

Licensing Committee on 5 September 2006

Report Title: **Procedural Advice to Members on Licensing Matters**

Report of: **The Head of Legal Services**

Forward Plan ref. no. **N/A**

Wards Affected: **All**

Report: **For Noting**

1. Purpose

- 1.1 To advise all Members of the Council about the Local Licensing Procedure Rules relating to making “relevant representations”, documentary evidence and the making of anonymous complaints.
- 1.2 To draw to the attention of Licensing Committee Members the Local Licensing Procedure Rules relating to Members’ attendance at, and participation in, hearings and the lobbying of, and expression of views by, Members.

2. Recommendations

- 2.1 To note the advice set out in Appendix 1 to this report and to agree that this be circulated to all Members of the Council.
- 2.2 To note the advice set out in Appendix 2 to this report.

Report Authorised by:

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3. Executive Summary

- 3.1 Appendix 1 to this report sets out advice on the making of “relevant representations”, documentary evidence at hearings and the making of anonymous complaints. It is intended for the information of all Members of the Council if the Committee agrees. Appendix 2 to this report reminds Committee Members of the Local Procedure Rules on Members’ attendance at, and participation in, hearings and the lobbying of, and expression of views by, Members.

4. Reasons for any change in policy or for new policy development (if applicable)

N/A

5. Local Government (Access to Information) Act 1985

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

Haringey Council Local Licensing Procedure Rules

6. Anonymous Complaints about Licence Applications

6.1 At past hearings before Licensing Sub-Committees, Ward Councillors have asked for clarification about the procedures for submitting “objections” to applications anonymously i.e. without adding the name or address of the objector to the letter. The Chair has requested the preparation of the Advice Note attached at Appendix 1 to this report.

6.2 It is important to note that the initial objection, or “relevant representation”, opposing an advertised licence application must always state the name and address of the person or body submitting it to the Licensing Authority’s office. However, subsequent letters in support of a “relevant representation” are subject to less rigid rules. If there is a good reason for doing so, and if the relevant Licensing Sub-Committee agrees, then the name and address of the sender can be omitted. This is explained in more detail in Appendix 1.

6.3 If the Committee is content with the advice in Appendix 1, then Members are invited to agree that it be circulated to all Members of the Council for assistance in their capacity as Ward Councillors.

7. Members Participation and Conduct at Hearings

7.1 Since several Members have only recently joined this Committee, it may assist the smooth running of licensing hearings if those parts of the Local Licensing Procedure Rules dealing with Members’ Conduct and participation at hearings are drawn to the attention of all Members of the Committee. The relevant extract from the Rules is set out at Appendix 2 to this report.

7.2 Members will note that the quorum for a Licensing Sub-Committee hearing is 3 Members. A hearing could not proceed at all with only 2 Members present even if the parties said they were agreeable to this. If a Member who had agreed to serve on a Licensing Sub-Committee failed to attend on the evening, then all the business on the agenda would have to be adjourned until a later meeting unless another Member of the Licensing Committee could be found and agreed to serve at short notice.

7.3 When Members serve on a Licensing Sub-Committee, they must be present at the beginning of the hearing and throughout the proceedings until the decision is announced to the parties. If any one Member is absent for any reason, the

hearing has to be temporarily adjourned.

- 7.4 Members are reminded that they cannot serve as Members of a Licensing Sub-Committee if they have either a personal or a prejudicial interest in the matter under consideration. This exclusion of Members with only a “personal” interest is stricter than the rules normally applying to other Council business. The same rules apply to the hearing of an application by the main Licensing Committee. Accordingly, Members are asked to ensure that they have considered any possible interests they may have well in advance of a meeting so that alternative arrangement can be made if they are unable to participate.
- 7.5 All Members attending a hearing will be required to declare their interests even if they only attend as a witness or a representative for one of the parties. A member declaring a “personal” interest can still participate as a witness or representative. Any Member declaring a “prejudicial” interest will not be able to participate at all. The Member must leave the room and avoid attempting to influence the decision in any way.
- 7.6 Hearings will be arranged to avoid the Licensing Sub-Committee including a Member representing any Ward in which premises affected by the applications are located. This, in itself, does not guarantee that the Members selected will not have personal or prejudicial interests that are unknown to officers. Members should seek advice from the Legal Service in good time if they suspect they may have such an interest.
- 7.7 Members serving on a Licensing Sub-Committee should take care to avoid expressing any personal opinion about the case to be heard or engaging in any other conduct before or during the hearing that might call their neutrality into question. Members should note the rules on lobbying.

8. Recommendations

- 8.1 To note the advice set out in Appendix 1 to this report and to agree that this be circulated to all Members of the Council.
- 8.2 To note the advice set out in Appendix 2 to this report.

9. Legal Implications

- 9.1 The legal implications are stated in the body of the report

10. Comments of the Acting Director of Finance

- 10.1 There are no specific financial implications.

11. Use of Appendices / Tables / Photographs.

- 11.1 Appendix 1 to this report is the Advice Note on Communications
- 11.2 Appendix 2 to this report is the extract from the Local Licensing Procedure Rules.