

NOTICE OF MEETING

LICENSING COMMITTEE

Thursday, 27th May, 2021, 7.30 pm or on the rising of the Full Council, whichever is later - Tottenham Green Leisure Centre, Sports Hall, 1 Philip Lane, N15.

Members: The membership of the Committee will be confirmed at the Full Council on 27 May 2021.

Quorum: 3

1. **FILMING AT MEETINGS**

Please note this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the 'meeting room', you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual, or may lead to the breach of a legal obligation by the Council.

2. **APOLOGIES**

To receive any apologies for absence.

3. **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 under item 7 below).

4. **DECLARATIONS OF INTEREST**

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

(i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and

(ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct

5. DEPUTATIONS / PETITIONS / PRESENTATIONS / QUESTIONS

To consider any requests received in accordance with Part 4, Section B, paragraph 29 of the Council's constitution.

6. ESTABLISHMENT OF THE LICENSING SUB-COMMITTEE (PAGES 1 - 14)

This report asks the Committee to note the establishment of the Licensing Committee, including its terms of reference, to confirm the terms of reference for the Licensing Sub-Committee, and to establish a Licensing Sub-Committee for the 2021/22 Municipal Year.

7. NEW ITEMS OF URGENT BUSINESS

To consider any items of urgent business as identified at item 3.

Fiona Rae, Principal Committee Co-ordinator
Tel – 020 8489 3541
Email: fiona.rae@haringey.gov.uk

Fiona Alderman
Head of Legal & Governance (Monitoring Officer)
River Park House, 225 High Road, Wood Green, N22 8HQ

Wednesday, 19 May 2021

Report for: Licensing Committee – 27 May 2021

Title: Establishment of the Licensing Sub-Committee 2021/22

Report authorised by: Ayshe Simsek, Democratic Services and Scrutiny Manager,
ayshe.simsek@haringey.gov.uk, 020 8489 2929

Lead Officer: Felicity Foley, Committees Manager,
Felicity.foley@haringey.gov.uk, 020 8489 2919

Ward(s) affected: All

1. Describe the issue under consideration

- 1.1 To note the establishment of the Licensing Committee, including its terms of reference, to confirm the terms of reference of the Licensing Sub-Committee, and to establish a Licensing Sub-Committee for the 2021/22 Municipal Year.

2. Cabinet Member Introduction

Not applicable.

3. Recommendations

The Licensing Committee is asked:

- 3.1 To note the terms of reference of the Licensing Committee as set out within the Council's constitution, attached as Appendix 1 to the report.
- 3.2 To confirm the terms of reference of the Licensing Sub-committee as set out within the Council's constitution, attached as Appendix 2 to the report.
- 3.3 To agree the establishment of a Licensing Sub-Committee with the same membership as the Licensing Committee.
- 3.4 To note the Licensing Committee Protocol as set out within the Council's constitution, attached as Appendix 3 to the report.

4. Reasons for decision

- 4.1 To support the discharge of licensing functions as set out within Part 3, Section B of the Council's constitution.

5. Alternative options considered

Not applicable.

6. Background information

Licensing Committee

- 6.1 The Full Council appoints the membership of the Licensing Committee including its Chair and Vice-Chair. By law there must be at least 10 but no more than 15 appointed members.
- 6.2 The Council can determine the terms of reference of the Committee. These are currently set out in Part 3 Section B of the Council's constitution and attached as Appendix 1 to this report. Members are invited to note the Committee's terms of reference.

Establishing the Licensing Sub-Committee

- 6.3 The Licensing Committee may establish Licensing Sub-Committees to conduct hearings. Although the membership for these has been reported to Annual Council, legally it is the Licensing Committee that fixes these Sub-Committee membership and confirms its terms of reference.
- 6.4 The membership of Licensing Sub-Committees is fixed by law at three members. The Council's own Local Licensing Procedure Rules set the quorum for hearings at three members as this is considered to promote better decision-making.
- 6.5 It is proposed that the membership of the Licensing Sub-Committee is the same as the Licensing Committee and that, for each hearing, three members of the Licensing Committee will be appointed to sit on the Licensing Sub-Committee.
- 6.6 All members of the Licensing Committee will be consulted on their availability when it is known that a Licensing Sub-Committee meeting is required. From responses received, three members will be notified that they have been selected to serve on the Licensing Sub-Committee and all members of the Licensing Committee will be advised accordingly. (Note: All efforts will be made to ensure that all members of the Licensing Committee share Sub-Committee responsibilities on an equal basis.) While there is no requirement in law for the statutory licensing committee (or its sub-committees) to reflect political balance, historically this has been done as a matter of good governance.
- 6.7 The Chair of the Licensing Committee shall Chair the Licensing Sub-Committee. In their absence, a member of the Licensing Committee who is trained to Chair licensing meetings will be proposed and seconded as Chair of the meeting.
- 6.8 On occasion, an appointed member of a Licensing Sub-Committee cannot take part in a decision, for example if premises are located in the member's ward. In such cases, it will be necessary to appoint a substitute member, often at short notice. Any such substitution will be made in accordance with the provisions of Part 4, Section B, of the constitution. Additional delegations are made to the Democratic Services Manager (Part 3, Section E of the constitution) for the

appointment of a substitute Licensing Sub-Committee member from the members of the Licensing Committee in order to prevent an inquorate meeting. Substitute members would always be trained members of the Licensing Committee.

- 6.9 Members of the Committee are asked to confirm the terms of reference of the Licensing Sub-Committee. These are set out in Part 3, Section B of the constitution and are attached as Appendix 2 to this report.

7. Statutory Officers' comments (Chief Finance Officer (including procurement), Head of Legal & Governance (Monitoring Officer), Equalities)

7.1 Chief Finance Officer

There are no financial implications arising from the recommendations in this report.

7.2 Head of Legal & Governance (Monitoring Officer)

The Head of Legal & Governance (Monitoring Officer) has been consulted and approves the content of this report.

7.3 Equalities

The Council has a public sector equality duty under S149 of the Equality Act 2010 to have due regard to need to:

- tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- advance equality of opportunity between people who share those protected characteristics and people who do not;
- foster good relations between people who those characteristics and people who do not.

An initial screening of the proposals in this report has been completed and the proposals carry no implications for any aspect of the duty outlined above.

8. Use of Appendices

Appendix 1: Licensing Committee terms of reference
Appendix 2: Licensing Sub-Committee terms of reference
Appendix 3: Licensing Committee Protocol

9. Local Government (Access to Information) Act 1985

10.1 Not applicable.

The Licensing Committee

The Licensing Committee has functions either (1) as the statutory Licensing Committee of the Council under the Licensing Act 2003, which also exercises functions under the Gambling Act 2005, or (2) as a non-statutory Committee exercising other non-executive functions relating to Licensing, and other regulatory matters generally. At the beginning, and at other appropriate stage(s) in each meeting, the Chair will make a short announcement indicating whether the Committee is operating in its capacity as “statutory Licensing Committee” or as a “non-statutory Committee”.

Membership

The Licensing Committee must have between 10 and 15 members in order to comply with the legislation as statutory Licensing Committee.

Protocol

There is a Protocol outside this Constitution setting out how the Licensing Committee is to operate. The Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4 and the relevant Licensing Procedure Rules when the Committee is conducting a formal hearing. Any issue on procedure at the meeting shall be subject to the ruling of the Chair. The Protocol can be amended by the written agreement of the Leaders of the Political Groups on the Council.

- (1) In its capacity as the statutory Licensing Committee the Committee has all the functions referred to it by law under the Licensing Act 2003 and the Gambling Act 2005. These include:
 - (a) To be responsible for monitoring the operation of the Acts licensable activities and gambling in the Borough;
 - (b) To establish the Licensing Sub-Committee and to agree the delegation of functions to the Sub-Committee and to officers;
 - (c) To receive reports on the matters in (a) above and on the functions delegated to the Licensing Sub-Committee and to officers. To call for a report on any individual case;
 - (d) To determine the procedures to be followed in handling applications, notices, representations and all hearings, subject to the relevant Regulations;
 - (e) Subject to Regulations, to determine the fees payable for applications for premises licences and related matters under the Gambling Act 2005;
 - (f) In a Council Election Year when there is a need to hold a hearing in the period between Election day and the Annual Meeting of the Council, those members of the Committee who are re-elected as councillors shall meet as the Committee (subject to there being a quorum of 3

members) in order to exercise any of the functions of the Licensing Sub-Committees, or of the Committee under (f) above, and shall elect a Chair for the meeting.

- (2) In its capacity as the non-statutory Committee exercising other non-executive functions the Committee has the following functions:
- (a) Exercising the functions which are stated not to be the responsibility of The Executive/Cabinet In Regulation 2 and Schedule 1, Paragraph B (Licensing and Registration) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any Statute or subordinate legislation further amending these Regulations. The Committee's functions are to determine all policy issues, procedures and standard terms and conditions relating to the non-executive licensing functions but exclude decisions in individual cases which are delegated to the Licensing Sub-Committees. The Sub-Committee's remit includes the licensing of street trading, scrap metal dealing, special treatment premises, sex establishments and dog breeding establishments;
 - (b) Formulating, reviewing and approving for consultation the Statement of Licensing Policy under the Licensing Act 2003 and recommending it, and any revisions to it, to full Council for adoption;
 - (c) Being consulted informally on the review and determination of the Statement of Gambling Policy, including procedures for Council consultation with external stakeholders, and making recommendations on these matters to the Cabinet;
 - (d)
 - (e) Reviewing all Council plans and policies on any licensing, or regulatory matters, exercising an overview in relation to common themes and making informal recommendations on these matters to Cabinet and full Council;
 - (f) Making informal recommendations to the Cabinet and other bodies on service delivery, grant aid, commissioning and procurement matters when these involve or relate to licensing, or regulatory issues.

Licensing Sub-Committee

Introduction

The Licensing Sub-Committee has functions either (1) as Sub-Committee of the Licensing Committee in its capacity as the statutory Licensing Committee of the Council under the Licensing Act 2003, which also exercises functions under the Gambling Act 2005, or (2) as Sub-Committee of the Licensing Committee in its capacity as a non-statutory Committee exercising non-executive licensing and regulatory functions. At the beginning, and at other appropriate stage(s) in each meeting, the Chair will make a short announcement indicating whether the Sub-Committee is operating in its capacity as “statutory Licensing Sub-Committee” or as a “non-statutory Sub-Committee”.

Membership

The membership of the Sub-Committee shall be drawn from the Licensing Committee. When operating in its capacity as “statutory Licensing Sub-Committee” there must be a membership and quorum of 3 present at all times.

- (1) General Provisions Relating to the Statutory Licensing Sub-Committee
 - (a) The Licensing Sub-Committee has the power to make final decisions on behalf of the Council on matters within their terms of reference and there is no right of appeal to the Licensing Committee;

Functions under both the Licensing Act 2003 and the Gambling Act 2005

- (b) To determine applications for premises licences where relevant representations have been made;
- (c) To determine applications for provisional statements where relevant representations have been made;
- (d) To determine valid applications for review of premises licences where relevant representations have been made;
- (e) To decide on any other matter where it is necessary or desirable for members to make that decision;

Functions under the Licensing Act 2003 alone

- (f) To determine applications for variations of premises licences where relevant representations have been made except in the case of minor variations;
- (g) To determine applications to vary designated premises supervisors following police objections;
- (h) To determine applications for transfer of premises licences following police objections;

- (i) To consider police objections made to interim authority notices;
- (j) To determine applications for club premises certificates where relevant representations have been made;
- (k) To determine applications to vary club premises certificates where relevant representations have been made except in the case of minor variations;
- (l) To determine valid applications for review of club premises certificates where relevant representations have been made;
- (m) To decide whether to give counter notices following police objections to temporary event notices;
- (n) To determine applications for grants of personal licences following police objections;
- (o) To determine applications for renewals of personal licences following police objections;
- (p) To decide on revocation of personal licences where convictions come to light after grant;
- (pa) To determine the review of a premises license following a closure order where relevant representations have been made

Functions under the Gambling Act 2005 alone

- (q) To determine applications for variations of premises licences where relevant representations have been made;
- (r) To determine applications for transfers of premises licences following representations by the Gambling Commission or others;
- (s) To determine applications for the re-instatement of premises licences where relevant representations have been made;
- (t) To decide whether to give counter notices following objections to temporary use notices;
- (u) To determine applications for the grant or renewal of club gaming permits and club machine permits where valid objections have been received;
- (v) To determine proposals to cancel club gaming permits and club machine permits where the licence holder requests a hearing;
- (w) When the licence holder requests a hearing, to determine officer proposals: (i) to make an order removing the entitlement of an on-premises alcohol licence holder to have one or two gaming machines, or (ii) to cancel or vary a licensed premises

gaming machine permit;

- (x) To determine applications for the grant or variation of licensed premises gaming machine permits for 5 or more machines or in any case where the Chair of the Licensing Committee considers that there is cause for concern about the proper management of the premises;
- (2) General Provisions Relating to the Non-Statutory Licensing Sub-Committee
 - (a) The Sub-Committee has all the functions which are stated not to be the responsibility of the Council's Executive/Cabinet in Regulation 2 and paragraph B (Licensing and Registration) of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 S. I. 2853, as amended, or further amended, in any statute or subordinate legislation. The Sub-Committee's remit includes the licensing of street trading, scrap metal dealing, special treatment premises, sex establishments and dog breeding establishments.
 - (b) The Sub-Committee makes decisions in all individual licensing or registration cases where a hearing is required because of an objection to an application or to a proposed revocation or because of an officer recommendation for refusal.
 - (c) The Sub-Committee has the power to make final decisions on behalf of the Council in relation to its functions in (b).
 - (d) Excluded from the Sub-Committee's' terms of reference are decisions on all policy issues, procedures and standard terms and conditions which are within the remit of The Licensing Committee.

This page is intentionally left blank

1 LICENSING COMMITTEE PROTOCOL

- 1.1 The Terms of Reference for the Licensing Committee is stated in the Council's Constitution (Part 3 Section C). The purpose of this protocol is to set out in detail the process by which the Licensing Committee will function.
- 1.2 This Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4 of the constitution. Any issue on procedure at the meeting shall be subject to the ruling of the Chair.
- 1.3 This document will be subject to regular review along with other governance arrangements, to ensure that it remains updated in the light of experience.

2 MEMBERSHIP AND CHAIR

- 2.1 The members and chair of the Licensing Committee shall be elected and ratified each year at the Annual Council Meeting.
- 2.2 The Licensing Committee shall comprise 11 members. The members of the Licensing Sub-Committee may comprise any three members of the Licensing Committee.
- 2.3 All members of the Licensing Committee will be consulted on their availability when it is known that a Licensing Sub Committee meeting is required.
- 2.4 From responses received three Members will be notified that they have been selected to serve on the Licensing Sub-Committee and all members of the Licensing Committee will be advised accordingly. (**Note:** All efforts will be made to ensure that all members of the Licensing Committee share Sub-Committee responsibilities on an equal basis.)
- 2.5 The Chair of the Licensing Committee shall chair the Licensing Sub Committee. In their absence, a member of the Licensing Committee who is trained to chair licensing meetings will be proposed and seconded as chair of the meeting.

3 RESPONSIBILITIES

Main Licensing Committee

- 3.1 The Licensing Committee shall act as:
 - (a) a **statutory licensing body**;
 - (b) a **non-statutory body**.
- 3.2 At the appropriate stage during the meeting, the Chair of the Licensing Committee shall announce whether the Committee is acting in its statutory or non-statutory role.

3.3 The main responsibilities of the Licensing Committee will be in regard to determining and being consulted on Licensing and Regulatory policy issues, evaluating decisions and identifying learning points and informing Member and Officer development and training. These responsibilities are explained further in paragraphs 3.4 to 3.10 below. Decision making responsibilities in relation to individual complex or contested licensing applications will be devolved to a the Licensing Sub-Committee. Uncontested or non-complex applications, or those that comply with the Scheme of Delegation, are determined by Officers.

3.4 As the **statutory licensing body** under the Licensing Act 2003 and Gambling Act 2005, the Licensing Committee shall:

3.4.1. Establish the Licensing Sub-Committee

The Committee shall establish the Licensing Sub-Committee, and determine the procedures for handling applications, notices and representations, including the fees payable for applications under the Gambling Act 2005. The Committee shall retain overall responsibility for the hearings carried out by the Sub-Committee. The Committee shall be able to call for a report on any individual case from the Licensing Sub-Committee.

3.5 As the **non-statutory body** the Licensing Committee's functions are to:

3.6 Determine policy issues relating to non-executive licensing functions.

The Committee may determine policy for licensing functions that are not required to be made by Cabinet. Examples include policy to regulate street trading, sex establishments, special treatment premises and dog-breeding establishments.

3.7 Formulate, review and approve the Statement of Licensing Policy.

The Committee shall formulate, review and approve for consultation the Statement of Licensing Policy, and any revisions to it, to full Council for adoption.

3.8 Be consulted on the Statement of Gambling Policy.

The Committee can be consulted and provide recommendations on the Statement of Gambling Policy, for a decision by the Cabinet.

3.9 Be consulted on Council plans and services relating to regulatory issues.

The Committee may make informal recommendations to the Cabinet and other bodies on Council plans, service delivery, grant aid, commissioning and procurement matters when these involve or relate to regulatory issues.

Licensing Sub-Committee

3.10 The Licensing Sub-Committees shall act as:

- (a) **statutory licensing bodies;**
- (b) **non-statutory licensing bodies.**

3.11 At the appropriate stage during the meeting, the Chair of the Licensing Sub-Committee shall announce whether the Sub-Committee is acting in its statutory or non-statutory role.

3.12 As **statutory bodies** under the Licensing Act 2003 and the Gambling Act 2005, the Licensing Sub-Committee shall undertake hearings on individual licensing applications (as detailed in Part 3 Section C of the Council's Constitution), and has the power to make final decisions on those matters. The authority to agree minor variations to premises licenses under the Licensing Act 2003 is delegated to officers. All licence reviews will be undertaken by the Licensing Sub-Committee.

3.13 As **non-statutory bodies**, the Licensing Sub-Committee shall undertake hearings on individual licensing applications that fall outside the Licensing Act 2003 and Gambling Act 2005, where they have been objected to and require a Member level hearing. Examples include the licensing of street trading, special treatment premises, sex establishments, pet shops and dog breeding establishments. All licence reviews will be undertaken by the Licensing Sub-Committee.

4 MEETING FREQUENCY AND FORMAT

Main Licensing Committee Meetings

4.1 The Licensing Committee will have 2 scheduled meetings, however the Chair of the Licensing Committee may call a special meeting in accordance with the process in the Council's Constitution (Part 4 Section B).

The work programme for the Licensing Committee shall be agreed between the Chair of the Committee and senior officers, at the beginning of the civic year.

Sub-Committee Meetings

4.2 Licensing Sub-Committee meetings shall be scheduled on a twice monthly basis. It is necessary to schedule on this frequency given the need to convene such meetings at a relatively short notice due to statutory deadlines for licensing applications. In practice it is envisaged that a number of the Licensing Sub-Committee meetings will be cancelled if the volume and timing of applications do not require them.

This page is intentionally left blank