


Agenda item:

GENERAL PURPOSES COMMITTEE on 11 JANUARY 2011

Report Title. Adoption of Revised Rules of Procedure for Non-Executive Licensing Hearings

Report of Niall Bolger – Director of Urban Environment

Signed :

 (Interim AD Frontline Services)

Contact Officer : Robin Payne – Head of Enforcement Services

Wards(s) affected: All

Report for: Non-Key Decision

1. Purpose of the report

- 1.1 To ask the General Purposes Committee to approve and adopt revised Rules of Procedure for non-executive licensing hearings involving matters such as street trading and special treatment premises.

2. State link(s) with Council Plan Priorities and actions and /or other Strategies:

- 2.1. Haringey's Community Safety Partnership within the Strategic Partnership strategy 'Safer for All' seeks to reduce harm from activities that do not comply with current licensing standards.

3. Recommendations

- 3.1. That Members of General Purpose Committee approve and adopt for future use the Rules of Procedure at Hearings relating to Non-Executive Licensing Functions as set out in the Appendix to this report.

4. Summary

- 4.1. This report explains the need to revise the old Rules of Procedure applicable to hearings before the Miscellaneous Functions Sub-Committee in cases where the Sub-Committee is considering applications for the grant,

<p>renewal, transfer, variation or revocation of a licence under the Council's non-executive licensing functions. These non-executive licensing functions include street trading and special treatment premises (for example, ear piercing and tattooing establishments).</p>
<p>5. Chief Financial Officer Comment. 5.1 There are no specific financial implications.</p>
<p>6. Head of Legal Services Comments 6.1 The legal and constitutional implications are set out in the body of this report.</p>
<p>7. Equalities &Community Cohesion Comments 7.1 There are no specific equalities or community cohesion comments.</p>
<p>8. Use of Appendices 8.1 Appendix – draft Rules of Procedure for Hearings as recommended for adoption.</p>
<p>9. Local Government (Access to Information) Act 1985 9.1 Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and subsequent amendments. The Council's Constitution.</p>

10. Report

- 10.1 The General Purposes Committee has responsibility for determining procedures relating to non-executive licensing functions. These non-executive licensing functions are those specifically designated in the Local Authorities (Functions and Responsibilities) (England) Regulations as not being the responsibility of either the Cabinet/Executive or the statutory Licensing Committee under the Licensing Act 2003. The non-executive licensing functions are a miscellaneous collection of regulatory functions that include controls over sex establishments, street trading, special treatment premises (ear piercing, acupuncture, electrolysis, tattooing and massage), dog-breeding and horse-riding establishments.
- 10.2 While the determination of policies and procedures is the responsibility of the General Purposes Committee, the task of conducting hearings in individual contested cases under the non-executive licensing legislation is referred to the Miscellaneous Functions Sub-Committee. This is a

Sub-Committee of General Purposes Committee.

- 10.3 There is another report in the agenda for this meeting covering the policy and procedure rules applicable to the licensing of sex establishments where the detailed terms of legislation make it appropriate to have rules specifically applicable to such establishments.
- 10.4 Excluded from the remit of General Purposes Committee are the licensing functions under the Licensing Act 2003 and the Gambling Act 2005 which legally must be discharged by the statutory Licensing Committee or its Sub-Committees. These functions include controls over public houses, clubs, the sale of alcohol generally, cinemas, other regulated entertainment, night cafes, betting shops, bingo halls and gaming machines.
- 10.5 There are bespoke rules of procedure for hearings under the Licensing Act 2003 and the Gambling Act 2005 which reflect the Regulations applicable to such hearings and the terminology peculiar to them (for example “relevant representations” and “responsible authorities”). For this reason, these rules of procedure are not appropriate for the non-executive licensing functions which do not involve the same terminology.
- 10.6 There are existing Procedure Rules for Hearings adopted by the Council in the 1980s which still apply to the non-executive licensing functions. However, these old Rules contain references to posts and bodies long since abolished or re-named. The Rules have now been updated and revised where appropriate to resolve ambiguities. But in other respects these Rules are still fit for purpose and they have not been changed in substance. The revised Procedure Rules now recommended for approval and adoption by General Purposes Committee are attached as the Appendix to this report.
- 10.7 Although it has been some years since the Miscellaneous Functions Sub-Committee has held a hearing on a contested application, there may be a need for the Sub-Committee to meet more frequently in future to consider the proposed revocation of street trading licences in cases where there are large and persistent arrears of fees owed to the Council. It is therefore recommended that Members adopt the revised Procedure Rules in order to ensure that proper arrangements are in place for any future hearings.