



# L I C E N S I N G   S U B C O M M I T T E E   B

Thursday, 11th October, 2018

at 7.00 pm

Council Chamber, Hackney Town Hall, Mare  
Street, London E8 1EA

**Councillors sitting:**

**Cllr Margaret Gordon, Cllr Sem Moema and  
Cllr Harvey Odze**

**TIM SHIELDS**  
**Chief Executive**

Gareth Sykes, Governance Services Officer  
0208 356 1567  
[gareth.sykes@hackney.gov.uk](mailto:gareth.sykes@hackney.gov.uk)

The press and public are welcome to attend this meeting

# AGENDA

## Thursday, 11th October, 2018

### ORDER OF BUSINESS

Title	Ward	Page No
1 Election of Chair		
2 Apologies for Absence		
3 Declarations of Interest - Members to declare as appropriate		
4 Minutes of the Previous Meeting		(Pages 1 - 6)
5 Licensing Sub-Committee Hearing Procedure		(Pages 7 - 8)
6 Application to vary the premises licence: Tava Restaurant, 17 Stoke Newington Road, N16 8BH		(Pages 9 - 46)
7 Application for a Premises Licence: Bootyard, Car Park Rear 18 To 26, Ashwin Street, E8 3DL		(Pages 47 - 92)
8 Temporary Event Notices - Standing Item		

## **Licensing Sub-Committee hearings under The Gambling Act 2005**

This guide details the procedure for Licensing Sub-Committee hearings under the Gambling Act 2005. Whilst this will be used in most cases, the procedure will be altered in exceptional circumstances and when for example temporary use notices and reviews are considered.

### **A Licensing Sub-Committee will be held if:**

- The applicant has applied for a premises licence, provisional statement, or to vary their existing premises licence and has advertised this in a local newspaper and displayed a notice in a place at which it can conveniently be read by members of the public from the exterior of the premises, following which representations have been made by a responsible authority or interested party.
- A review has been requested by a responsible authority including the Licensing Authority or interested party and the review has been advertised in a local newspaper/on the Council's website and a notice displayed in a place reasonably near the premises at which it can conveniently be read by members of the public.
- An application is made to transfer or reinstate a premises licence following which representations have been made by a responsible authority only.
- The applicant has applied for a club gaming/club machine permit and sent notification of the application following which representations have been made by the Gambling Commission or the Police.
- A temporary use notice (TUN) has been received and the Council as the Licensing Authority, the Gambling Commission, the Police or Customs and Excise have issued an objection.

### **Prior to your item being heard:**

- The Licensing Service upon receiving representations will have taken a view as to whether the representations are irrelevant, frivolous or vexatious.
- The Licensing Service will have provided written notice to all parties in advance of the hearing and will have responded to any request relating to personal details being removed from the agenda

If you do not believe this to have happened, please contact the Licensing Service on 020 8356 4970 or email [licensing@hackney.gov.uk](mailto:licensing@hackney.gov.uk) as soon as possible.

### **Making decisions on the items being heard:**

Hearings will normally be held in public unless the Sub-Committee believe it not to be in the public interest to do so. Although the Chair will try to make the proceedings as informal as possible, these hearings are quasi-judicial, and the rules of natural justice shall apply.

Applicants/licensees, interested parties and responsible authorities will all be given an opportunity to put their case and the Sub-Committee will take these representations into account when making their decision. The Committee may still make a decision on any matter

even if any party fails to attend the hearing. However, in these circumstances, it will only be that party's written representation that may be taken into account.

For new applications relating to premises licences, Sub-Committee Members ("Members") can grant with additional conditions attached to the licence, exclude any condition, except mandatory conditions, attached under the Gambling Act 2005 or reject the application.

Members when making decisions on variation applications regarding a premises licence can modify (add, delete or amend) conditions on the licence or reject the application in whole or part. Members will be considering the request for a variation and the impact that this may have. Therefore, representations should be focused on the impact of the variation and not on any concerns relating to the existing terms of the licence. However, Members may consider other issues which relate to the Gambling Commission's Code of Practice and Guidance, the promotion of the licensing objectives and the Council's Gambling Policy, although only if it is reasonable and proportionate to do so.

For provisional statements, Members can consider any steps that are necessary having regard to the representations made in order to ensure the Gambling Commission's Code of Practice and Guidance, the licensing objectives and the Council's Gambling Policy are not undermined.

Members when deciding a review application can revoke the licence, suspend the licence for a period not exceeding three months, exclude, add or remove or amend a condition/exclusion.

For transfers or reinstatements of premises licences applications Members can refuse or grant the application and may make alterations to the licence including the attachment or exclusion of conditions.

Members when deciding on an objection made against a temporary use notice will determine whether or not to issue a counter notice, which if issued will prevent the proposed event from proceeding.

### **Before the meeting starts:**

The Members are requested to report for business no more than half an hour before the meeting starts to deal with any administrative/procedural issues. This will allow Members to consider:

- the appointment for any substitutes if required;
- the appointment of the chair;
- any procedural issues;
- obtain the list of attendees; and
- late documents delivered prior to the meeting and to ensure all the paperwork is in order.

The Members will not be considering any of the actual points raised within the report itself and no responsible authority or interested party shall be present when the Members deal with the above issues.

### **Attending the hearing that concerns you:**

All applicants, interested parties and responsible authorities involved will be informed in writing of the date and time that their application will be considered by the Licensing Sub-Committee. Please contact the Licensing Service on 020 8356 4970 or email [licensing@hackney.gov.uk](mailto:licensing@hackney.gov.uk) to confirm whether you wish to attend and speak at the Sub-Committee hearing or if you wish for

someone else to speak on your behalf. If you are unable to attend, the application may be heard in your absence.

All parties should arrive promptly at the outset of the scheduled meeting regardless of when the item is listed to be heard on the agenda.

Please contact the Licensing Committee Officer for advice within 4 working days from the date on the notice letter if any of the following apply:

- you have special requirements to help make your representation, because of a disability or you need a translator for example; or
- you wish to supply additional information such as photographs and videos/DVDs.

Please note that if you wish to provide additional relevant information, this should, where possible, be given at least **5 working days** before the hearing. Any additional information provided once the hearing has started will only be accepted if all parties agree. Please note that the use of videos/DVDs is at the Sub-Committee's discretion – requests to show these should be made in advance to the Licensing Service.

### **Timings**

In most cases the application will last no longer than 1 hour, and the times to be allocated to each section are shown on the relevant hearing procedure. If you think that your evidence is likely to exceed this time period, please let the Licensing Service know **within 4 working days of the date on the notice letter** and the Sub-Committee will be advised. If your request is agreed, all parties will also be granted the same extension of time.

### **Lobbying of Councillors**

If a person or an organisation wants to make a representation to the Licensing Sub-Committee, they must **NOT** contact Sub-Committee Members directly. Licensing Sub-Committee Members have to retain an open mind on any application and determine it on its merits. Members can not be in anyway biased towards a party. Therefore, if a Member of the Sub-Committee has had any prior involvement they must ensure that they come to the hearing with an open mind.

Local ward councillors may be able to speak on behalf of objectors if requested to do so, provided that if they have a disclosable pecuniary interest they leave the meeting room when the application is being considered unless they have been granted dispensation.

### **Reports**

Agendas and Reports for Licensing Sub-Committees are published on the Council's website ([www.hackney.gov.uk](http://www.hackney.gov.uk)) 5 working days before the hearing takes place. Copies are also available by contacting Governance Services on 0208 356 3578 or email [governance@hackney.gov.uk](mailto:governance@hackney.gov.uk). Copies of applications together with the detail of any objections will be included in the report.

### **Appeals**

Applicants, responsible authorities or interested parties can appeal against the decision made by the Sub-Committee. An appeal should be made to Thames Magistrates Court and must be made within 21 days of receiving notice of the decision. However, any decision in respect of a TUN must be made no later than 14 working days of receiving notice of the decision.

## **Contacts**

If you have a query about Licensing Sub-Committee procedures and protocols then please contact Governance Services –

Governance Services  
2<sup>nd</sup> Floor , Room 118  
Hackney Town Hall  
Mare Street  
London  
E8 1EA

Telephone: 020 8356 3578  
E-mail: [governance@hackney.gov.uk](mailto:governance@hackney.gov.uk)

If your query relates to a specific application then please contact Licensing Services:

Licensing Service  
Hackney Service Centre  
1 Hillman Street  
London E8 1DY

Telephone: 020 8356 4970  
Fax: 020 8356 4974  
E-mail: [licensing@hackney.gov.uk](mailto:licensing@hackney.gov.uk)

# ADVICE TO MEMBERS ON DECLARING INTERESTS

Hackney Council's Code of Conduct applies to **all** Members of the Council, the Mayor and co-opted Members.

This note is intended to provide general guidance for Members on declaring interests. However, you may need to obtain specific advice on whether you have an interest in a particular matter. If you need advice, you can contact:

- The Corporate Director of Legal, HR and Regulatory Services;
- The Legal Adviser to the committee; or
- Governance Services.

If at all possible, you should try to identify any potential interest you may have before the meeting so that you and the person you ask for advice can fully consider all the circumstances before reaching a conclusion on what action you should take.

## 1. Do you have a disclosable pecuniary interest in any matter on the agenda or which is being considered at the meeting?

You will have a disclosable pecuniary interest in a matter if it:

- relates to an interest that you have already registered in Parts A and C of the Register of Pecuniary Interests of you or your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner;
- relates to an interest that should be registered in Parts A and C of the Register of Pecuniary Interests of your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner, but you have not yet done so; or
- affects your well-being or financial position or that of your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner.

## 2. If you have a disclosable pecuniary interest in an item on the agenda you must:

- Declare the existence and nature of the interest (in relation to the relevant agenda item) as soon as it becomes apparent to you (subject to the rules regarding sensitive interests).
- You must leave the room when the item in which you have an interest is being discussed. You cannot stay in the meeting room or public gallery whilst discussion of the item takes place and you cannot vote on the matter. In addition, you must not seek to improperly influence the decision.
- If you have, however, obtained dispensation from the Monitoring Officer or Standards Committee you may remain in the room and participate in the meeting. If dispensation has been granted it will stipulate the extent of your involvement, such as whether you can only be present to make representations, provide evidence or whether you are able to fully participate and vote on the matter in which you have a pecuniary interest.

### 3. Do you have any other non-pecuniary interest on any matter on the agenda which is being considered at the meeting?

You will have 'other non-pecuniary interest' in a matter if:

- i. It relates to an external body that you have been appointed to as a Member or in another capacity; or
- ii. It relates to an organisation or individual which you have actively engaged in supporting.

### 4. If you have other non-pecuniary interest in an item on the agenda you must:

- i. Declare the existence and nature of the interest (in relation to the relevant agenda item) as soon as it becomes apparent to you.
- ii. You may remain in the room, participate in any discussion or vote provided that contractual, financial, consent, permission or licence matters are not under consideration relating to the item in which you have an interest.
- iii. If you have an interest in a contractual, financial, consent, permission or licence matter under consideration, you must leave the room unless you have obtained a dispensation from the Monitoring Officer or Standards Committee. You cannot stay in the room or public gallery whilst discussion of the item takes place and you cannot vote on the matter. In addition, you must not seek to improperly influence the decision. Where members of the public are allowed to make representations, or to give evidence or answer questions about the matter you may, with the permission of the meeting, speak on a matter then leave the room. Once you have finished making your representation, you must leave the room whilst the matter is being discussed.
- iv. If you have been granted dispensation, in accordance with the Council's dispensation procedure you may remain in the room. If dispensation has been granted it will stipulate the extent of your involvement, such as whether you can only be present to make representations, provide evidence or whether you are able to fully participate and vote on the matter in which you have a non pecuniary interest.

### Further Information

Advice can be obtained from Gifty Edila, Corporate Director of Legal, HR and Regulatory Services, on 020 8356 3265 or email [Gifty.Edila@hackney.gov.uk](mailto:Gifty.Edila@hackney.gov.uk)



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# Relevant Extracts from Hackney's Statement of Licensing Policy

Please find below relevant extracts from the Statement of Licensing Policy 2018.

## LP1 General Principles

The Council expects applicants to demonstrate:

- (a) That they have an understanding of the nature of the locality in which the premises are located and that this has been taken into consideration whilst preparing the operating schedule.
- (b) Where the application is for evening and night-time activity, that the proposal reflects the Council's aspiration to diversify the offer, whilst at the same time promoting the licensing objectives.

## LP2 Licensing Objectives

### **Prevention of Crime and Disorder**

Whether the proposal includes satisfactory measures to mitigate any risk of the proposed operation making an unacceptable contribution to levels of crime and disorder in the locality.

### **Public Safety**

Whether the necessary and satisfactory risk assessments have been undertaken, the management procedures put in place and the relevant certification produced to demonstrate that the public will be kept safe both within and in close proximity to the premises.

### **Prevention of Public Nuisance**

Whether the applicant has addressed the potential for nuisance arising from the characteristics and style of the proposed activity and identified the appropriate steps to reduce the risk of public nuisance occurring.

### **Protection of Children from Harm**

Whether the applicant has identified and addressed any risks with the aim of protecting children from harm when on the premises or in close proximity to the premises.

### **LP3 Core Hours**

Hours for licensable activity will generally be authorised, subject to demonstrating LP 1 and LP2, as follows:

- Monday to Thursday 08:00 to 23:00
- Friday and Saturday 08:00 to 00:00
- Sunday 10:00 to 22:30

Hours may be more restrictive dependent on the character of the area and if the individual circumstances require it.

Later hours may be considered where the applicant has identified any risk that may undermine the promotion of the licensing objectives and has put in place robust measures to mitigate those risks.

*It should be noted that this policy does not apply to those who are making an application within a special policy area (see section 3) unless they have been able to demonstrate that the proposed activity or operation of the premises will not add to the cumulative impact that is already being experienced.*

### **LP4 Off' Sales of Alcohol**

Hours for the supply of alcohol will generally be restricted to between 08:00 and 23:00.

### **LP5 Planning Status**

Licence applications should normally be from premises where:

- (a) The activity to be authorised by the licence is a lawful planning use or is a deemed permitted development pursuant to the General Permitted Development Order (1995) as amended.
- (b) The hours sought do not exceed those authorised by any planning permission.

The Licensing Authority may take into account the lack of planning permission or an established lawful use in deciding whether there is likely to be any harm to the licensing objectives.

### **LP6 External Areas and Outdoor Events**

The Licensing Authority will normally restrict external areas and outdoor activity to between 08:00 and 22:00 unless the applicant can demonstrate that comprehensive control measures have been implemented that ensure the promotion of the licensing objectives, in particular the public nuisance objective. Notwithstanding any proposed control measures, the Licensing Authority may restrict the hours and/or activity even further

**LP7 Minor Variations**

The Council expects applications to be made in the following circumstances only:

- Small changes in the layout/structure of the premises
- The addition of voluntary/agreed conditions
- Removal of conditions that are dated and have no impact on the operation of the premises
- Reduction of hours for any licensable activity

**LP8 Temporary Event Notices**

When considering an objection to a TEN the Council will:

- Expect that any existing conditions will be maintained (where relevant) in circumstances where an event is to take place at a premises that has an existing authorisation.
- Assess any history of complaints as a result of licensable activity that may or may not have been authorised by a TEN.
- Consider the track record of the premises user
- Consider any other control measures proposed to mitigate the objection

**LP9 Personal Licences**

(a) The Council will consider whether a refusal of the licence is appropriate for the promotion of the crime prevention objective and will consider the:

- (i) Seriousness and relevance of any conviction(s)
- (ii) The period that has elapsed since committing the offence(s)
- (iii) Any mitigating circumstances that assist in demonstrating that the crime prevention objective will not be undermined.

**LP10 Special Policy Areas – Dalston and Shoreditch**

It is the Council's policy that where a relevant representation is made to any application within the area of the Dalston SPA or Shoreditch SPA, the applicant will need to demonstrate that the proposed activity and the operation of the premises will not add to the cumulative impact that is currently being experienced in these areas. This policy is to be strictly applied.

It should also be noted that the;

- quality and track record of the management;
- good character of the applicant; and
- extent of any variation sought

May not be in itself sufficient.

*It should be noted that if an applicant can demonstrate that they will not add to the cumulative impact in their operating schedule and at any hearing, then the Core Hours Policy within LP3 will apply.*

**LP11 Cumulative Impact – General**

The Council will give due regard to any relevant representations received where concerns are raised and supported around the negative cumulative impact the proposed application has on one or more of the licensing objectives.