

LICENSING SUB-COMMITTEES AND HEARING PROCEDURES**LICENSING COMMITTEE****18 SEPTEMBER 2019****CLASSIFICATION:****Open****If exempt, the reason will be listed in the main body of this report.****WARD(S) AFFECTED****All Wards**

1. INTRODUCTION

- 1.1 This report seeks to approve the delegation of relevant powers to the Licensing Sub-Committee and officers and introduce a new Licensing Sub-Committee hearing procedure. The delegation and procedure will be required for instances where the Council has granted a personal licence and it becomes aware that the holder of the licence has been convicted of a relevant or foreign offence, or has been required to pay an immigration penalty.

2. RECOMMENDATIONS

- 2.1 That Members note the delegation of licensing functions given the changes brought about to the Licensing Act 2003 by the Policing & Crime Act 2017 and the revised Delegation of Functions as set-out in the Statement of Licensing Policy.
- 2.2 That Members delegate the exercise of the licensing functions under the Act set-out in Appendix 2 attached to this report to Licensing Sub-committees and Officers.
- 2.3 That Members approve the new Licensing Sub-Committee Hearing Procedure (Type G) appended to this report.

3. BACKGROUND

- 3.1 The Policing & Crime Act 2017 amended the Licensing Act 2003 by introducing Section 132A. The legislation has been amended for instances where the Council has granted a personal licence and it becomes aware that the holder of the licence has been convicted of a relevant or foreign offence, or has been required to pay an immigration penalty.
- 3.2 Section 9 of Licensing Act 2003 ('the Act') introduced the requirement of the Council's Licensing Committee to establish Sub-Committees and also enable the Licensing Committee to regulate its own hearing procedures subject to the basic provisions contained within the Act's Hearing Regulations Order 2005 and the Gambling Act's Proceedings Regulations of 2007.
- 3.3 Section 10 of the Act provides that a licensing committee may arrange for the discharge of its licensing functions to a licensing sub-committee or to an officer pursuant to section 10(1) of the Act. Section 10(4) of the Act limits which licensing functions can be delegated to officers.
- 3.2 The Licensing Committee considered amendments to its delegation and/or hearing procedures on 19th February 2007, 15th November 2010, 11th October 2012, 20th November 2013 and 20th October 2014.

- 3.2 The revised delegation and new procedure is required for instances where the Council has granted a personal licence and it becomes aware that the holder of the licence has been convicted of a relevant or foreign offence, or has been required to pay an immigration penalty.
- 3.3 Where the circumstances described above occur, the Council may suspend the licence for a period not exceeding six months, or revoke the licence. In doing so the Council must consider representations from the licence holder and can also consider representations from the Police.

4. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND RESOURCES

- 4.1 This report seeks to introduce a new hearing procedure for Licensing Sub-Committees as set out in paragraph 1.1. There are no financial implications arising from the recommendations in this report. If the need for additional resources is subsequently identified this would be funded from within the existing budgets.

5. COMMENTS OF THE DIRECTOR OF LEGAL

- 5.1 Section 138 of the Policing & Crime Act 2017 amended the Licensing Act 2003 to include S.132A. The revision to the Licensing Act 2003 took effect on 6th April 2017 and enabled the Licensing Authority to suspend or revoke a personal licence when they become aware that the personal licence holder has been convicted of a relevant offence or immigration penalty. All relevant convictions and penalties are subject to this new section from the date when the revised legislation took effect.
- 5.2 Section 10 (4) of the Licensing Act 2003 has been amended to clarify that an officer cannot make any decision as to the suspension or revocation of a licence in these circumstances.
- 5.3 If the Personal Licence is to be suspended this cannot exceed a 6 month period.
- 5.4 The Licensing Sub-Committee must consider (once they have been delegated the powers) the following matters before taking any decision;
- (a) any representations made by the licence holder,
 - (b) any relevant decision of a court for which the licensing authority is aware, and
 - (c) any other information which the authority considers relevant.
- 5.5 Before the Sub-Committee makes any final decision the Police must also be given an opportunity to make any representations.

- 5.6 Only the licence holder can appeal the decision taken by the licensing sub-committee.

APPENDICES

- Revised Delegation of Functions (appended to the Statement of Licensing Policy at Appendix F)
- Appendix 2: New Delegation of Licensing Functions
- Hearing Procedure (Type G) –Where the Authority has become aware that the holder of a personal licence has been convicted of a relevant or foreign offence or foreign offence or has been required to pay an immigration penalty.
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EXEMPT

Not applicable.

BACKGROUND PAPERS

Not applicable.

Report Authors	David Tuitt Business Regulation Team Leader Licensing and Technical Support david.tuitt@hackney.gov.uk ☎ 020 8356 4942
Comments of the Group Director of Finance and Corporate Resources	Philip Walcott Group Accountant philip.walcott@hackney.gov.uk ☎ 020 8356 2396
Comments of the Director of Legal	Butta Singh Senior Lawyer – Licensing butta.singh@hackney.gov.uk ☎ 020 8356 6295