Licensing Policy of focusing more on the regulating of striptease in premises. Currently this was addressed only in the category of dance with the removal of clothing for the purposes of the Licensing Act 2003. Consequently, any premises holding a licence for dance could hold striptease activities. Any other activities involving nudity would be subject to legislation regarding sex encounter establishments, for which the Council had a zero tolerance policy. It was intended that there would be a presumption for rebuttal of striptease and any associated advertising in locations close to residential or religious premises, particularly aimed at the protection of children. There would also be included in licensing conditions a standard term prohibiting any semi-nudity unless this was requested by the applicant.

Mr P. Greeno, Criminal Litigation and Enforcement Lawyer, added that, where premises were granted licenses under the Licensing Act 2003, but did

not have relevant planning permissions, it was for Planning staff to take any necessary enforcement action.

Following additional discussions, the Chair thanked Mr Cruse and his team for their work on producing the revised policy and it was:-

**RESOLVED**

- (1) That the key results of the three year review of the Licensing Policy be noted, together with the process of policy adoption.
- (2) That the recommendations contained in the report with regard to the policy review be agreed.

The meeting ended at 7.20 p.m.

Chair, Councillor Carli Harper-Penman  
Licensing Committee

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# Agenda Item 5.1

Committee <b>Licensing Committee</b>	Date <b>3 June 2008</b>	Classification <b>Unrestricted</b>	Report No. LC002/708	Agenda Item No. 5.1
Report of: <b>Head of Democratic Renewal and Engagement</b> Originating Officer: Amanda Thompson		Title <b>Licensing Committee Schedule of Dates 2008/09</b>  Ward(s) affected : <b>N/A</b>		

## 1. SUMMARY

- 1.1 This report sets out the Schedule of Dates for meetings of the Licensing Committee and its Sub Committees for the Municipal Year 2008/2009 as agreed by full Council at its meeting held on 21 May 2008.

## 2. RECOMMENDATIONS

- 2.1 That the Schedule of Dates as detailed in Appendices 1 and 2 of the report be noted;
- 2.2 That Members agree a start time for evening meetings of the Licensing Committee and its Sub Committees.

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### LOCAL GOVERNMENT ACT, 2000 (Section 97) LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of \*background paper\*

Tick if copy  
attached

If not supplied,  
name and telephone  
number of holder  
Amanda Thompson  
Democratic Services

Council Meeting  
Agenda & Minutes –2105//08

020 7364 4651

### **3. BACKGROUND**

- 3.1 At its meeting held on 23 April 2008, Council considered a draft schedule of dates for all its principal meetings for the Municipal Year 2008/09, which was subsequently approved.
- 3.2 Paragraph 5.1 of Part 4 of the Constitution states that "All Council meetings will start at 7.30pm unless the Council or the Chair decides otherwise." For several years, meetings of the Licensing Committee have started at 6.30pm as Members had previously expressed concern that a starting time of 7.30 pm did not always allow sufficient time for licensing applications to be considered in one evening, particularly if there were a number of objections to take into account.
- 3.4 Experience has shown that a 6.30 p.m. start time for meetings has achieved the best compromise in giving all parties reasonable time to attend and allow potentially long meetings to end at a reasonable time. However, Members of this Committee may wish to consider a suitable starting time for evening meetings of both the Licensing Committee and its Sub Committees and to note that all meetings will be held at The Town Hall, Mulberry Place.
- 3.5 The Licensing Act 2003 allows the Licensing Committee to establish Sub Committees for the intention of determining licence applications submitted in accordance with the 2003 Act. The number of Sub Committees to be established is for the Committee to consider and is the subject of a separate report. However, a proposed schedule of meeting dates for Licensing Sub Committees was also approved by Council and is attached for information at Appendix 2.
- 3.6 The period of time in which a hearing is to be held to consider applications where relevant representations have been received, is detailed in the Licensing Act 2003 (Hearings) Regulations 2005 as amended. If a hearing is not heard within proscribed timescales, the majority of applications are deemed to have been refused.
- 3.7 Members should note that this may mean that meetings will be required in addition to the schedule that has been agreed, however it is not possible to indicate whether or not this will be the case or indicate the number of meetings that may be required as meetings would be scheduled as necessary and in accordance with the regulations.

### **4. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)**

There are no immediate legal implications arising out of this report.

### **5. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

There are no immediate finance implications arising out of this report.

**6. EQUAL OPPORTUNITY CONSIDERATIONS**

In drawing up the schedule of dates, consideration was given to avoiding school holiday dates and known dates of religious holidays and other important dates where at all possible.

**7. ANTI-POVERTY IMPLICATIONS**

There are no obvious anti-poverty implications arising from the report.

**8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

There are no immediate SAGE implications arising from the report.

**9. RISK ASSESSMENT**

The Council needs to have a programme of meetings in place to ensure effective and efficient decision making arrangements.

**APPENDIX 1**

**SCHEDULE OF DATES 2008 – 2009**

**LICENSING COMMITTEE**

Tuesday 26 August 2008  
Tuesday 2 December 2008  
Tuesday 3 March 2008

**APPENDIX 2**

**SCHEDULE OF DATES 2008 – 2009**

**LICENSING SUB COMMITTEE(S)**

June	19
July	3, 17, 31
August	14, 28
September	11, 25
October	9, 23
November	6, 20
December	4, 18
January	15, 29
February	12, 26
March	12, 26
April	9, 23
May	14

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# Agenda Item 5.2

Committee: Licensing Committee	Date: 3 June 2008	Classification: Unrestricted	Report No:	Agenda Item: 5.2
<b>Report of:</b> Head of Democratic Renewal and Engagement <b>Originating officer(s)</b> Amanda Thompson		<b>Title:</b> Establishment of Licensing Sub Committees  Wards Affected: <b>All</b>		

## 1. **SUMMARY**

- 1.1 The purpose of this report is to establish Licensing Sub Committees, appoint their membership and also to note the proposed Terms of Reference and Rules of Procedure.

## 2. **RECOMMENDATIONS**

- 2.1 Members are asked to consider the contents of the report and
- i) determine how many Sub Committees to establish
  - ii) determine, if so wished, how many Sub Committee Chairs to appoint
  - iii) determine whether to appoint membership of the Sub Committees
- 2.2 Note the Terms of Reference attached as Appendix A and Rules of Procedure attached as Appendix B.

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### **Local Government Act, 2000 (Section 97) List of "Background Papers" used in the preparation of this report**

Brief description of "back ground papers"

Report of Head of Democratic Renewal and Engagement, "Licensing Act 2003", to

Council on 8<sup>th</sup> March 2007

Name and telephone number of holder and address where open to inspection.

Amanda Thompson Paul Ward  
Democratic Services  
Mulberry Place  
020 7364 4207

### **3. Background**

- 3.1 In accordance with the Licensing Act 2003, full Council at its meeting held on 8<sup>th</sup> March 2007 agreed that the Licensing Committee would consist of 15 Members and noted that the Committee would exercise its powers to appoint Sub Committees with the power to consider and determine Licensing applications. It was also noted that proportionality rules did not apply to Licensing Sub Committees.
- 3.2 The Licensing Act 2003 allows a Sub Committee to consist of three Members with the quorum also being three; it is not therefore possible to consider increasing the membership beyond that number. This also means that it is imperative that Members attend meetings as arranged and that the Committee needs to give careful consideration to the number of Sub Committees to establish so as to allow the greatest degree of Member participation, whilst sharing the workload.
- 3.3 It is entirely within the remit of the Licensing Committee to determine the number and operation of its Sub Committees. The previous Licensing Committee decided that all Members of the Licensing Committee would serve on its Sub Committees and elected to appoint five Members of the Committee to act as Sub Committee Chairs: the Chair, Vice Chair and three other Members.
- 3.4 As stated above, proportionality rules do not apply to the Sub Committees and this, together with what is proposed, means that a Sub Committee could be formed with one named Chair and any other two Members. This would allow considerable flexibility and ensure that workloads could be distributed amongst the membership. Where possible, and in line with Licensing Guidance, Members would not be asked to consider applications for premises within their Ward, thus ensuring an open and transparent decision making process. Alternatively, the Committee may wish to consider making fixed appointments to an agreed number of Sub Committees.
- 3.9 Members should also be aware that the 2003 Act provides that where it is not possible to determine an application within one hearing, hearings must continue on consecutive days. Whilst it is unlikely that this scenario will occur with any frequency, officers will ensure that the possibility of this occurring will be taken into account when establishing Member availability. In addition, Members will be asked to indicate if they are available for daytime meetings as it may be possible to hold a number of meetings not involving residents during the day and thus reducing the number of meetings that would need to be scheduled during the evening.
- 3.10 Council has approved a schedule of dates for Licensing Sub Committees, and whilst it will be necessary to look to these dates in the first instance, whether or not they can be utilised will depend on member availability and the period of time within which an application will have to be considered. Officers will advise as to the current position regarding the number of applications received and the likely impact of this, at the meeting.



3.11 Members are also asked to adopt the proposed Terms of Reference attached as Appendix A and the Rules of Procedure attached as Appendix B, to this report.

#### **4. COMMENTS OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)**

4.1 The overwhelming majority of contested licence applications will be heard by Licensing Sub Committees. Pursuant to section 9 of the Licensing Act 2003, a Licensing Committee may arrange for its functions relating to contested hearings to be delegated to Sub Committees of three Members all of whom must be members of the Licensing Committee. In order that the Council can deal with the potential large number of contested applications it will be preferable if the Licensing Committee does delegate this function. Further due to the nature of the hearing Regulations, Sub Committees will be better able to consider applications much more quickly than the main Licensing Committee.

4.2 As the Sub Committee is appointed pursuant to the powers in Section 9 of the Licensing Act 2003, then it is not classed as an advisory or an ordinary Committee/Sub Committee of the Council. Further, as the Sub Committee does not fall within one of the other named categories of bodies for the purposes of section 15 to and schedule 1 of the Local Government Act 1989 then the Sub Committees do not have to reflect the political make up of the Council and therefore the proportionality principles do not apply.

4.3 Finally as to the Licensing Committee, section 9(3) of the Licensing Act 2003 gives power to the Licensing Committee, subject to any Regulations made by Government, that the Committee may regulate its own procedure and that of its Sub Committees.

#### **5. COMMENTS OF THE CHIEF FINANCE OFFICER**

No material financial implications, such as additional Allowances, are proposed as a result of introducing Sub-Committees. Any minor incidental expenditure that may arise will be contained within the existing Chief Executive Directorate's budget.

#### **6. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

There are no immediate SAGE implications arising from the report.

#### **7. RISK ASSESSMENT**

Failure to put in place arrangements to enable licensing applications to be heard is likely to result in an undue burden for local courts in terms of appeals. It may increase the pressure on officers (as appeals may be more demanding in terms of time than ordinary hearings), and is likely to reflect badly on the reputation of the Council.

## **8. ANTI POVERTY IMPLICATIONS**

There are no immediate anti-poverty implications arising from the report.

## LICENSING SUB COMMITTEE

### Terms of Reference

#### 1. Constitution

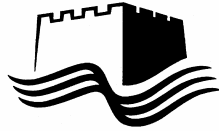
The Licensing Sub Committee will consist of 3 Members of the Licensing Committee and the quorum of the Sub Committee shall be 3 Members.

2. The Sub Committee(s) shall consider applications submitted in accordance with the requirements of the Licensing Act 2003, including:
  - i) Determination of applications for a premises licence (Section 18(3)(a) of the Licensing Act 2003)
  - ii) Determination of applications for provisional statements (Section 31(3)(a) of the Licensing Act 2003)
  - iii) Determination of applications to vary a premises licence (Section 35(3)(a) of the Licensing Act 2003)
  - iv) Determination of applications to vary a premises licence to specify an individual as premises supervisor (Section 39(3)(a) of the Licensing Act 2003)
  - v) Determination of applications for transfer of a premises licence (Section 44(5)(a) of the Licensing Act 2003)
  - vi) Determination of cancellation of an interim authority notice following police objection (Section 48(3)(a) of the Licensing Act 2003)
  - vii) Determination of applications for a review of a premises licence (Section 52(2) of the Licensing Act 2003)
  - viii) Determination of applications for club premises certificate (Section 72(3)(a) of the Licensing Act 2003)
  - ix) Determination of applications to vary a club premises certificate (Section 85(3) of the Licensing Act 2003)
  - x) Determination of applications for review of a club premises certificate (Section 88(3) of the Licensing Act 2003)
  - xi) Determination of counter notice following police objection to a temporary event notice (Section 105(2)(a) of the Licensing Act 2003)
  - xii) Determination of applications for grant of a personal licence (Section 120(7)(a) of the Licensing Act 2003)

- xiii) Determination of applications for the renewal of a personal licence (Section 121(6)(a) of the Licensing Act 2003)
- xiv) Determination of personal licence where convictions come to light after the grant or renewal of the personal licence (Section 124(4)(a) of the Licensing Act 2003)
- xv) Determination of the review of a premises licence following a closure order (Section 167(5)(a) of the Licensing Act 2003)
- xvi) Determination of application for grant of an application for the conversion of an existing licence (Paragraph 4(3)(a) of Schedule 8 to the Licensing Act 2003)
- xvii) Determination of application for grant of an application for the conversion of an existing club premises certificate (Paragraph 16(3)(a) of Schedule 8 to the Licensing Act 2003)
- xviii) Determination of application for grant of an application by holder of a Justices' licence for the grant of a personal licence (Paragraph 26(3)(a) of Schedule 8 to the Licensing Act 2003)

## **APPENDIX B**

**TOWER HAMLETS**



**LICENSING COMMITTEE**

**RULES OF PROCEDURE  
GOVERNING APPLICATIONS FOR  
PREMISES LICENCES  
AND OTHER PERMISSIONS  
UNDER THE LICENSING ACT 2003**

## **1. Interpretation**

- 1.1 These Procedures describe the way in which hearings will be conducted under the Licensing Act 2003, as set out in the Licensing Act 2003 (Hearings) Regulations 2005 (as amended). The Procedures take into account the Licensing Act (Premises Licences and Club Premises Certificates) Regulations 2005. The Procedures also include the time limits within which a hearing must commence (see Appendix A) and will be used by the Licensing Committee and Licensing Sub-Committee when conducting hearings.
- 1.2 The Hearings Regulations provide (Regulation 21) that a Licensing Authority shall, subject to the provisions of those Regulations, determine for itself the procedure to be followed at a hearing.
- 1.3 These Procedures, therefore, set out the way in which Licensing Sub-Committee Meetings will be conducted under the Licensing Act 2003, following the requirements of the Hearings Regulations. Wherever appropriate they have included the procedures followed successfully when determining licence applications under previous legislation.
- 1.4 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations (Regulation 31).

## **2. Composition of Sub-Committee**

- 2.1 The Sub-Committee will consist of no less than three members and no business shall be transacted unless at least three members of the Licensing Committee are present and able to form a properly constituted Licensing Sub-Committee. In such cases the Chair shall have a second or casting vote. The Councillor for the ward in which the applicant's premises are situated, or where either the applicant or the objector resides, shall not normally form part of the Sub-Committee for that item on the agenda.

## **3. Timescales**

- 3.1 Most hearings must take place within 20 working days from the last date for representations to be made with the following exceptions:

Within 10 working days from the last date for the police to object to:

- conversion of an existing licence;
- conversion of an existing club certificate;
- an application for a personal licence by an existing justices licence holder;
- and

Within 10 working days from the date the Licensing Authority receives the notice for a review of the premises licence following a closure order.

Within 7 working days from the last date for the police to object to:

- a temporary event notice.

Within 5 working days from the last date for the police to object to:

- an interim authority notice (Note: the police must give notice of their objection within 48 hours of being given a copy of the notice).

**Note:** Where a hearing is likely to take longer than one day, the Authority must arrange for the hearing to take place on consecutive days.

### 3.2 **Timescale for notice of hearings to be given**

In most cases, the Authority shall give notice of a hearing no later than 10 working days before the first day on which the hearing is to be held. The following are exceptions to that rule:

At least five working days notice must be given to the parties of the date of a hearing for determination of:

- conversion of an existing licence
- conversion of an existing club certificate
- application for a personal licence by the holder of a justices licence
- review of a premises licence following a closure order

At least two days notice must be given to the parties to a hearing for determination of:

- police objection to an interim authority notice
- police objection to a temporary event notice

### 3.3 **Persons who must be notified of a hearing**

The persons who must be notified of a hearing are set out below as a summary:

- any applicant for any licence or certificate or a temporary event notice.
- any person who has made relevant representations about an application for a licence or for review of a licence (note for any representations deemed frivolous, vexatious or repetitious under Section 18(7)(c) or similar sections of the Licensing Act 2003 the objector must be notified of the Authority's decision as soon as possible and in any event before any hearing).
- Any police officer who has given notice of objection to:
  - a person specified as a Designated Premises Supervisor
  - an interim authority

- transfer of a premises licence
  - a temporary event notice
  - a personal licence
- Any holder of a premises licence or club premises certificate where:
- application is made for review

**Note:** Anyone given notice of a hearing is a party and that is how that expression is used in these Rules of Procedure.

### 3.4 Information to be provided in a notice of hearing

The information that must be included in a notice of hearing includes:

- The procedure to be followed at the hearing;
- The right of the party to attend and to be assisted or represented by any person whether legally qualified or not;
- The ability to give further information in support of their application where the Authority has sought clarification;
- The right to question any other party if given permission by the Authority;
- The right to address the Authority;
- Notice of any particular points on which the Authority will want clarification at the hearing;
- The consequences if a party does not attend or is not represented at the hearing;
- For certain hearings particular documents must accompany the notice which is sent to parties informing them of the hearing. Reference must be made to Schedule 3 of the Hearings Regulations for this purpose.

### 3.5 Failure of Parties to Attend the Hearing

If a party has informed the Authority that they will not be attending or be represented at the hearing, it may proceed in their absence.

If a party does not give notice that they will not be attending but fails to attend and is not represented, the Authority may either:

- a) adjourn the hearing if it considers it to be necessary in the public interest or
- b) hold the hearing in the party's absence

If the Authority holds the hearing in the absence of a party, it will consider at the hearing the application, representation or notice given by the party.

If the Authority adjourns the hearing to a specified date it must forthwith the parties of the date, time and place to which the hearing has been adjourned.



**Note:** Transition hearings cannot be adjourned to a date beyond the date that which causes an application to be deemed as determined by default.

#### **4. Procedure at the Hearing**

4.1 The usual order of proceedings will be as set out below. The Sub-Committee will allow the parties an equal maximum time period in which to give further information in support of their application, representation or response. Where the Authority has given notice that it will seek clarification on that point at the hearing or where permission has been given to call any further persons to give supporting evidence, the Sub-Committee may allow the parties to question any other party and to address the Licensing Sub-Committee. The Sub-Committee will seek, in all cases, to avoid repetition of points (whether included in written material or otherwise), irrelevancy, or any abuse of the procedure.

At the beginning of the hearing the procedure to be followed will be explained to the parties. The hearing will, so far as is possible, take the form of a discussion, led by the Sub-Committee. Cross-examination will not be permitted unless the Sub-Committee considers it necessary.

- i) The Chair will begin by explaining how the proceedings will be conducted, and indicate any time limits that may apply to the parties to the application.
- ii) The report will be briefly introduced by an Officer of the Licensing Section summarising the application.
- iii) The Sub-Committee will then consider any requests by a party for any other person to be heard at the hearing in accordance with the Regulations. Permission will not be unreasonably withheld provided proper notice has been given.
- iv) A summary of the nature and extent of the application by the applicant or their representative. This should be brief, avoid repetition of material already available to the Committee in the Officer's report or otherwise, and include any reasons why an exception should be made to the Council's Licensing Policy, where appropriate. The submission may be followed by the evidence of any person who has been given permission by the Committee to give supporting evidence on behalf of the applicant.
- v) A summary of the reasons for making representations about the application by any interested party. This should be brief and avoid any repetition of information already made available to the Committee either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the objectors.
- vi) A summary of the reasons for making representations by or on behalf of any Responsible Authority. This should be brief and avoid any repetition

of information already made available to the Licensing Sub-Committee either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the Responsible Authority.

- vii) Members of the Sub-Committee may ask any questions of any party or other person appearing at the hearing.

4.2 The following requirements of the Hearing Regulations will also be followed by the Licensing Sub-Committee:

- a) The Sub-Committee will be guided by legal principles in determining whether evidence is relevant and fairly admissible. In particular, hearsay evidence may be admitted before the Sub-Committee but consideration will always be given to the degree of weight, if any, to be attached to such evidence in all the relevant circumstances.
- b) The Sub-Committee may impose a time limit on the oral representations to be made by any party. In considering whether to do so, and in considering the length of any such time limit, the Sub-Committee will take into account the importance of ensuring that all parties receive a fair hearing, and the importance of ensuring that all applications are determined expeditiously and without undue delay.
- c) In considering the time limits referred to in (b) above, regard must be had to the requirement to allow each party an equal amount of time.

4.3 When considering any representations or notice made by a party, the Authority may take into account documentary or other information produced by a party in support of their application, representation or notice, either:

- a) before the hearing, or
- b) with the consent of all other parties, by the Sub-Committee at the hearing

The Authority will disregard any information given by a party, or any other person appearing at the hearing, which is not relevant to:

- a) their application, representation or notice; and
- b) the promotion of the licensing objectives or the crime prevention objective where notice has been given by the police.

4.4 All hearings shall take place in public save that:

- a) The Licensing Sub-Committee may exclude the public from all or part of a hearing where it considers that, on balance, it is in the public interest to do so.

- b) The parties and any person representing them may be excluded in the same way as another member of the public
- c) The Licensing Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:
  - refuse to permit the person to return; or
  - allow them to return only on such conditions as the authority may specify.

4.5 Any person so excluded may, before the end of the hearing, submit to the Authority in writing, any information which, they would have been entitled to give orally had they not been required to leave. Where there are a number of items on the agenda, the adjournment of that item for a short period, whilst another item is heard, may allow this process to be carried out effectively.

## **5. Determination of Application – Time Limits**

5.1 The Licensing Sub-Committee must make its determination at the conclusion of the hearing where the application is for:

- a) Conversion or variation of an existing licence during transition
- b) Conversion or variation of an existing club certificate during transition
- c) A review of a premises licence following a closure order
- d) A personal licence by the holder of a justices licence
- e) A counter notice following police objection to a temporary event notice

5.2 In any other case the Authority must make its determination within the period of five working days, beginning with the day, or the last day, on which the hearing was held.

5.3 Where a hearing has been dispensed with because all of the parties have agreed that a hearing is unnecessary (and the Authority has agreed, giving notice to the parties in writing), then the Authority must make its determination within 10 working days beginning with the day the authority gives such notices to the parties. The Team Leader (Licensing) shall be authorised to make the determination on behalf of the Authority.

## **6. Record of Proceedings**

6.1 The Authority must arrange for a record to be taken of the hearing in a permanent and intelligible form and for that record to be kept for six years from the date of determination. Where an appeal is brought against a determination by the Authority, the record must be kept for six years from the date of disposal of the appeal.

## **7. Irregularities**

7.1 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations.

7.2 Clerical mistakes in any document recording a determination of the Authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the Authority.

## **8. Notices**

8.1 In accordance with the Regulations, any notices must be given in writing. Such a notice may be sent electronically, providing:

- a) it can be accessed by the recipient in a legible form;
- b) it is capable of being reproduced as a document for future reference;
- c) the recipient has agreed in advance to receive it in such form;
- d) a copy is sent in documentary form forthwith to the recipient.

## **9. Appeals**

9.1 Either those who have made an application or those who have made representations on an application may appeal to the Magistrates Court.

**Note:** An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the Licensing Authority of their decision.

**Article II. APPENDIX A**

Application Type	Period of Time within which Hearing to be Held (after reps have closed)	Notice Period of Hearing	Notice Sent To	Attendee Reply Form Back In
Section 18 (3)(a) (determination of application for premises licence)	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 35(3)(a) (determination of application to vary premises licence).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days	10 working days	Applicant (premises holder); Chief Officer of Police who has given notice; The proposed premises supervisor	5 working days
Section 44(5)(a) (determination of application for transfer of premises licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice; The present holder of the premises licence	5 working days
Section 52(2) (determination of application for review of premises licence).	20 working days	10 working days	The holder of the premises licence of where application applies; People who have made representations; Applicant	5 working days
Section 120(7)(a) (determination of application for grant of personal licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice	5 working days
Section 121(6)(a) (determination	20 working days	10	Applicant;	5 working

of application for the renewal of personal licence).			working days	Chief Officer of Police who has given Notice	days
Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	20 working days	10 working days	10 working days	The holder of the licence; Chief Officer of Police who has given Notice	5 working days
Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence).	10 working days		5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days
Section 31(3)(a) (determination of application for a provisional statement).	20 working days		10 working days	Applicant; People who have made representations	5 working days
Section 48(3)(a) (cancellation of interim authority notice following police objection).	5 working days		2 working days	The person who has given Notice; Chief Officer of Police who has given Notice	1 working day
Section 72(3)(a) (determination of application for club premises certificate).	20 working days		10 working days	Applicant (club); People who have made representations	5 working days
Section 85(3) (determination of application to vary club premises certificate).	20 working days		10 working days	Applicant (club); People who have made representations	5 working days
Section 88(2) (determination of application for review of club premises certificate).	20 working days		10 working days	Club that holds club premises certificate; People who have made representations; Applicant	5 working days
Section 105(2)(a) (counter notice following police objection to temporary event notice)	7 working days		2 working days	The premises user; Chief Officer who has given Notice	1 working day

Section 167(5)(a) (review of premises licence following closure order).	10 working days	5 working days	The holder of the premises licence; People who have made representations	2 working days
Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	10 working days	5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days
Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).	10 working days	5 working days	Applicant (club) Chief Officer who has given Notice	2 working days

**Article III. APPENDIX B**

Article IV.

Article V.

**Regulation 8**

<b>Action Following receipt of notice of hearing</b>	
<b>1.</b>	A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating:
(a)	whether he intends to attend or be represented at the hearing;
.	
(b)	whether he considers a hearing to be unnecessary.
.	
<b>2.</b>	In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
<b>3.</b>	In the case of a hearing under:
(a)	section 48(3)(a) (cancellation of interim authority notice following police objection), or
.	
(b)	section 105(2)(a) (counter notice following police objection to temporary event notice),
.	
	the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.
<b>4.</b>	In the case of a hearing under:
(a)	section 167(5)(a) (review of premises licence following closure order),
.	
(b)	paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
.	
(c)	paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
.	
(d)	paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),
.	
	the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.
<b>5.</b>	In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.



# Agenda Item 5.3

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Committee</b>	3 June 2008	<b>Unclassified</b>		5.3
Report of <b>Colin Perrins</b> <b>Head of Trading Standards and Commercial</b>	Title <b>Gambling Act 2005</b>			
<b>Originating Officer:</b> <b>John Cruse</b>				

## 1. Summary.

1.1 This report advises Members on the fees for the Gambling Act 2005 regime and schedule they should adopt under the Gambling Act 2005

## 2. Recommendations

2.1 That the Licensing Committee considers the report and adopts the recommendations in Para. 4.7 and Appendix 4.

**LOCAL GOVERNMENT Act 1972 (as amended) Section 100D**  
**LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT**

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

Gambling Act 2005

John Cruse  
020 7364 5024

### 3.0 **Background**

- 3.1 The Gambling Act 2005 (the Act) received Royal Assent in April 2005. The Act took away all licensing responsibilities from the Magistrates Court (which now acts as an appeal court) and made local authorities responsible for a number of different functions, including issuing premises licences, temporary use notices and a range of permits and other permissions. In addition the licensing authority must have adopted a gambling policy after consultation. The policy must be renewed every three years, but is also subject to review from time to time.
- 3.2 The income the licensing authority receives for gambling related activities is made up of some fees which are statutory, such as the fee for registering two or less gaming machines in a premises licensed to sell alcohol under the Licensing Act 2003. Such fees do not require a decision from Members, so no further mention is made of them in this report. See **Appendix 1** for a list of activities for which a fee must be set.
- 3.3 The responsibility for setting fees under the Gambling Act 2005, where a discretion is permitted has been delegated to the Licensing Committee and this report is recommending how that discretion is exercised.

### 4.0 **Fee Setting**

- 4.1 The Government has given the licensing authority a limited discretion in setting fees, with a maximum set for both new fees and annual renewals. The maximum limits are set out in the Gambling (Premises Licence Fees) England and Wales regulations 2007.
- 4.2 In setting fees the licensing authority must compare income and costs. This remains a problem, because we have yet to experience a full year of operation of our responsibilities under the Act. The fees we set are required to be revenue neutral. See **Appendix 2** for advice from the Gambling Commission. However, fees are required to be set for all activities where a fee is charged, although we do not have all the activities in the Borough.
- 4.3 The two types of premises we have which will generate income are as follows
- Betting Premises (other), (bookies) = 74
  - Entertainment Centre = 7
- 4.4 When fees were initially set, Government data gave 57 as the number of betting premises, we now know that we have 74, with a corresponding increase in revenue.

4.5 Since September we have received two applications for new premises, one a betting premises and the other an Adult Amusement Arcade. Both have proved problematic, with continuing correspondence with relation to the first and almost certainly a hearing in relation to the second. The maximum fee for new premises applications appears to be justified, as this reflects the substantial amount of work we have undertaken.  
See **Appendix 3** for a breakdown of anticipated income.

4.6 We have not been involved in any other activity which falls within a discretionary fee. It is difficult to accurately identify costs, but given that the first will require more administrative work than subsequent applications, 75% of the maximum fee has been set.

4.7 See **Appendix 4** for a full schedule of proposed fees.

## 5.0 **Expenditure**

5.1 The Licensing Authority, in looking at a zero budget is entitled to take certain costs into account which are not directly associated with processing or monitoring specific applications. Thus, legal costs, costs associated with democratic services, and enforcement costs relating to gambling generally (not just premises with a licence) may all be recovered. The Authority may not, however, seek to recover the costs of any section which acts as a responsible authority, such as Environmental Health (Noise).

5.2 See **Appendix 5** for a breakdown of expenditure.

## 6.0 **Legal Comments**

6.1 Pursuant to the Gambling Act 2005, Local authorities will set fees for premises licences from within fee bands prescribed by Department for Culture, Media and Sport ("DCMS"). Each premises type will have separate fee bands. There will be an initial fee to cover the cost of application and an annual "maintenance" fee. DCMS have prescribed maximum fees for each type of premises and each type of application for which a fee is payable and in Local Authorities selecting fees, it should be noted that the fee selected must be limited to cost recovery and paragraph 5.1 of the reports sets out the costs which can be recovered."

## 7.0 **Finance Comments**

7.1 In the current financial year budgeted income from the Gambling Act 2005 is £45k. The proposed charges as set out within the report would result in a

shortfall of £2k after the effect of the 12 month license being spread across financial years, This assumes the projected total income of £40k is achieved and that the new charges are implemented for all licenses issued in 2008/09. The forecast £2k budget shortfall can be offset by higher than anticipated general licensing income collected in 2007/08.

## **Appendices**

<b>Appendix 1</b>	List of activities for which a fee must be set.
<b>Appendix 2</b>	Advice from the Gambling Commission
<b>Appendix 3</b>	Anticipated income
<b>Appendix 4</b>	Schedule of Fees
<b>Appendix 5</b>	Breakdown of Expenditure

# Appendix 1

Activities for which a fee has to be set

Licensing Authorities are being asked to set fees (which cannot exceed the maximum permitted in the regulations) for each type of premises licence and licence activity as follows:

## Premises

- a regional casino premises licence,
- a large casino premises licence,
- a small casino premises licence,
- a converted casino premises licence,
- a bingo premises licence,
- an adult gaming centre premises licence,
- a betting premises (track) licence,
- a family entertainment centre premises licence, and
- a betting premises (other) licence.

## Activity

- Application for a licence.
- Notification of a licensing authority that a licensee's address has changed.
- Application to vary an activity authorised by a licence, a condition attached to a licence, or another detail of a licence.
- Application to transfer a premises licence from one licensee to another.
- Application for a copy of a licence.
- Application for reinstatement of a licence which has lapsed.
- Application for a "provisional statement" (a type of provisional authorisation on the basis of which the holder may make a later application for a premises licence proper).

## Appendix 2

Advice from the Gambling Commission to Licensing Authorities (June 2007)

### Funding

**4.26** The costs of authorities' new responsibilities under the Act will be met through initial application and annual fees (for premises licences) and fees for permits and other permissions.

**4.27** Licensing authorities are able to determine the premises licence fees in England and Wales, as long as they do not exceed the prescribed maximums. The fee maxima have been prescribed by the Secretary of State in regulations (Gambling Act 2005 (premises licence fees) No 479). Each premises type will have an individual fee maxima and annual fee. The fee should be calculated on a cost recovery basis only and should cover the cost to licensing authorities of exercising their functions under the Act. This is intended to allow authorities to fully recover the costs of their new responsibilities whilst providing a consistent approach across England and Wales and providing the gambling industry with a degree of certainty over the maximum fees that may be charged.

**4.28** Details of the premises licence fees regulations can be found on the DCMS website<sup>3</sup>.

**4.29** The Secretary of State has set fees for family entertainment and prize gaming permits, and will set the fees for other permits and other services.

## **Appendix 3**

Breakdown of anticipated income

74 x £450 = £33300

7 x £600 = £ 4200

Total = £37500

In addition it is assumed new premises will generate £6000 in income

Overall total = £43500



# Appendix 4

## Fees schedule

Premises Type	New Application	Annual Fee
	£	£
Existing Casinos	n/a	2250
New Small Casino	8000	3750
New Large Casino	10000	7500
Regional Casino	15000	11250
Bingo Club	3500	750
Betting Premises (excluding Tracks)	3000	450
Tracks	2500	750
Family Entertainment Centres	2000	600
Adult Gaming Centre	2000	600

	Application to Vary	Application to Transfer	Application for Re- instatement	Application for Provisional Statement	Licence Application (provisional Statement holders)	Copy Licence	Notification of Change
	£	£	£	£	£	£	£
Existing Casinos	1500	1015	1015	n/a	n/a	25	50
New Small Casino	3000	1350	1350	6000	3000	25	50
New large Casino	3750	1615	1615	7500	5000	25	50
Regional Casino	5625	4875	4875	11250	8000	25	50
Bingo Club	1315	900	900	2625	900	20	40
Betting Premises (excluding Tracks)	1125	900	900	2250	900	20	40
Tracks	940	715	715	1875	715	20	40
Family Entertainment Centres	750	715	715	1500	715	20	40

Adult Gaming Centres	750	900	900	1500	900	20	40
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## Appendix 5

### Breakdown of costs to the Licensing Authority

Costs can be broken down into three main areas

#### 1) New applications.

It is intended that this is simply revenue neutral within itself. It is now clear that most applications will lead to argument with industry rivals, and are likely to lead to a hearing. If there are no new licence applications the cost to the local authority will be virtually zero, but there does not seem to be any economy of scale related to number, given their disputed nature.

#### 2) Administrative costs.

The Gambling Act requires a public register to be maintained, that fees are collected, chased up, recorded, the IT system developed and maintained, returns sent to the Gambling Commission, queries from industry and the general public dealt etc. Despite efforts on the part of the Licensing Authority we do not have an adequate on-line system either for industry or the public.

Staff costs include on costs of accommodation, telephones etc. plus general services support on costs. Staff costs include not just licensing staff.

Related to the administrative issues, of course is staff training for the administrative and IT aspects.

IT system costs with some development	= £6000
Training (staff)	= £ 500
Training (Members)	= £ 500
Licensing Committee and policy issues	= £1000
Staff (inc. on costs) of administering the licensing system	= £11000
<b>TOTAL</b>	<b>= £19000</b>

#### 3) Enforcement costs

The main costs here relate to the Gambling Act in a general way. There have already been 5 prosecutions for illegal gambling in the street, and more are in the pipeline. In addition there are occasional complaints about illegal gambling. This has led to a variety of interventions by the Licensing Authority, often in partnership with other agencies.

The Licensing Authority is concerned about under-age gambling and intends to instigate work on this over the summer.

As previously, there are IT and training costs for staff, immediate on costs and broader costs. Also, not just licensing section staff are included.

IT and staff training	=£1000
Staff and related enforcement costs	=17500
<b>Total</b>	<b>=£18500</b>

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