

Council (Council Tax)

Thursday 28 February 2013

**CONFIRMATION OF COMMITTEE RECOMMENDATIONS AND RELEVANT
ORIGINATING BACKGROUND PAPERS**

ITEM ON SUMMONS	CABINET / COMMITTEE RECOMMENDATION	ORIGINATING REPORT
7.	Recommendation I: Licensing and General Purposes Committee (26 November 2012) PROPOSED 'VIRTUAL LICENSING PANEL' PROCEDURE	Report of the Corporate Director of Environment and Enterprise (Pages 1 - 6)

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**REPORT FOR: Licensing & Gene
Purposes Committee**

Date of Meeting:	26 November 2012
Subject:	Proposed 'Virtual Licensing Panel' Procedure
Responsible Officer:	Caroline Bruce Corporate Director, Environment and Enterprise
Exempt:	No
Enclosures:	Appendix A - Report of the 12 March 2012 S106A of Licensing Act 2003

Section 1 – Summary and Recommendations

This Report sets out the changes to the Licensing Act 2003 made by the Police Reform and Social Responsibility Act 2011 in relation to temporary event notices and seeks approval of a 'virtual licensing panel' procedure to save time and money in certain circumstances as detailed in this report.

Recommendations:

The Committee is asked to note the contents of this report and approve the 'virtual licensing panel' procedure in relation to section 106A of the Licensing Act 2003 relating to imposition of conditions on standard temporary event notices in cases where the objection(s) seek the imposition of conditions and all parties agree that a hearing is unnecessary.

Section 2 – Report

Background

The Licensing Act 2003 sets out the procedure for permitted temporary activities. The procedures were amended by the Police Reform and Social Responsibility Act 2011 (PRSR 2011) and these changes were reported to the Committee on 12 March 2012, report attached for information purposes.

Current situation

Prior to the changes by the PRSR 2011, the only responsible authority that could object to a temporary event notice (TEN) was the police on the basis of the prevention of crime and disorder licensing objective. Following the change, the Environmental Health Authority can also object, and both of these responsible authorities can now object on the basis of any of the licensing objectives. When an objection notice is received, the licensing authority has to hold a hearing to consider it (unless all parties and the authority agree that a hearing is unnecessary) and decide whether or not to issue a counter notice (which would mean that the event could not go ahead).

Section 106A of the Licensing Act 2003, as inserted by the PRSR 2011, gives a relevant Licensing Authority the power to impose one or more conditions on a standard temporary event notice if the police or environmental health have given an objection notice (which has not been withdrawn) in respect of the standard TEN and the licensing authority has decided not to give a counter notice to the TEN.

Under section 106A(2) of Licensing Act 2003, the licensing authority may impose one or more conditions on the standard TEN if:

- (a) the authority considers it appropriate for the promotion of the licensing objectives to do so,
- (b) the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the TEN, and
- (c) the conditions would not be inconsistent with the carrying out of the licensable activities under the TEN.

There are likely to be numerous circumstances when the police (and/or environmental health) object to standard temporary event notices for events at licensed premises where the premises licence has conditions that they want applied to the TEN too. There may also be a number of occasions where the premises user (i.e. person giving the TEN) agrees to the conditions being imposed, and in this situation, currently it would be necessary to convene a licensing sub-committee (licensing panel) hearing for that purpose.

It is proposed that under 'virtual licensing panel' procedure, rather than having to convene a licensing panel in order to impose the agreed conditions, this can be done electronically by email to three members the Licensing & General Purposes Committee (who are not ward councillors for the ward in which the premises is located and subject to any declaration of interests).

The 'virtual licensing panel', as licensing authority, will be asked to agree 1. that a hearing is unnecessary, 2. that it does not wish to issue a counter notice, and 3. that it considers it appropriate for the promotion of the licensing objectives to impose the conditions on the TEN. Officers can then notify the decision to the parties and issue the statement of conditions. This procedure will save time and money of convening a sub-committee meeting in circumstances where the premises user (person wanting to use a TEN) and the objector(s) are in agreement about adding conditions from the premises

licence on to the TEN. If the 'virtual licensing panel' does not agree to any of 1,2, or 3 above, then a hearing will be held.

Main options

1. Agree the 'virtual licensing panel' procedure as detailed above to save time and costs in circumstances where the imposition of conditions on a standard TEN is agreed by all parties.
2. Do not agree the 'virtual licensing panel' procedure for the above circumstances, in which case, a licensing sub-committee meeting will be convened.

Legal Implications

Legal implications appear in the body of this report. In addition, it is to be noted that under the Licensing Act 2003, discharge of licensing functions by a licensing authority are referred to its licensing committee (L&GP in Harrow's case) and this Committee can arrange for the discharge of any functions exercisable by it to a sub committee.

Financial Implications

Approving the 'virtual licensing panel' procedure will save the authority time and money as hearings will not have to be convened in the restricted circumstances noted.

Risk Management Implications

If the 'virtual licensing panel' procedure for the above circumstances is not approved, then as is done currently, licensing panel hearings will have to be convened, often at short notice, as the proposed event may be very soon. There is a risk that it may not be possible to arrange for a three member panel in time.

Equalities implications

None

Corporate Priorities

- Keeping neighbourhoods clean, green and safe
- United and involved communities: a Council that listens and leads
- Supporting our Town Centre, our local shopping centres and businesses

Section 3 - Statutory Officer Clearance

Name: Steve Tingle	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 14 November 2012		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 14 November 2012		

Section 4 - Contact Details and Background Papers

Contact:

P Sivashankar, Service Manager, Licensing, Housing & Support Services,
Tel: 020 8736 6237, Email: shankar@harrow.gov.uk

Background Papers:

Licensing Act 2003 as amended by Police Reform and Social responsibility Act 2011

Statutory Guidance issued under s182 of the Licensing Act 2003, 31 Oct 2012 version.

If appropriate, does the report include the following considerations?

1.	Consultation	N/A
2.	Corporate Priorities	YES

113 Temporary event notices: conditions

(1)The Licensing Act 2003 is amended as set out in subsections (2) to (5).

(2)In section 98(1) (meaning of “permitted temporary activity”), for paragraph (a) substitute—

“(a)it is carried out in accordance with—

(i)a notice given in accordance with section 100, and

(ii)any conditions imposed under section 106A, and”.

(3)After section 106 insert—

“106A Conditions on standard temporary event notice following objection

(1)This section applies where—

(a)a relevant person has given an objection notice under section 104(2) in respect of a standard temporary event notice,

(b)the objection notice has not been withdrawn, and

(c)the relevant licensing authority has decided under section 105 not to give a counter notice under that section.

(2)The relevant licensing authority may impose one or more conditions on the standard temporary event notice if—

(a)the authority considers it appropriate for the promotion of the licensing objectives to do so,

(b)the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and

(c)the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

(3)Where the authority decides to impose one or more conditions under subsection (2)—

(a)the authority must give the premises user notice of the decision,

(b)the notice must be accompanied by a separate statement (the “statement of conditions”) which sets out the conditions that have been imposed on the temporary event notice, and

(c)a copy of the notice and statement of conditions must be given to each relevant party.

(4)The notice and statement of conditions under subsection (3) must—

(a)be in the prescribed form,

(b)be given to the premises user in the prescribed manner, and

(c)be given no later than 24 hours before the beginning of the event period specified in the temporary event notice.

(5)Where the premises are situated in the area of more than one licensing authority, the functions conferred on the relevant licensing authority by subsection (2) must be exercised by those authorities jointly.