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## **LICENSING COMMITTEE**

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**TUESDAY, 31ST OCTOBER, 2006 at 18:00 HRS**  
CIVIC CENTRE, HIGH ROAD, WOOD GREEN, N22 8LE.

**MEMBERS:** Councillors Beacham, Dobbie, Patel (Chair), Demirci, Lister, Mughal, Peacock (Vice-Chair), Reid, Vanier and Bloch

### **AGENDA**

**1. APOLOGIES FOR ABSENCE**

**2. URGENT BUSINESS:**

The Chair will consider the admission of any late items of urgent business. (Late items will be considered under the agenda item where they appear. New items will be dealt with at Item 8 below).

**3. DECLARATIONS OF INTEREST:**

A member with a personal interest in a matter who attends a meeting of the Authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

A member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

**4. MINUTES: (PAGES 1 - 2)**

To approve the minutes of the previous meeting of the Licensing Committee held on 5 September 2006 (attached).

**5. LICENSING DECISIONS AND THE RELATIONSHIP TO TOWN PLANNING CONTROLS: (PAGES 3 - 14)**

Report of the Head of Legal Services (attached).

**6. UPDATE FROM THE LEAD LICENSING OFFICER: (PAGES 15 - 52)**

An update on Licensing Service issues and resolutions (attached).

**7. LICENSING SUB-COMMITTEE MEMBERSHIP APPROVAL: (PAGES 53 - 56)**

Report of the Principal Committee Co-ordinator (attached).

**8. ITEMS OF URGENT BUSINESS:**

To consider any new items admitted under item 2 above.

**YUNIEA SEMAMBO**  
**Head of Member Services**  
River Park House  
225 High Road  
Wood Green  
LONDON N22 8HQ

**NICOLAS MATTIS**  
**Principal Committee Co-ordinator**  
Tel: 020 8489 2916  
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23 October 2006

**MINUTES OF THE LICENSING COMMITTEE (2003 LICENSING ACT)**  
**05 September 2006, 6pm start**

Councillors: Beacham\*, Bloch, Demirci\*, Dobbie\*, Lister, Mughal, Patel (Chair)\*, Peacock (Vice-Chair), Reid\*, and Vanier\*.

\* denotes members present

**LC16 APOLOGIES FOR ABSENCE** (Agenda Item 1):

Apologies were received from Councillors Mughal, Bloch, Peacock, and Lister.

**LC17 URGENT BUSINESS** (Agenda Item 2):

No items of urgent business were received.

**LC18 DECLARATIONS OF INTEREST** (Agenda Item 3):

No declarations of personal or prejudicial interests were declared.

**LC19 MINUTES** (Agenda Item 4):

The Committee approved the minutes of the previous meetings of the Licensing Committee held on 6 June 2006 and 8 August 2006.

**LC20 PROCEEDURAL ADVICE TO MEMBERS** (Agenda Item 5):

There was a short Report of the Head of Legal Services which focussed on the regulations of the Licensing Procedures Rules in respect of anonymous complaints, participation and conduct, and lobbying. The legal representative, Maria Bilbao, gave confirmation and clarity on the issue of Members' "interests" and highlighted that what would constitute a personal or prejudicial interest. There was a brief discussion on political bias amongst licensing sub-committee membership, but it was confirmed by Ms Bilbao that political persuasion should not influence the outcome of a licensing hearing – these should be strictly considered on their individual merit and in line with the four licensing objectives.

**RESOLVED:**

That the Committee agree to the recommendations in the report, namely:

- (i) To note the advice set out in Appendix 1 to the Head of Legal Service's report and to agree that this be circulated to all Members of the Council.
- (ii) To note the advice set out in Appendix 2 of the said report.

**LC21 ITEMS OF URGENT BUSINESS**

None.

**MINUTES OF THE LICENSING COMMITTEE (2003 LICENSING ACT)**  
**05 September 2006, 6pm start**

**The meeting ended at 18:45.**

.....  
**Councillor JAYANTI PATEL**  
Chair of the Licensing Committee 2006/7

Date.....

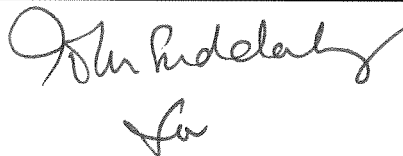
**Licensing Committee****on****31 October 2006**Report Title: **Licensing Decisions and the Relationship to Town Planning Controls**Forward Plan reference number (if applicable): **N/A**Report of: **Head of Legal Services**Wards(s) affected: **All**Report for: **Non-Key Decisions****1. Purpose**

1.1 To report to Members of the Committee on the outcome of consultation about the relationship between decisions under the Licensing Act 2003 and Town Planning Controls and to recommend amendments to the Statement of Licensing Policy

**2. Recommendations**

- 2.1 That Members note the outcome of the stakeholder consultation described in paragraphs 9.1 to 9.4 of this report.
- 2.2 That Members approve the proposed amendments to paragraphs 8.1 and 8.2 of the Council's Statement of Licensing Policy, as set out in Appendix 2 to this report.
- 2.3 That Members request the General Purposes Committee to recommend to the full Council the adoption of the amendments set out in Appendix 2

Report Authorised by:


**Davina Fiore, Head of Legal Services and Monitoring Officer**

Contact Officer: **Terence Mitchison, Senior Project Lawyer, Corporate**  
**(x 5936) [terence.mitchison@haringey.gov.uk](mailto:terence.mitchison@haringey.gov.uk)**

## **2 Executive Summary**

3.1 This report describes the outcome of a statutory stakeholder consultation about proposed changes to the Council's Statement of Licensing Policy. Officers had previously obtained Counsel's Opinion which advised that the Licensing Committee and Sub-Committees must always reach their own view at hearings when determining hours, activities or conditions. Although the Licensing bodies should give appropriate weight to relevant Planning decisions, the Licensing decision cannot be "tied" to Planning controls. There were no responses to the consultation but there are clear and compelling legal reasons for asking full Council via the General Purposes to make the appropriate amendments to Council's Statement of Licensing Policy.

## **3 Reasons for any change in policy or for new policy development (if applicable)**

4.1 Receipt of Counsel's Opinion and the possibility of legal challenge on these issues.

## **4 Local Government (Access to Information) Act 1985**

5.1 The following background papers were used in the preparation of this report:

(i) the Council's Statement of Licensing Policy (ii) the Opinion of Philip Kolvin (iii) the report to the Licensing Committee on 6 December 2005 (iv) the Legal Service file on this matter.

## **6 Background**

6.1 The Council's Statement of Licensing Policy contains a section (no. 8) on "Planning". This is set out in Appendix 1 to this report which is the text of the existing Statement of Licensing Policy. The paragraph that has given rise to the main concern is 8.2 which states:

"All premises that apply for a licence must have planning permission for the intended use and hours of operation or be deemed "lawful" for the purposes of planning control. The Licensing Authority will not consider a new application or variation of conditions if permitted licensable activities on the premises would constitute an unlawful planning use or if the hours of operation sought exceed those authorised by the planning permission."

6.2 Applications for new licences, or variations of hours, come before Licensing Sub-Committees when there are objections (technically called "relevant representations"). In many cases the applicant owns premises which have Planning Permission for opening hours less extensive than the hours sought in the Licensing application. In some cases the applicant is in the process of applying for Planning Permission to extend the hours to match those sought in the Premises Licence.

6.3 Where this seemed the appropriate course of action on the facts, Members were often reluctant to enforce the Statement of Licensing Policy strictly. In many cases premises

licence applications have been granted for hours exceeding those permitted by the Planning Permission but subject to an “informative” that the applicant must obtain the extension of hours from the Planning Authority before the premises can trade lawfully during those hours.

6.4 There have in the past been complaints from some quarters that the Council's Statement of Licensing Policy has not been strictly enforced with regard to Planning Control. From an opposing point of view, many applicants and their representatives have questioned the legality of the Council's policy here.

6.5 In order to resolve the uncertainty the Head of Legal Services, at the request of the Assistant Director Enforcement, obtained Counsel's Opinion from Philip Kolvin a barrister with a reputation as a leading practitioner in the Licensing area and the Chairman of the Institute of Licensing.

## **7 Counsel's Opinion**

7.1 Philip Kolvin's Opinion is attached as Appendix 3 to this report. The “Opinion” is in the form of an e-mailed letter to an officer in the Legal Service.

7.2 The main thrust of the Opinion is in paragraph (4). Counsel stated emphatically that Licensing Sub-Committees cannot refuse to consider a new application or variation on the basis that grant would be for hours or uses not authorised by planning control.

7.3 Legally, the only basis for the Licensing Authority having the power to refuse or restrict hours and activities set out in an Operating Schedule is that the Licensing Authority itself (not the Planning Authority) must consider this necessary for the promotion of the four national licensing objectives i.e. (i) prevention of crime and disorder, (ii) public safety, (iii) prevention of public nuisance, and (iv) protection of children from harm.

7.4 Counsel explained, at paragraph (7) of his Opinion, that in every case it is necessary for the Licensing Authority to arrive at its own view. The fact that Planning Permission covered the hours sought in an Operating Schedule should not automatically guarantee the grant of a Licence if, in the circumstances, this would be harmful to the licensing objectives. Nor should the absence of Planning Permission automatically result in refusal. In each case the Licensing Authority must consider the whole of the evidence before it at the hearing and reach its own conclusion on the merits.

7.5 The Licensing Authority may, and should, take into account any Planning decision that is relevant to the Licensing application and persuasive in the circumstances. Counsel gave the example, in his paragraph (6), of an Inspector's decision at a recent Planning Inquiry covering the same issue that comes before the Licensing Authority i.e. should the closing hour be limited to midnight to avoid nuisance. In such a case the Inspector's view must be given great weight by the Licensing Authority. Nonetheless, the Licensing Authority must reach its own conclusion on the totality of the evidence.

## **8 Revising the Statement of Licensing Policy**

8.1 Counsel advised, at paragraphs (4) and (8) of his Opinion, that the Councils' Statement of Licensing Policy needs revision. The recommended changes are set out in Appendix 2 to this report. The critical sentence in paragraph 8.2 reads:

“The Licensing Authority will give appropriate weight to relevant Planning decisions and to the views of the Planning Authority on the compliance of the application with the licensing objectives.”

8.2 In paragraph (3) of his Opinion Counsel pointed out the inaccuracy of Paragraph 8.1 of the SLP. This has arisen because of an amendment to the Town Planning Use Classes Order. The effect of this is that changes of use from a restaurant to a public house or to a hot food takeaway all now require Planning Permission. The necessary changes, reflecting the changes in Planning law, are set out in Appendix 2.

8.3 The current Statement of Licensing Policy adopted in January 2005 has a three-year maximum life before it must be wholly re-considered and re-adopted. The Council must keep its Statement of Licensing Policy under review during the three-year period and make such revisions as it thinks appropriate.

8.4 Counsel's Opinion was reported to the meeting of this Committee on 6 December 2005. Members agreed to apply Counsel's advice when making decisions at Licensing Sub-Committee hearings so that the Statement of Licensing Policy has not been strictly enforced in the period leading up to this report. Under the Licensing Act 2003, the Licensing Authority must “have regard” to its Statement of Licensing Policy when making decisions on applications. This means that the Licensing Authority can depart from any part of its Statement of Licensing Policy if there is good reason to do so, for example Counsel's Opinion accepted by the Licensing Committee.

## **9 Consultation on Proposed Amendments to the Statement of Licensing Policy**

9.1 Before any revision to the Statement of Licensing Policy is formally adopted, there is a legal requirement for an extensive consultation with stakeholders involving the same persons and bodies as were consulted before the original adoption of the Statement of Licensing Policy in January 2005. This should include consultation with representatives of local businesses and residents, representatives of the licensed trade and personal licence holders, the Police and the Fire Authority.

9.2 Unfortunately, this consultation was delayed by the Council Elections and pressure of other urgent work within the Licensing Service. It was eventually undertaken at the end of July with a time limit for comments by 1 September. Because there are no representative bodies in Haringey for holders of premises or personal licences, it has been necessary to consult each individual licensed business. In addition, representative community bodies and local residents associations were consulted as well as the Police and Fire Authority. The consultation letter is attached as Appendix 4 to this report.

9.3 Although there were several questions put to the Licensing Service on receipt of the letter, there were no formal comments or representations on the proposed amendments to the Statement of Licensing Policy.

9.4 The advice from Counsel is very clear on the need for the proposed amendments and, in the absence of any formal objections, officers are recommending that they be adopted.



**10 Recommendations**

- 10.1 That Members note the outcome of the stakeholder consultation described in paragraphs 9.1 to 9.4 of this report.
- 10.2 That Members approve the proposed amendments to paragraphs 8.1 and 8.2 of the Council's Statement of Licensing Policy, as set out in Appendix 2 to this report.
- 10.3 That Members request the General Purposes Committee to recommend to the full Council the adoption of the amendments set out in Appendix 2

**11 Comments of the Director of Finance**

- 11.1 There are no specific financial implications.

**12 Comments of the Head of Legal Services**

- 12.1 Under the relevant legislation and the Council's Constitution the amendment of the Statement of Licensing Policy is a "non-executive" function. Therefore the adoption of the amendments must be authorised by full Council on the recommendation of the General Purposes Committee. The other legal implications are set out in the body of the report.

**13 Equalities Implications**

- 13.1 There are no specific equalities implications

**14 Use of Appendices / Tables / Photographs**

- 14.1 Appendix 1 to this report is the existing text of paragraphs 8.1. and 8.2 of the Council's Statement of Licensing Policy
- 14.2 Appendix 2 to this report shows the proposed revisions to the Statement of Licensing Policy
- 14.3 Appendix 3 to this report is the Opinion of Philip Kolvin
- 14.4 Appendix 4 is the consultation letter sent to representatives of local businesses and residents, existing licence holders, the Police and the Fire Authority.

**APPENDIX I**

EXISTING STATEMENT OF LICENSING POLICY

**8.0 Planning**

- 8.1 Planning permission is usually required for the establishment of new premises and change of use of premises. Uses that are relevant to licensed premises are set out in the Town and Country Planning (Use Class) Order 1987 (as amended) and include:
- a retail shop, licensed for the sale of liquor for example (A1);
  - food and drink sold and consumed on the premises or where hot food is sold for consumption off the premises, including restaurants and bars (A3);
  - assembly and leisure uses, including cinemas, concert halls, dance halls and indoor/outdoor sports and recreation (D2); and
  - various "sui generis" uses which do not fall within a use class such as theatres.
- 8.2 All premises that apply for a licence must have planning permission for the intended use and hours of operation or be deemed "lawful" for the purposes of planning control. The Licensing Authority will not consider a new application or variation of conditions if permitted licensable activities on the premises would constitute an unlawful planning use or if the hours of operation sought exceed those authorised by the planning permission. The Licensing Authority will consider a degree of flexibility in this when dealing with applications for provisional statements, which applies to premises still to be constructed or altered for licensing purposes.

## APPENDIX 2

## PROPOSED REVISIONS TO STATEMENT OF LICENSING POLICY

[the words proposed for deletion are shown struck through and the words proposed for addition or insertion are shown in italics and underlined]

## 8.0 Planning

- 8.1 Planning permission is usually required for the establishment of new premises and change of use of premises. Uses that are relevant to licensed premises are set out in the Town and Country Planning (Use Class) Order 1987 (as amended) and include:
- (a) a retail shop, licensed for the sale of liquor for example (A1);
  - (b) food and drink sold and consumed on the premises ~~or where hot food is sold for consumption off the premises, including restaurants and bars~~ (A3);
  - (c) public house, wine bar or other drinking establishment (A4);
  - (d) hot food sold for consumption off the premises (A5);
  - (e) assembly and leisure uses, including cinemas, concert halls, dance halls and indoor/outdoor sports and recreation (D2); and
  - (f) various "sui generis" uses which do not fall within a use class such as theatres.
- 8.2 All premises that apply for a licence ~~must have~~ will be encouraged to obtain planning permission for the intended use and hours of operation ~~or be~~ if not already deemed "lawful" for the purposes of planning control. The Licensing Authority will give appropriate weight to relevant Planning decisions and to the views of the Planning Authority on the compliance of the application with the licensing objectives. ~~not consider a new application or variation of conditions if permitted licensable activities on the premises would constitute an unlawful planning use or if the hours of operation sought exceed those authorised by the planning permission. The Licensing Authority will consider a degree of flexibility in this when dealing with applications for provisional statements, which applies to premises still to be constructed or altered for licensing purposes.~~

**APPENDIX 3**

**OPINION OF PHILIP KOLVIN**

Dear Benita

(1) Since I am out of Chambers next week, I hope that this short e-mailed reply will suffice. A longer opinion would not contain more, or different, legal views.

(2) Your statement of licensing policy does not accurately represent the law in relation to the relevance of planning control. You have power to interfere with the contents of an operating schedule (e.g. by refusing a licence or attaching conditions) only if both the following are satisfied, namely, a) there has been a relevant representation and b) if it is necessary to promote the licensing objectives. If there is no relevant representation, you must grant as asked, subject of course to the mandatory conditions. This is regardless of whether planning consent is in place or not.

(3) Whereas paragraph 8.1 of your policy was once an accurate statement of the law, it no longer is, since a recent amendment to the Use Classes Order has created Classes A3, A4 and A5 to distinguish pubs, restaurants and takeaways.

(4) Paragraph 8.2 needs revision. You cannot refuse to **consider** a new application or variation on the basis that grant would be for hours or uses unauthorized by planning control. The legal reason for that is that the only basis to interfere is that interference is necessary to promote the licensing objectives. The practical reason is that planning control is a matter for the planning authority, who will decide whether a use is an offending one and whether to enforce against it.

(5) Thank you for sending me the extract from Hyde. Whereas under the old law, licensing authorities did have policies saying that planning permission had to be obtained first, the legal basis for such an approach was never entirely clear, and any legal basis has been removed by the Licensing Act 2003, which limits the discretion of licensing authorities to interfere, as I have indicated.

(6) What, then, is the role of planning? It is simply that the absence of planning consent **might** go to the question of whether refusal is necessary to promote the licensing objectives. Imagine that there had been a planning inquiry which had specifically considered the question of hours and an Inspector had concluded, after hearing evidence, that the terminal hour should be limited to midnight to avoid nuisance. The licensing authority may find that persuasive if precisely the same issue arose before them. There is authority for that in the shape of *R v Manchester Crown Court ex parte Dransfield* [2001] LLR 556, in which Glidewell LJ stated: "... it is clear that [the inspector's] view or conclusion must be given great weight by the local [licensing] authority, and by the Crown Court on appeal, and there would have to be good reason for rejecting that view or conclusion..."

(7) But in every case it is still necessary for the licensing authority to arrive at its own view. The fact that the premises have the requisite consent does not guarantee a licence if the evidence shows that a grant would be harmful, although weight would be attached to the view of the planning authority or inspector on the issue. Nor is the absence of consent a guarantee of refusal. Each case is to be determined on its merits. The role of planning is to bring its own expertise to bear on the issue, in the same way as health and safety or police departments may bring their expertise to bear on the issue, by putting information or evidence before the sub-committee to help it decide whether interference is necessary in order to promote the licensing objectives.

(8) Thus, while your policy can say that premises need planning consent or a lawful planning use in order to operate, and that the licensing authority will give weight, where relevant, to the views of the planning authority on the compliance of the application with the licensing objectives, you cannot in your policy make planning consent a prerequisite to grant.

(9) There is no harm in attaching an informative to the licence explaining that the licence does not constitute a consent under any other regime and that it is necessary for the licensee to obtain any other consents which may be necessary for the lawful operation of the premises. It would not be proper, whether by informative or condition, to make a statement to the effect that the operating hours are limited to those permitted under planning control. I.e. where there have been relevant representations you should grant such hours as you believe are consistent with the licensing objectives, regardless of whether those hours are consistent with those lawful under planning legislation. But there is nothing wrong with informing the applicant that he may still need consents under other legislation to operate the licensed hours.

(10) You have raised the issue of XXXXX, where the operator may need a planning consent that he does not have. For the reasons just given, that is no bar to the licensing application proceeding, and you must determine it having regard to what is necessary to promote the licensing objective. The absence of planning consent may or may not be material to that issue, but it cannot and should not justify a failure to determine the application at all.

(11) You have also raised the question of what happens when standard objections are made regarding hours in particular areas, by reference to XXX, XXX and XXX. Because of the volume of applications, and also because some statutory and non-statutory organizations have policies of their own, standard objections have been lodged. But the approach of the licensing authority is to determine each application on its merits, having regard to the statement of licensing policy and national guidance.

(12) Finally on this issue, you note that XXXX has appealed a refusal where the hours applied for exceeded those permitted by the planning authority. It will be up to you to justify this refusal. It would not, in my view, be sufficient merely to call the licensing officer to explain what had happened before the sub-committee. You should call officers from planning / licensing and/or environmental control to explain why it is necessary to curtail the hours in order to promote the licensing objectives. I note that environmental control officers did not object to the application, so this narrows your choice down to planning (who are a must) and licensing. I note that there were some local residents and also a Neighbourhood Watch representative. If they are helpful, you should call them too. I see that the sub-committee's attention was drawn to the policy regarding planning. You will need to make it clear on appeal that you are defending the appeal on the merits, and not asking the magistrates to dismiss the appeal on the basis that that part of the licensing policy precludes a determination on the merits.

(13) On the ancillary issue – corkage. You are right that licensing control attaches to sale of alcohol, not to charges for removing the cork from alcohol purchased elsewhere, or to consumption of such alcohol. Since alcohol is not being sold, the activity is not licensable.

I hope this is helpful.

Regards

Philip Kolvin

**APPENDIX 4**

Enforcement Service  
LICENSING  
Civic Centre, High Road, Wood Green, London  
N22 8LE  
Tel: 020 8489 0000 Fax: 020 8489 5554  
Minicom: 020 8489 5549

**Your Ref**  
**Our Ref: ES/ENF/DDB**  
**Contact: Ms D Barrett**  
**020 8489 5103**

**Date: 28<sup>th</sup> July 2006**

**For a large print copy contact 020 8489  
5103**

**LICENSING ACT 2003**

**REVISIONS TO STATEMENT OF LICENSING POLICY**

Dear Sir/ Madam

**REVISION OF THE HARINGEY COUNCIL STATEMENT OF LICENSING  
POLICY**  
**RELATIONSHIP BETWEEN LICENSING APPLICATIONS AND PLANNING  
CONTROLS**

Haringey Council as Licensing Authority under the Licensing Act 2003 is proposing to make revisions to its Statement of Licensing Policy. The changes would be in paragraphs 8.1 and 8.2 of the Policy Statement which deal with the relationship between premises licences (including club premises certificates) and planning controls.

An extract from the relevant part of the Policy Statement is attached. Those words in the text that are proposed for deletion are shown struck through and those words proposed for addition or insertion are shown in italics and underlined.

The Council has received legal advice that paragraphs 8.1 and 8.2 should be amended as shown.

The proposed changes to paragraph 8.1 simply reflect new categories of "Use Class" added to the Town and Country Planning (Use Classes) Order 1987 in an Amendment Order in 2005.

The proposed changes in paragraph 8.2 reflect legal advice that the Licensing Authority cannot refuse to consider a licence application where the activities and hours applied for would amount to a breach of planning control. While applicants would still be encouraged to obtain the necessary planning consent

(and may be subject to enforcement action by the Local Planning Authority if they do not), the planning status of the premises should not in itself be decisive for licence application purposes. The Licensing Authority would give appropriate weight to relevant planning decisions and the views of the Local Planning Authority. However, the Licensing Authority would reach its own conclusions on the merits in terms of the statutory licensing objectives.

Haringey Council is now consulting representative bodies and statutory authorities on the attached proposals to revise the Statement of Licensing Policy. If you wish your comments to be taken into account when the Council reaches its final decision, please send them in writing to Ms Daliah Barrett at the Licensing Service, Civic Centre, High Road, Wood Green, London N22 8LE to be received no later than 1<sup>st</sup> September 2006.

Yours faithfully,

**DALIAH BARRETT**  
**LEAD LICENSING OFFICER**

Interim Director **Andrew Travers**  
Assistant Director Enforcement **Robin Payne**

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**Licensing Committee**
**on**
**31 October 2006**

 Report Title: **UPDATE FROM THE LEAD LICENSING OFFICER**

 Forward Plan reference number (if applicable): **N/A**

 Report of: **Lead Licensing Officer**

 Wards(s) affected: **All**

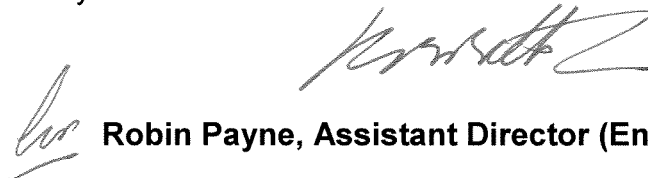
 Report for: **Non-Key Decisions**
**1. Purpose**

- 1.1 To report to Members of the Committee in respect of resolutions made by Licensing Sub-Committees since 22 May 2006 and appeals against the decisions of Licensing Sub-Committees since that date .
- 1.2 To highlight for Members the provisions of the Gaming Act 2005, which comes into force on 1 September 2007.

**2. Recommendations**

- 2.1 That Members note the content of this report and its appendices.

Report Authorised by:


**Robin Payne, Assistant Director (Enforcement), Environment**
**Contact Officers:**
**Daliah Barrett, Lead Licensing Officer (x5103):**  
**[daliah.barrett@haringey.gov.uk](mailto:daliah.barrett@haringey.gov.uk)**
**Nicolas Mattis, Principal Committee Co-ordinator**  
**(x 2916): [nicolas.mattis@haringey.gov.uk](mailto:nicolas.mattis@haringey.gov.uk)**



## **2 Summary**

This report lists all of the resolutions made by sub-committees since 22 May 2006 when the new Licensing sub-committees commenced hearings at the start of the municipal year . This report also outlines two appeals that have been to appeal at the Magistrates Court to challenge the Sub-Committee decision. The report finally draws Members' attention to the provisions of the new Gaming Act 2005, which comes into force on 1 September 2007. Members will be trained in full on their responsibilities under the Gaming reforms in due course.

## **3 Reasons for any change in policy or for new policy development (if applicable)**

Not applicable.

## **4 Local Government (Access to Information) Act 1985**

The following background papers were used in the preparation of this report:

None.

## **5 Recommendations**

5.1 That Members note the information given in the report

5.2 That Members agree to receive updates on the appeals made against the Authority in respect of decisions made by Licensing sub-committees.

## **6 Comments of the Director of Finance**

10.1 None.

## **7 Comments of the Head of Legal Service**

7.1 None.

## **8 Equalities Implications**

8.1 There are no specific equalities implications

## **9 Use of Appendices / Tables / Photographs**

9.1 Appendix one lists details concerning two cases that are currently going through the courts as appeals against decisions made by Licensing Sub-Committees (Firstly the Golden Stool, and secondly Mizgin ).

9.2 Appendix two lists the decisions / resolutions made by Licensing sub-committees since 22 May 2006.

9.3 Appendix three is guidance for Members on the provisions of the Gambling Act 2005.



**APPEAL AGAINST DECISION OF THE LONDON BOROUGH OF  
HARINGEY LICENSING SUB-COMMITTEE on 10<sup>th</sup> January 2006**

**THE GOLDEN STOOL, 89-91 High Road, Tottenham, London N15 6DL**

**REASONS FOR DECISION ON 31<sup>st</sup> August 2006**

We have heard full and well prepared presentations from both advocates.

This appeal is by way of a re-hearing and we heard evidence from a number of witnesses.

The Licensing Sub-Committee granted a Premises Licence from 10 a.m. to 11 p.m. daily. We are aware that these premises previously operated longer hours. From the evidence given we are also aware that over the years there have been complaints relating to noise and other nuisances emanating from the premises.

Had the original application for conversion been accepted the applicant would have been able to operate longer hours without additional conditions. We are satisfied that we can grant the application in part with additional conditions to satisfy the licensing objectives. A Premises Licence granted under the new Act can include specific activities and hours. The range of conditions is much wider and the penalties for breach much more severe.

We are, therefore, satisfied that we can grant the sale by retail of alcohol from 10 a.m. to midnight Sundays to Thursdays and 10 a.m. until 2.00 a.m. following Fridays & Saturdays. We will not grant any non standard hours. Temporary Event Notices will have to be applied for any events outside these hours.

We also grant the provision of late night refreshment from 11p.m. to midnight Sundays to Thursdays and 11 p.m. until 2.00 a.m. following Fridays & Saturdays.

The provision of regulated entertainment and the provision of entertainment facilities for making music and dancing are granted for films, indoor sporting events, live music and recorded music from 10 a.m. to midnight Sundays to Thursdays and 10 a.m. until 2.00 a.m. following Fridays & Saturdays.

We are imposing the conditions as set out in the minutes of the Licensing Sub-Committee dated 10<sup>th</sup> January 2006 (page 7) with the amendment to the Schedule of the Fire Officer dated 9<sup>th</sup> January 2006 which was agreed in this court on the last occasion. In addition, we are also imposing the following conditions:

1. A noise limiter is to be installed with the level to be set by the Haringey Environmental Health Officer.
2. A digital C.C.T.V. system must be installed and maintained inside and outside the premises monitoring the entrances and exits. The system must be recording at all times when the premises are open and the recordings must be kept for 31 days and made available to the Police or Council on request.



3. Customers may only enter the premises via the High Road entrances.
4. Two S.I.A. approved door staff must be in place whenever regulated entertainment is taking place.
5. Queues outside the premises must be closely monitored by the management and kept to the High Road.
6. The management must keep a written record of all verbal and written complaints. This must be available to the Police and Council on request.

We are making no order as to costs. We believe that the Council acted reasonably.





London Borough of Haringey -v- Mizgin Restaurant

Appeal Against Refusal to Grant A Licence

Reasons - 19th September 2006

"We have considered many documents and listened to the many witnesses called today.

The original application was refused on the basis that due to the noise, smell and waste there were grounds under Section 4 (2) (c) Licensing Act 2003 to refuse the licence. This was on the basis of the prevention of public nuisance.

We have been referred to the Haringey Council Guidelines, in particular paragraphs 13.1-13.3 dealing with late night activities.

The council refer to noise, smell and waste as the three reasons for finding against the applicant.

Dealing firstly with the litter problem; we do not feel we have heard sufficient evidence to suggest there is a problem. There is a prosecution pending for one bag of waste outside the premises in Green Lanes. This appears just to be a one off. In regards to the evidence of Mr Mashru regarding the waste outside the premises there does not appear to be any evidence to substantiate the claim, we have not heard any additional evidence or any evidence to suggest complaint had ever been made to the relevant authorities.

We have also heard evidence, in particular Mr Sharman, that there was a considerable smell emanating from the flue system which seemed to accumulate in the corner of the building where one of his bedrooms is. We are satisfied that this is a public nuisance and it is an ongoing problem.

Similarly we are also satisfied that there has been, and still is, a noise problem. There have been problems in the past which led to a statutory noise abatement notice being issued on 11th July 2003. It is not contested that Mr Kovayacin breached the order and was subsequently fined by the court. We accept that no further formal complaints have been made concerning the noise since November 2004 however Mr Sharman stated that he stopped making complaints direct to the council during the period when he complained to the Ombudsman. He also stated that the council had accepted that it was their ongoing duty to check the noise situation. Mr Sharman gave clear credible evidence about the conditions he now lives in. He generously accepts that there will be some noise and smell from a restaurant but we find it unacceptable for him to resort to sleeping with ear plugs during the night time and having to keep his windows closed to minimise the noise and smell.



We therefore agree that the council were right in deciding that there was a public nuisance caused by the operation of the Mizgin Restaurant.

We did consider flatly refusing the grant of the licence; however, we are prepared to grant a licence on limited terms and conditions.

We take great assistance from the statutory noise abatement notice. Clearly the noise team examined the flue, the area and the times and the operation of the premises:

(1) We are content to limit the hours to 1am in the morning following Friday and Saturday nights and to midnight on Sundays to Thursdays.

(2) We also impose a condition that the extract ventilation system be upgraded and or modified in order to dissipate the odours away from the building. This should be done in liaison with the environmental health team and a competent contractor, who is acceptable to both parties, and for both parties to agree the upgrade or modification plans. This work will need to be completed within three months from today.

(3) The operation of the extract ventilation system shall also cease at the cessation of the opening times."



**LCA04 CAIPIRINHA, 177 Archway Road N6 (Highgate ward) (Agenda Item 5):**

.....

**RESOLVED:**

The Committee decided to grant the application in full and subject to the following conditions:

- (i) Conditions to enforce the operating schedule.
- (ii) Conditions to enforce the Standard Mandatory Condition set out at Sections 19 and 21 of the Licensing Act 2006.
- (iii) Adhere to the conditions set out by the CPA on under-age drinking.
- (iv) The applicant shall commission an independent experts report (the expert to be agreed with the Environmental Health Department of Haringey Council) which will address any smells emanating from the premises and implement any recommendations to ensure that smells are properly vented from the premises to prevent any nuisance.
- (v) The applicant shall commission an independent experts report (the expert to be agreed with the Environmental Health Department of Haringey Council) which will address any noise or vibration emanating from the premises, and implement any recommendations to ensure that noise and vibration emanating from the premises (including from the extractor fan) does not cause a nuisance.

**INFORMATIVE:**

- (i) This licence does not constitute a consent under any other regime. It is necessary for the licensee to obtain any other consents that may be necessary for the lawful operation of the premises, including planning consent.
- (ii) All parties were reminded that under the Licensing Act 2003, a review of the license can be applied for at any time by interested parties and responsible authorities.

**LCA05 THE NEXUS POINT RESTAURANT, 686 High Road N17 (West Green ward) (Agenda Item 6):**

**RESOLVED:**

The Committee decided to grant the application in part, subject to the following conditions:

- (i) Conditions to enforce the operating schedule.
- (ii) Conditions to enforce the Standard Mandatory Condition set out at Sections 19 and 21 of the Licensing Act 2006.
- (iii) The licensee must provide a door supervisor at the premises when a private function is held at the premises for the duration of the function.
- (iv) That the opening hours for public are:  
**Sundays to Thursdays 11:00 to 03:00**  
**Fridays and Saturdays 11:00 to 04:00**
- (v) That hours for provision of late night refreshments are:  
**Sundays to Thursdays 23:00 to 02:30**  
**Fridays and Saturdays 23:00 to 03:30**
- (vi) That hours for supply of alcohol are:  
**Sundays to Thursdays 11:00 to 02:30**  
**Fridays and Saturdays 11:00 to 03:30**
- (vii) That hours for recorded music are:  
**Sundays to Thursday 23:00 to 03:00**  
**Friday and Saturdays 23:00 to 04:00**

These hours had been requested by the applicant and in accordance with the applicant's letter of 30 March 2006, the hours were adjusted to allow for the licensable activity to end 30 minutes before closing of the premises.

The reason why the requested change of days in relation to the supply of alcohol had not been permitted was because permission for these days would not have been able to comply with premises opening hours.

- (viii) Adhere to the conditions set out by the CPA on under-age drinking, namely that alcohol may only be sold to individuals over the age of 18 with valid proof of identification with one of the following:

- a valid passport

- a photo driving license issued in an EU country
- a proof of age standard card system
- a citizen card, supported by the Home Office

**REASONS:**

The reasons for applying these conditions are to protect children from harm, promote public safety, and prevention of public nuisance.

**INFORMATIVE:**

- (i) There is no permission for the provision of facilities for dancing. If the applicant wishes to provide this, an application for a variation to the license would need to be made.
- (ii) This licence does not constitute a consent under any other regime. It is necessary for the licensee to obtain any other consents that may be necessary for the lawful operation of the premises, including planning consent.

**LCA06 ISTANBUL RESTAURANT, 441 Green Lanes N4** (Harringay ward)(Agenda Item 8):

This Item was adjourned at the agreement of the Committee, the applicant, interested parties and responsible authorities due to time constraints which the Committee was under to hear all application of the evening. The application would be brought back before a future Licensing Sub-committee.



**LCA07 ATHENA PALACE, 657 Green Lanes N8 (Harringay ward)(Agenda Item 7):**

After a short hearing comprising a the Licensing Officer's Report and the first part of an objector's case, the proceedings were interrupted by the Legal Representative. It had been brought to the Committee's attention, that the premises license applied for would affect 500 or more people. Under the Council's Constitution (Part E.7 Section 6 (1)(e)) it is the full Licensing Committee only that can exercise the functions of the Licensing Sub-Committees in relation to any premises, site or event where 500 or more persons are to be present.

The hearing was subsequently adjourned, to be brought back to a meeting of the full Licensing Committee, once the actual number of people to be present at the premises was properly confirmed. The Licensing Officer confirmed that a fee would not be levied to the applicant for a new application, but that fresh papers would need to be submitted. These would then be fully circulated to all interested parties and responsible authorities.

**LCA14 THE MAGIC FLUTE, 31 High Street, N8** (Hornsey ward) (Agenda Item 6):

This Item was withdrawn from consideration due to ongoing dialogue between the applicant and the responsible authorities.

**LCA15 YAYLA RESTAURANT, 429 Green Lanes, N4** (Seven Sisters ward)(Agenda Item 7):

**RESOLVED:**

The Committee decided not to grant the application for variation. The reason for this was in order to prevent public nuisance to interested parties, it was necessary to refuse later hours based on the evidence heard from local residents in the vicinity of the premises, who had experienced noise nuisance late at night.

<b>LSCA21</b>	<b>120A ALEXANDRA PARK ROAD, N10 (MUSWELL HILL WARD):</b>  The Licensing Officer, Daliah Barrett presented the report for an application to provide a licensable activity in the supply of alcohol to the Committee. The applicant had agreed to carry out all the works proposed by the fire officer. The fire officer had therefore withdrawn his objections to this application. The Committee asked Ms Barrett to clarify the hours applied for, Ms Barrett confirmed that the application stated 07:30am – 11:00pm.  <b>RESOLVED</b>  The Committee decided to grant the application in full and subject to the following condition to impose the requirements of the fire authority.	
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LSCA22	<p><b>90 TRINITY ROAD, N22 (BOUNDS GREEN WARD):</b></p> <p>The Committee were advised by officers that Ms Caroline Simpson, the only objector to this application who had previously indicated an intention to attend, had telephoned to give her apologies because she would not after all be able to attend the Licensing Committee today to make representations in person. Mr Mitchison advised the Committee about the Procedure Rules for the non-attendance of parties and reminded Members that they needed to consider whether it was in the public interest to adjourn the application to give all parties the opportunity to attend or to proceed to hear the application in the absence of the objector.</p> <p>The Committee decided to consider the application in the absence of the objector.</p> <p>Ms Barrett, Licensing Officer presented the report to the Committee and highlighted the current position. The Fire Officer had objected to the application, but that this had now been withdrawn as the works had been carried out. The application for the opening hours and the supply of alcohol were requested from 07:00am – 11:00pm Monday to Sunday. Ms Barrett highlighted there had been three letters of objection to the application from interested parties.</p> <p>The Chair invited questions to the Licensing Officer. The Committee requested confirmation of the locality of Durnsford Park to the premises and were advised that the Park is not near them. Councillor Peacock enquired whether the Cavendish Club had a license to sell alcohol and was advised they have a license until 11pm.</p> <p>The Chair invited the applicant's representative, Mr Max Appel of Counsel to address the Committee. Mr Appel stated there was no actual evidence that the licensing objectives would be breached only supposition. There were objections on the public nuisance objective and when Ms Lockett says "I believe" that there will be problems, this is not fact only pure conjecture. There is no evidence provided to link the application premises to any of the three objectors claims. Nor were there any representations from the police or fire officer. On the 14 July 2006, the applicant had written to the Licensing Officer offering to comply with a further two conditions:</p> <ol style="list-style-type: none"> <li>1. To install a red care alarm system connected to the police via a twenty four hour monitoring station to be installed and maintained at the premises.</li> <li>2. That customers will not be allowed to congregate outside the premises.</li> </ol> <p>Mr Appel also informed the Committee that the applicant was in receipt of a</p>	
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three page petition signed by thirty three local residents whom lived within the vicinity of 90 Trinity Road and whom were all in support of Mr Celebi's application for a license.

The Committee posed a question to the applicant and enquired what he intended to do if customers congregated outside the shop. He responded by stating that customers would be asked to leave or the police would be called.

**RESOLVED**

The Committee decided to grant the application in full and subject to the following conditions.

The reasons for the decision were:-

1. Insufficient evidence to reject or cut down the application.
2. The Committee noted there are already premises selling alcohol in the vicinity.

The following conditions are imposed:-

1. To implement the red care alarm system connected to the police.
2. To prevent undesirable persons from congregating outside the shop.
3. The conditions to enforce the provisions of the operating schedule.
4. Alcohol shall only be sold to persons able to produce valid proof of age, if this is in doubt, by means of photographic identification.
5. Statutory mandatory conditions in sections 19 and 21 of the Licensing Act 2003.

<p><b>LSCA27</b></p>	<p><b>ATHENA PALACE, 657 GREEN LANES LONDON N8</b> (Harringay ward)(Agenda Item 5):</p> <p>....</p> <p><b>RESOLVED</b></p> <p>That the Committee agreed to grant both applications but only as follows and subject to the conditions below:</p> <ul style="list-style-type: none"> <li>(i) The provision of late night refreshments, music and dancing, and opening hours to the public be until 02:00 a.m. <del>only</del> on the morning after Saturdays, on the morning after Good Friday, and on the morning after Christmas Day.</li> <li>(ii) Alcohol sales on those days are to cease at 01:30 a.m.</li> <li>(iii) Conditions to enforce the provisions of the operating schedule.</li> <li>(iv) The mandatory statutory conditions under sections 19 and 21 of the Licensing Act 2003.</li> <li>(v) Door supervisors are to take all practicable steps to ensure clients leave the premises quietly.</li> <li>(vi) Door Supervisors registered with the Security Industry Authority are to be employed at the premises from 08.00 p.m. until the times of closing to the public.</li> <li>(vii) Toilet checks are to be carried out every 30 minutes to deter drug use and a full record of checks is to be kept.</li> </ul> <p>All other variations of the existing premises licence applied for, including the application to remove embedded conditions, were refused.</p> <p>The reasons for cutting down the applications were because the Committee considered that it was necessary to prevent public nuisance and unreasonable disturbance of local residents by noise from the premises. This was evident from the representations heard by the Committee.</p> <p><b>INFORMATIVE</b></p> <p>All advertising material relating to the premises and the events it holds should stipulate both the actual closing times of the premises/events, and the upper capacity limits of the premises, which is 450 people.</p>	
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**LSCB01. OFF LICENSE, 3 TURNPIKE LANE N8 (HARRINGAY WARD):**

The Licensing Manager, Ms Barrett, presented the report on the application to the Committee. Members noted that the applicant nor a representative of the application failed to attend the meeting.

**RESOLVED**

The Committee noted with some concern that the Applicant did not attend the hearing and accordingly, that he had failed to avail himself of the opportunity to present his application and address the impact a premises license granted to him would have on the licensing objectives.

The Committee has considered the application and has noted the applicant's comments in Box P of the Operating Schedule but does not consider that the Applicant has presented adequate information to reassure the Committee with regard to the licensing objectives.

The Committee was particularly concerned about the applicant's failure to provide satisfactory assurance to the Fire Officer that the works recommended by the Fire Officer in his letter dated 13 April 2006, had been carried out. In addition the Committee also noted the representations made by the Interested Parties.

The Committee in the light of the foregoing has decided to refuse to grant the premises license because the Committee considers this necessary so as to ensure that the public safety and prevention of public nuisance licensing objectives are not undermined.



<b>LSCB02.</b>	<p><b>OFF LICENSE, 3 TURNPIKE LANE N8 (HARRINGAY WARD):</b></p> <p>The Licensing Manager, Ms Barrett, presented the report on the application to the Committee. Members noted that the applicant nor a representative of the application failed to attend the meeting.</p> <p><b>RESOLVED</b></p> <p>The Committee noted with some concern that the Applicant did not attend the hearing and accordingly, that he had failed to avail himself of the opportunity to present his application and address the impact a premises license granted to him would have on the licensing objectives.</p> <p>The Committee has considered the application and has noted the applicant's comments in Box P of the Operating Schedule but does not consider that the Applicant has presented adequate information to reassure the Committee with regard to the licensing objectives.</p> <p>The Committee was particularly concerned about the applicant's failure to provide satisfactory assurance to the Fire Officer that the works recommended by the Fire Officer in his letter dated 13 April 2006, had been carried out. In addition the Committee also noted the representations made by the Interested Parties.</p> <p>The Committee in the light of the foregoing has decided to refuse to grant the premises license because the Committee considers this necessary so as to ensure that the public safety and prevention of public nuisance licensing objectives are not undermined.</p>	
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<b>LSCB03.</b>	<b>TRADITIONAL TURKISH COFFEE HOUSE, 381 TOTTENHAM HIGH ROAD N17 (BRUCE GROVE WARD):</b>
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	The Committee were advised that this application would now not to be considered as the Fire Officer had withdrawn their representations.
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<b>LSCB04.</b>	<b>HILL RISE CLUB, 807 HIGH ROAD N17 (NORTHUMBERLAND PARK WARD):</b> The Committee was informed that this item would not be heard at this evening's meeting due to the applicant being out of the country and unable to attend. The Committee was asked to adjourn the hearing of this application to a future date to be specified.  <b>RESOLVED</b>  That the Committee agreed to the adjournment of Agenda Item 7, to a date to be notified.
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<b>LSCB05.</b>	<b>WEST GREEN POOL, 428 WEST GREEN ROAD N15 (WEST GREEN WARD):</b>
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	The Committee were advised that this application would now not to be considered as the Fire and Planning Officers had withdrawn their representations.
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**LCC04 ISTANBUL RESTAURANT, 441 Green Lanes N4 (Harringay ward)**  
(Agenda Item 5):

.....

**RESOLVED:**

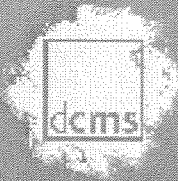
The Committee noted that the applicant had offered to amend the application to vary to that the last time for the sale of alcohol would be midnight every day of the week and so that for New Years Eve, the last time for the sale of alcohol shall be 02:00 on New Year's Day.

The Committee decided to grant the amended application for variation to a premises license subject to the following conditions:

- (i) Conditions to enforce the provisions of the operating schedule
- (ii) Conditions to enforce the standard mandatory conditions (section 19) of the Licensing Act 2003.
- (iii) That the sale of alcohol be as follows:
  - 09:00 to 00:00 Monday to Sunday
- (iv) That hours on New Year's Eve for sale of alcohol be as follows:
  - 09:00 on New Year's Eve to 02:00 on New Year's Day
- (v) The Committee noted that the applicant offered to remove the illuminated sign mounted on the exterior of the premises by the afternoon of the 28 June 2006. The Committee therefore also resolved that the illuminated signage to the exterior of the premises be fully removed with two days of the date of the decision.

**INFORMATIVE:**

- (iii) This licence does not constitute a consent under any other regime. It is necessary for the licensee to obtain any other consents that may be necessary for the lawful operation of the premises, including planning consent.



department for  
culture, media  
and sport

## New Gambling Act Explained

### Councillors

AMUSEMENT, GAMING, CASINO, FREE FAIR AND OPEN, FACE-GESTURING CHILDREN AND VULNERABLE ADULTS



improving  
the quality  
of life for all



This leaflet has been prepared by the Department for Culture, Media and Sport's (DCMS) Gambling Division to help Local Authority Councillors to better understand their new role under the Gambling Act 2005.

#### Background

The new Gambling Act 2005 comes into force on 1 September 2007. It has created a unified regulator for gambling in Great Britain called the Gambling Commission, as well as establishing a new licensing regime for commercial gambling. The Gambling Commission will regulate all commercial gambling in Great Britain, except the National Lottery and Spread Betting, and will issue operating and personal licences.

The Gambling Act 2005 transfers all responsibility for licensing gambling premises from Licensing Justices to Licensing Authorities (the Local Authority in England and Wales). Licensing Authorities will also be responsible for a number of different permits, as well as temporary and occasional use notices.

#### Local Authorities and the new Act

Local Authorities acting as Licensing Authorities will now issue premises licences for the following activities:

- bingo
- betting
- adult gaming centres
- family entertainment centres
- casinos
- horse racing and dog tracks.

They will issue permits for:

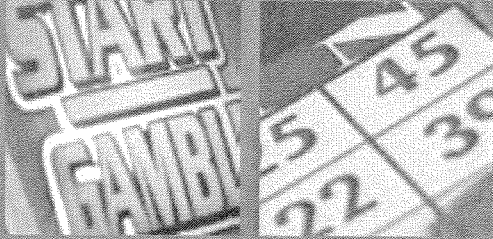
- gaming machines in alcohol licensed premises, such as pubs
- gaming machines for members clubs
- other gaming activities in members' clubs
- category D machines\* in unlicensed family entertainment centres
- prize gaming.

\*Category D machines are those that can be used by children and have the lowest level of stakes and prizes

They will also register and issue:

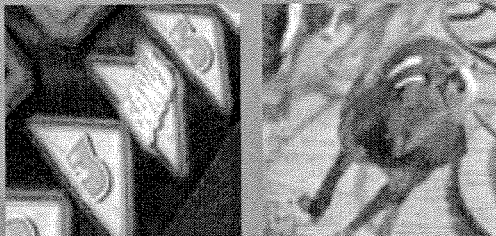
- small society lotteries
- occasional and temporary use notices
- provisional statements.





**The new Gambling Act 2005 contains three licensing objectives that underpin the entire legislation:**

- **preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime**
- **ensuring that gambling is conducted in a fair and open way**
- **protecting children and other vulnerable people from being harmed or exploited by gambling.**



### Councillors and the new Act

For premises licence applications and reviews, Councillors will sit on licensing committees as they do for the Licensing Act 2003. For permits other arrangements may apply, depending upon delegations.

Unlike the Licensing Act 2003, Councillors may make representations without being asked by a resident specifically to do so, although they will have to bear in mind wider issues of bias, prejudice and personal interests. Representations may only be made in relation to premises licences, not permits.

The new Gambling Act requires that all Local Authorities prepare, consult and publish a *Statement of Gambling Policy*, which sets out the principles of how it will carry out this licensing work over the next three years. These will be open to public consultation and must be approved by the full council before final publication.

### Applications – Premises Licences

Licensing Authorities will accept applications under the new Act from 30 April 2007. All operators must apply for new permissions under the new Act if they wish to operate after

1 September 2007. This also applies to all operators wanting to continue an existing business or start a new operation.

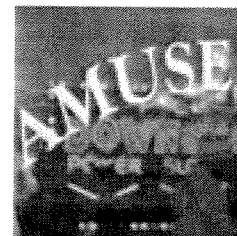
A Licensing Authority should aim to permit the use of premises for gambling if it believes that the application is:

- in accordance with any relevant Guidance or Codes of Practice issued by the Gambling Commission
- reasonably consistent with the licensing objective
- in accordance with the Authority's *Statement of Gambling Policy*.

### Processing Applications – Premises Licences

When an application for a premises licence is being made, representations from external parties may be made about the application. The Licensing Authority will consider all relevant representations, as well as other factors, before making a final decision.

Only representations made by a *Responsible Authority* or *Interested Party* will be considered and they must be relevant. The definitions of these two categories differ from those included in the Licensing Act 2003.



A *Responsible Authority* must be notified by the applicant when an application for a premises licence is being made.

A *Responsible Authority* is a public body which can make a representation in relation to the application, as well as to an existing licence.

They are:

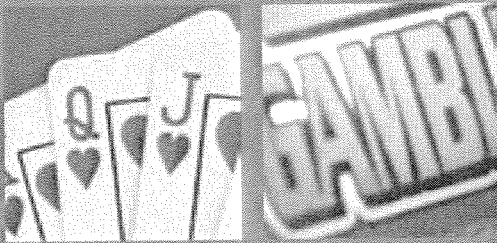
- a Licensing Authority in England and Wales in whose area the premises is wholly or partly situated
- a Local Authority (in Scotland)
- the Gambling Commission
- a Police Authority
- a Fire and Rescue Authority
- a Planning Authority
- a Environmental Health Authority (or equivalent)
- the body designated by the local authority as competent to advise about the protection of children from harm (Social Services etc)
- the body which is competent to advise about the protection of vulnerable adults (to be designated by the Secretary of State)
- the HM Revenue and Customs
- Navigation Authorities (Environment Agency, British Waterways Board, Maritime and Coastguard Agency) and the Secretary of State (for vessels only).

An *Interested Party* is a person who:

- lives sufficiently close to the premises to be affected by the authorised activities
- has business interests that might be affected by the authorised activities
- represents people in either of the above groups (eg lawyer, accountant, councillor, community association, chamber of commerce etc).

Representations that are relevant are those issues which relate to the gambling Commission's *Guidance or Codes of Practice*; issues related to the Gambling Act 2005's three licensing objectives (as listed above); or issues related to the Authority's *Statement of Gambling Policy*. Where Responsible Authorities make representations that are not relevant under the new Act, they may take action under their own legislation and enforcement powers.

A premises licence, once issued, will be set for an unlimited duration but the Licensing Authority does have the power to review and revoke it any time, and it may be surrendered or lapsed due to death or bankruptcy of the holder.



The Licensing Authority may grant premises licences to pleasure boats and floating restaurants, but a vessel going into international waters (eg a cross-channel ferry) does not need a licence. Trains and cars are not entitled to hold a premises licence.

#### Licence Conditions – Premises Licences

There are a number of conditions attached to premises licences under the new Act, and additional conditions may also be attached by both the Secretary of State and the Licensing Authority.

*Mandatory conditions* are set by the Secretary of State or Scottish Ministers. A Licensing Authority has no power to remove or vary these mandatory conditions.

*Default conditions* are attached in the same way as mandatory conditions, however, the Licensing Authority may remove or replace them. The Gambling Commission's Guidance suggests that these default conditions are expected to be the industry norm. Whilst Licensing Authorities may remove default conditions if they think this is appropriate, they must consider carefully before imposing a

regime that is stricter than the one that is expected to be the industry norm.

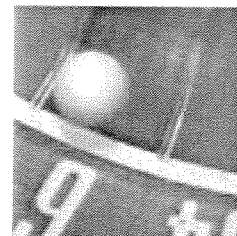
The Licensing Authority may also attach *individual conditions* to a licence, for example, door supervision.

Unlike the Licensing Act, officers may make recommendations to add conditions to premises licences without the need to make formal recommendations.

#### Hearings

The Licensing Committee must consider an application at a hearing if relevant representations are made and not withdrawn, or if the licensing officer proposes that individual conditions should be attached to the licence (either new conditions or the removal/variation of default conditions). Regulations regarding hearings will be published.

The Licensing Committee will usually delegate to a licensing officer to grant or reject an application where no representations are made, unless conditions are to be attached.



### Appeals

Appeals against decisions made by Licensing Authorities in England and Wales are made to the Magistrates' Court in England and to the Sheriff's court in Scotland.

### Fees

It is likely that premises licence fees will be set by the Secretary of State via a series of bands, with a prescribed maximum. Licensing Authorities will be able to select precise fees from within the bands, limited to cost recovery. This will allow Authorities flexibility and the industry a degree of certainty.

In addition, excellent performing Authorities (those with top CPA ratings) will be able to set premises licence fees outside these bands, limited to cost recovery.

The Secretary of State will also set the fees for permits and other services. In Scotland, Scottish Ministers will set all fees. Regulations regarding fees will also be published.

### Casinos

Local Authorities have new powers to:

- issue premises licenses for casinos
- resolve not to issue any further casino premises licenses in their area.

The Act creates three new casino categories and initially allows for 17 new premises licences to be issued across Britain: 1 regional, 8 large and 8 small casinos.

An independent panel will advise the Government where these new casinos should be located, once an assessment of their social impact and the likely regeneration benefits has been made.

**More information**

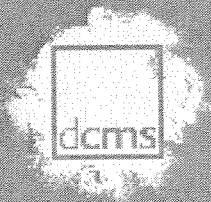
Further details can be found in the Gambling Commission's *Guidance to Licensing Authorities* and the DCMS' *Gambling Act 2005 – Transitional Arrangements* and *Gambling Act 2005 – Training Materials for Licensing Authorities*.

**Department for Culture Media and Sport**  
[www.culture.gov.uk](http://www.culture.gov.uk)

**Gambling Commission**  
[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

**Local Authorities Coordinators  
of Regulatory Services**  
[www.lacors.gov.uk](http://www.lacors.gov.uk)

**Institute of Licencing**  
[www.instituteofficensing.org](http://www.instituteofficensing.org)



Department for  
culture, media  
and sport

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[www.culture.gov.uk](http://www.culture.gov.uk)

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

Agenda item:

**Licensing Committee****on****31 October 2006**Report Title: **CHANGE TO MEMBERSHIP OF LICENSING SUB-COMMITTEES**Forward Plan reference number (if applicable): **N/A**Report of: **Head of Member Services**Wards(s) affected: **All**Report for: **Non-Key Decisions****1. Purpose**

1.1 To report to Members of the Committee on a minor change to the membership of Licensing sub-committees.

**2. Recommendations**

2.1 That Members agree the new membership list (attached at appendix one).

Report Authorised by:


**Yuniea Semambo, Head of Member Services**

Contact Officer: **Nicolas Mattis, Principal Committee Co-ordinator**  
 (x 2916) [nicolas.mattis@haringey.gov.uk](mailto:nicolas.mattis@haringey.gov.uk)

**2 Summary**

This report outlines the change to the membership of each of the three Licensing Sub-committees to reflect the requested swap of two individual Members from one sub-committee to another.

**3 Reasons for any change in policy or for new policy development (if applicable)**

Not applicable.

**4 Local Government (Access to Information) Act 1985**

5.1 The following background papers were used in the preparation of this report:

None.

**6 Background**

Following a joint request made by Councillors Dobbie and Lister to swap their membership on their respective sub-committees as agreed by Full-Council on 22 May 2006 (AGM), Councillor Lister would now be a member of Licensing Sub-Committee B, and Councillor Dobbie on Licensing Sub-Committee C.

**7 Revising the Licensing Sub-Committee Membership**

To reflect this change over, appendix one of this report lists the full compliment of Membership, and the Licensing Sub-Committees they sit on. It should be noted however that any member of the Licensing Committee can, in effect, sit on any of the Licensing Sub-Committee subject to the rules laid out in the Local Licensing Procedure Rules which are fully in line with provisions set out in the Licensing Act 2003.

**9 Recommendations**

9.1 That Members agree to the changes Licensing Sub-committee Membership outlined above,

**10 Comments of the Director of Finance**

10.1 None.

**11 Comments of the Head of Legal Service**

11.1 None.

**12 Equalities Implications**

12.1 There are no specific equalities implications

**14 Use of Appendices / Tables / Photographs**

14.1 Appendix one lists the Membership for each of the three Licensing Sub-Committees should Members agree it.



**APPENDIX ONE**

***Sub-Committee A:***

**Cllr Demirci - Bounds Green  
Cllr Patel (Chair) – Woodside  
Cllr Vanier – Tottenham Green**

***Sub-Committee B:***

**Cllr Mughal – Noel Park  
Cllr Peacock (Chair) – Northumberland Park  
Cllr Lister – Tottenham Green:**

***Sub-Committee C:***

**Cllr Beacham (Chair) – Alexandra  
Cllr Reid – Hornsey  
Cllr Dobbie – Noel Park**

***Unassigned:***

**Cllr Bloch – Muswell Hill**

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