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| | Licensing Committee |
| Date: | 11 th March 2015 |
| Subject: | Review of Licensing Sub-Committee Reports, Frequency of Meetings and Hearing Processes |

Summary

This report sets out the proposals to undertake a review of the Licensing Sub-Committee process, why such a review is deemed necessary and what that review will consist of. The main elements of the review will be the Licensing Sub-Committee report format and documents; the frequency of hearings and the development of new customer focused guidance on how the Sub-Committee hearings are run.

The proposals will involve trialling the proposals during the first quarter of the 2015/2016 financial year. The results of these trials and the feedback gained from them will be put before the Licensing Committee at the July 2015 hearing.

Recommendations

The Committee is recommended:

1. to approve the objectives of the review (paragraph 3.1)
2. to approve the proposed Licensing Sub-Committee report revision trial (paragraphs 3.6)
3. to approve a trial for a change to the way applications are listed for Licensing Sub-Committee hearings and the frequency of those hearings during May and June 2015 (Paragraphs 3.8).
4. approve the proposals to trial a cap of 4:30pm for each Licensing Sub-Committee hearing and the implementation of a set 30 minute lunch period at the discretion of the Chairman for that Licensing Sub-Committee based on applications numbers (paragraph 3.10)
5. that the results from the approved trials along with feedback and recommendations whether to adopt these new approaches as part of the Licensing Sub-Committee process is put before the Licensing Committee in July 2015.
6. approve the proposal for officers to develop guidance and a rules document

for the Licensing Sub-Committee process and that the final draft of that document is brought before the Licensing Committee in July 2015 for approval (Paragraphs 3.14).



City of Westminster

Committee report

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| Date: | 11th March 2015 |
| Classification: | For General Release |
| Title of Report: | Review of Licensing Sub-Committee Reports, Frequency of Meetings and Hearing Processes |
| Report of: | The Operational Director of Premises Management |
| Wards involved: | All |
| Policy context: | N/A |
| Financial summary: | None |
| Report Author: | Mr Kerry Simpkin, Assistant Service Manager, EH Consultation and Licensing |
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1. Background Information

- 1.1 The Council is going through significant transformation to achieve its goals for reducing its expenditure. The Premises Management Delivery Unit has now been through this transformation process and from the 1st April the new Public Protection and Licensing operating model will commence. As part of that new operating model there is a significant focus on driving out inefficiencies within processes.
- 1.2 As part of the transformation process the current Environmental Health Case Officer role has been deleted and has been replaced by the Senior Licensing Officer role within this new operating model. The Senior Licensing Officers will be responsible for processing, determining unopposed or non-contentious applications as well as bringing applications with objections or representations to Licensing Sub-Committee.
- 1.3 As the Senior Licensing Officer role will now take on the licensing process from receipt to determination officers are undertaking a review to assess the internal processes in order to streamline existing procedures to produce a more efficient process. As part of that assessment the use of new or improved technology will be considered alongside changes to processes.
- 1.4 In order to enable an end to end solution of the licensing process there is a need to review the procedures for listing applications for Licensing Sub-Committee hearings, the amount of time and information contained with the reports for those hearings and the way that hearings are conducted.
- 1.5 The Licensing Sub-Committee processes haven't been reviewed in a pro-active way for a number of years. There have been a number of smaller changes to report templates, timeframes for submission of additional material and room layout. However, these minor changes have often been triggered as a result of specific concerns that may have been raised during a hearing.
- 1.6 Views have been expressed that the reports put before the Licensing Sub-Committee contain a lot of duplication and as a result are larger than they need to be. The wording within the report itself has been significantly reduced over the years with a reliance on attaching a large number of different documents as appendices. Unfortunately this provides the Licensing Sub-Committee with a vast amount of reading and interpretation prior to each hearing. Through the removal of some of the duplication of information, reduction in the number of appendices and more emphasis on the main body of the report to set out the key issues the total report size could be significantly reduced.
- 1.7 The Licensing Sub-Committee process is also something which can seem daunting to local residents or other parties who have not attended a hearing before. The current Rules of Procedure for the Licensing Sub-Committees were written to meet the statutory requirements of the Licensing Act 2003 and Gambling Act 2005. There is also a separate Rules of Procedure document for Sex Establishments under the requirements of the Local Government (Miscellaneous Provisions) Act 1982. These two documents cover the majority of applications that are determined by Licensing Sub-Committees. These

documents are sent out to applicants and objectors prior to the hearing as part of the notification of the hearing requirements. They have also been written in a way that meets the statutory obligations on the Council by the relevant licensing regimes but as a result are not user friendly and do not support local residents in explaining the hearing process.

- 1.8 One of the more pressing concerns for Members of the Licensing Sub-Committee is about how applications are listed for hearings. The vast majority of applications that are considered by Licensing Sub-Committees are applications made under the Licensing Act 2003. Due to regulations 4 and 5 of the Licensing Act 2003 (Hearings) Regulations 2005 the Licensing Authority must arrange a hearing to commence within the period specified within Schedule 1 of those regulations. For new premises applications and variations to existing premises licences this is 20 working days beginning with the day after the end of the consultation period.

2. Analysis of Licensing Sub-Committee Hearings

- 2.1 In order to identify whether there is any scope in reducing the frequency of Licensing Sub-Committee hearings an assessment has been carried out on the applications that went before Licensing Sub-Committees in 2013, 2014 and the first two months of 2015. Officers did not consider the data from 2012 due to the effect that the Olympics had on applications numbers and that the data would have not represented a normal operating year.
- 2.2 To identify whether there was any possibility of reducing the frequency of Sub-Committee hearings officers assessed the spread of applications across the five Licensing Sub-Committees, the number and type of applications determined by those Sub-Committees and also whether there were any indications that there were seasonal trends in the number of applications going before them.
- 2.3 As stated above the vast majority of the applications that Licensing Sub-Committees determine are applications made under the Licensing Act 2003. Figure 1 shows the number of Licensing Act 2003 and all other applications that was determined by the Licensing Sub-Committees in 2013 and 2014.

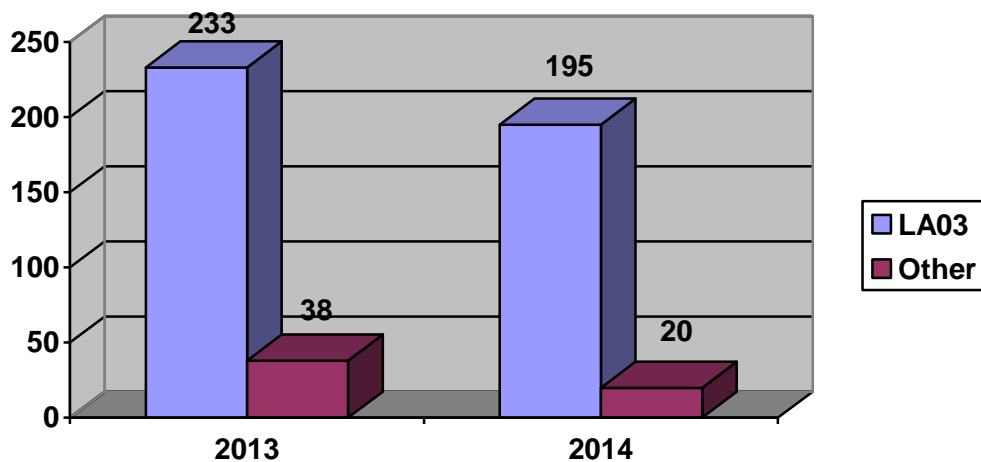


Figure 1 – Licensing Act 2003 and Other Applications Heard at Licensing Sub-Committee

2.4 A comparison was also carried out on the number of applications determined by the different Licensing Sub-Committees. Figure 2 and 3 show the percentage of applications heard by each Licensing Sub-Committee during 2013 and 2014. For both years, Licensing Sub-Committee number 1 had an elevated number of applications compared to the other four Sub-Committees. In 2013 Sub-Committee 2, 3, 4 and 5 had an even distribution of applications between them. However, in 2014 the percentage of applications determined by Sub-Committee number 1 increased with a subsequent decrease in applications heard by Sub-Committees 4 and 5. It should be noted that this is a limited amount of data to identify which year was the norm.

2.5 The increase in applications heard by Sub-Committee 1 in 2014 is not due to any increase in the number of times it sat versus the other four Sub-Committees. Figure 4 shows the 2013 and 2014 were reasonably similar in the number of times that each Licensing Sub-Committee sat.

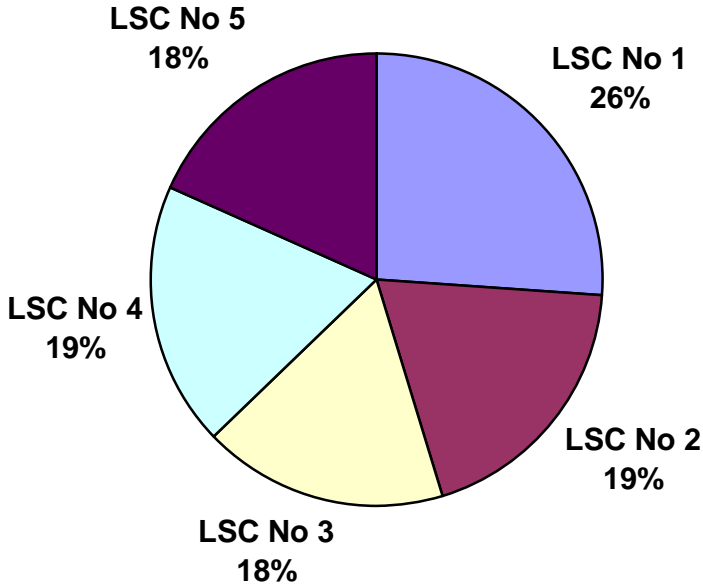


Figure 2 – Applications heard by each Licensing Sub-Committee in 2013

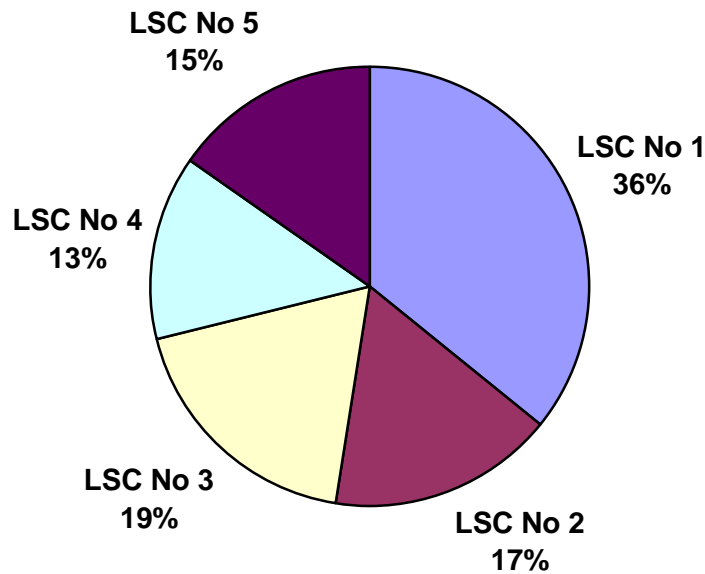


Figure 3 – Applications heard by each Licensing Sub-Committee in 2014

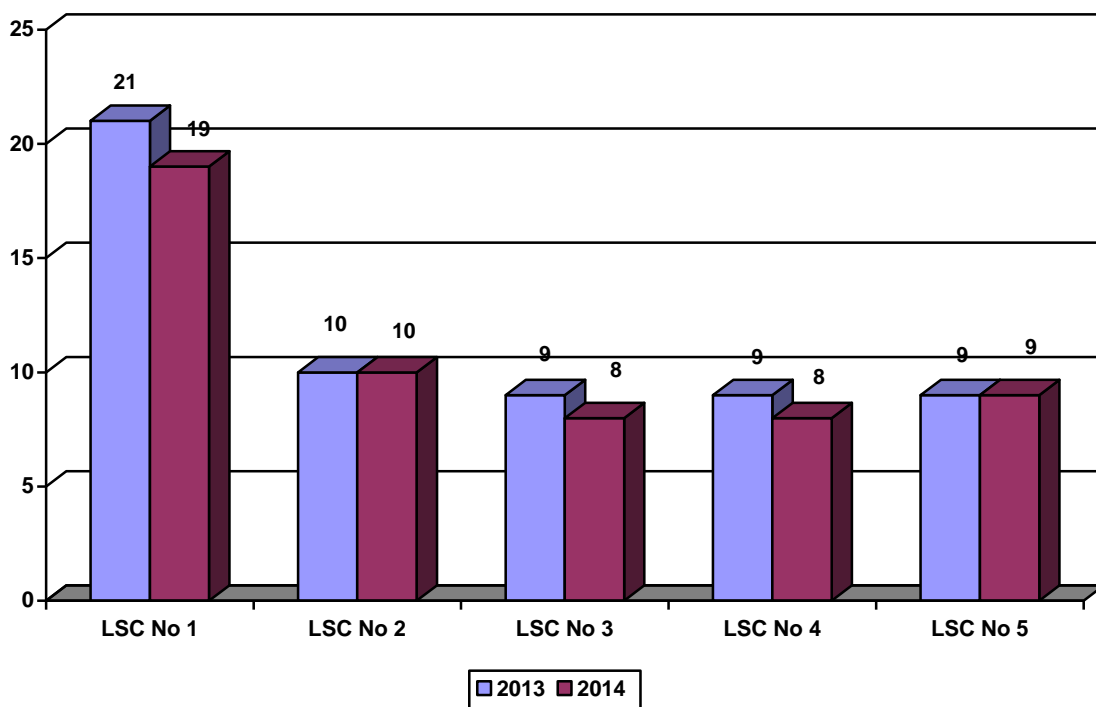


Figure 4 – Number of times all Licensing Sub-Committees sat during 2013 and 2014.

2.6 An analysis of 2013, 2014 and the first two months of 2015 application data was undertaken to identify any trends in the number of applications going before Members each year. Figure 5 sets out the pattern of applications during those years. There were distinct peaks in January and May of each year. There was also a peak between August and October which moved within those months from each year. However, the data is limited to two years and the peaks identified could be anomalies. January and February 2015 there is a noticeable difference from the previous two years.

2.7 To assess whether there was a correlation in applications numbers prior to these peaks in Licensing Sub-Committee determined cases officers have reviewed the number of applications received for each of those years. As Licensing Act 2003 represented over 90% of the applications heard by the Licensing Sub-Committees figure 6 shows the number new, variation and review applications received under that Act during 2013 and 2014. It was found that there wasn't a correlation between the application peaks and the peaks in applications heard at Licensing Sub-Committee.

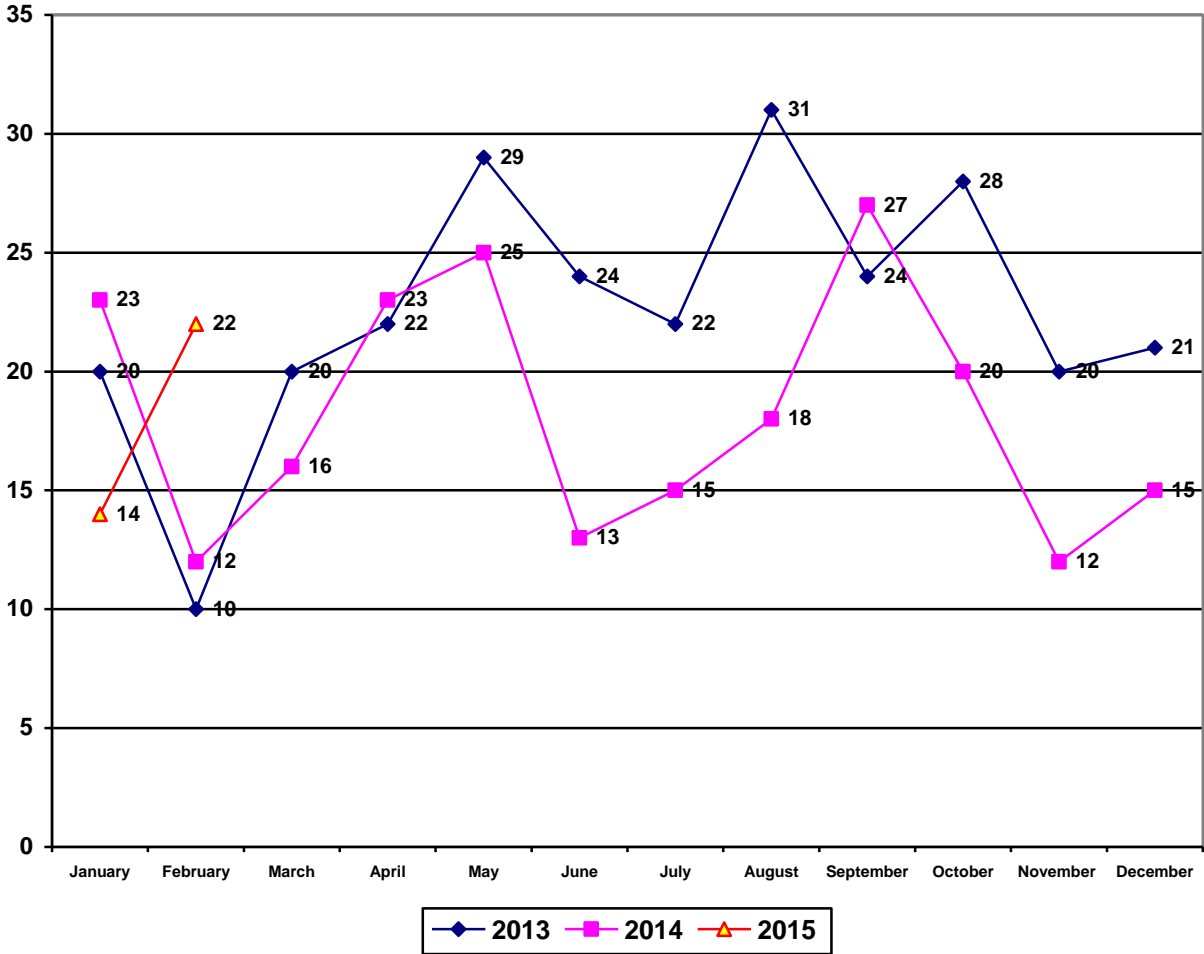


Figure 5 – Applications heard by Licensing Sub-Committee by month in 2013, 2014 and to date in 2015.



Figure 6 – New, full variations and review Licensing Act 2003 applications received in 2013 and 2014.

2.8 In 2013 there were twelve Licensing Sub-Committee hearings that had two or less applications determined. Out of the twelve hearings with two or less applications Licensing Sub-Committee 1 sat on ten of these. In 2014 there were sixteen Licensing Sub-Committee hearings with two or less applications heard. The expectation for these hearings was that the applications heard were applications relating to reviews or interim measures for expedited reviews. Figure 7 and 8 set out the Licensing Sub-Committee’s that sat to hear two or less applications and the types of applications that were determined. The majority of these applications were not reviews. However there were a number of reviews or interim measures within these lists. There was a reasonable mix of applications, including sex establishments and gambling applications.

| Hearing Date | Committee Number | LA03 New | LA03 Variator | LA03 Review | LA03 Interim Measures Pre Review | TEN | Appea | Sex Est Nev | Sex Est Variation | Total Number of application |
|--------------|------------------|----------|---------------|-------------|----------------------------------|-----|-------|-------------|-------------------|-----------------------------|
| 30-Dec-13 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| 09-Dec-13 | 1 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 2 |
| 05-Dec-13 | 4 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| 20-Nov-13 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| 23-Sep-13 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| 12-Sep-13 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 2 |
| 03-Sep-13 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| 30-Aug-13 | 1 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 2 |
| 25-Apr-13 | 4 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 2 |
| 24-Apr-13 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 2 |
| 21-Feb-13 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 2 |
| 10-Jan-13 | 1 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 2 |

Figure 7 – 2013 Licensing Sub-Committee Hearings with two or less applications.

| Hearing Date | Committee Number | LA03 New | LA03 Variator | LA03 Review | LA03 Interim Measures Pre Review | GA05 Nev | GA05 Variator | Sex Est Variations | Total Number of application |
|--------------|------------------|----------|---------------|-------------|----------------------------------|----------|---------------|--------------------|-----------------------------|
| 23-Oct-14 | 4 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 2 |
| 15-Oct-14 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| 24-Jul-14 | 5 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| 17-Jul-14 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| 10-Jul-14 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| 12-Jun-14 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 2 |
| 29-May-14 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 2 |
| 19-May-14 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| 07-May-14 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| 29-Apr-14 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| 09-Apr-14 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 2 |
| 03-Apr-14 | 4 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 2 |
| 06-Mar-14 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| 06-Feb-14 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| 21-Jan-14 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| 14-Jan-14 | 4 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 2 |

Figure 8 – 2014 Licensing Sub-Committee Hearings with two or less applications.

- 2.9 Through the analysis of applications that were determined by Licensing Sub-Committees in 2013 and 2014 there does appear to be indications of trends during certain periods of the year. However, this does not correlate with the peaks in applications that are received by the Council.
- 2.10 The average number of applications heard by all Licensing Sub-Committee's in 2013 and 2014 was four and a half and four respectively. Based on the number of hearings that had two or less applications there is the possibility these could be eliminated. This would possible allow the cancellation of at least one hearing a month. The elimination of a hearing from the schedule per month would potentially mean that the average number of applications determined for all Licensing Sub-Committee for the year could increase to five or six per hearing.
- 2.11 Subject to further analysis and that the trends mentioned above are consistent on a year by year basis; officers may also be able to plan for these peaks in applications in the future. This planning would enable officers to schedule hearings in a way that would maximise the applications going to those hearings without overloading the Licensing Sub-Committees sitting in that period.

3. Proposals

- 3.1 As part of the process to eliminate inefficiencies and to improve the service to our customers, it is proposed to undertake a review of the Licensing Sub-Committee process. The objectives of this are:
- 3.1.1 To reduce the size and duplication of information within the Licensing Sub-Committee reports.
 - 3.1.2 Identify the use of technology to display information at Licensing Sub-Committee and to reduce the amount of paper, printing and postage required for these reports.
 - 3.1.3 To identify whether the listing of applications to Licensing Sub-Committee can be developed to achieve more consistency on the number of applications heard and the spread of application types across the five Licensing Sub-Committees.
 - 3.1.4 To move toward reducing the frequency of Licensing Sub-Committee hearings by implementing a new listing process for applications with a view to eliminate hearings that have low numbers of applications.
 - 3.1.5 To assess the current Licensing Sub-Committee process and format to develop suitable customer focussed rules and guidance that set out the Licensing Sub-Committee process.
 - 3.1.6 To develop the new Senior Licensing Officer role to be a key participant at the hearings in managing applicants, residents and responsible authorities at the hearing, and providing advice and guidance to the Sub-Committee on the application process.
- 3.2 To achieve the objectives of this review there will be a need to trial a number of changes to the process. If these trials are successful then these proposals can be implemented into the Licensing Sub-Committee decision process. The proposals set out below relate to three specific areas of the Licensing Sub-Committee process. These relate to the Licensing Sub-Committee Reports, the frequency of Licensing Sub-Committee Hearings and the guidance for the Licensing Sub-Committee Process.

Licensing Sub-Committee Reports

- 3.3 The current Committee Reports have gone through numerous changes over the past seven years. However, there has been growing concern over the size and content of these reports from members, officers, applicants and other stakeholders. The proposed review will seek to reduce the size of these reports by eliminating unnecessary documentation which is attached as appendices whilst providing the necessary and relevant information within the main text of the report itself.
- 3.4 In addition to reducing the size of these reports the content will be reviewed. At present the information provided is very basic and just sets out factual elements such as what's been applied for, who's made representations, the relevant policies and other locational information. It is proposed that the Senior Licensing Officers, who will be producing these reports will pull together all of the information concerning the application, location, representations, assess the policy context and draw out the key considerations that the Sub-Committees are being asked to make a decision on. The Senior Licensing Officer will act in a

similar way to that of a Planning Officer for planning applications. Due to the change in the Senior Licensing Officer role, these officers will now process the applications from start to finish. The benefit is that these officers will be able to start preparing reports at a much earlier stage in the process compared to the current process. This will have the benefit in enabling earlier discussions relating assessing the application against the Council's policy requirements, enable earlier intervention for invalid elements of the application and be able to initiate discussions at an earlier stage when representations are received. A training programme will be implemented from the 1st April to enhance the current skills and expertise within the Licensing Teams.

- 3.5 The use of technology will also be a driver for reducing paper based documents. For example photos, plans and maps could be provided via the main screens in the Committee Room during the hearing or a separate bundle could be provided to the Licensing Sub-Committee containing colour copies of photos and adequate sized plans. At present these documents are often reproduced in the reports as black and white copies which affect the quality or, in the case of plans and maps reduce the size to fit the report which in turn makes them more difficult to interpret. Ultimately, the reports themselves could be provided electronically in the future which would eliminate the requirement for printing, postage and the transportation of large report bundles.
- 3.6 It is proposed that during May and June a new report format will be trialled for one or two low risk applications (unlikely to have an adverse decision and possible appeal) per hearing. Consultation would be carried out and feedback sought from the Licensing Sub-Committee, applicants, their agents and other parties who were involved with that application. The feedback received during this trial period would be considered and the report format adjusted where necessary. The feedback and final draft report template will be put before the next Full Licensing Committee in July to assess and adopt.

Frequency of Licensing Sub-Committee hearings

- 3.7 At present Licensing Sub-Committee hearings are scheduled to take place on a Thursday of each week. Due to the number of hearings that have occurred over the last two years officers are seeking the Committees view on whether the frequency of hearings could be reduced. The level of resources required to put applications before a hearing each week is significant and by reducing the number of hearings per month to three or bi-monthly will result in a significant resource saving as well as reducing the impact on Councillors time. Officers will ensure that the statutory requirements contained within the Licensing Act 2003 (Hearing) Regulations and any other statutory requirements for other licensing regimes are met during this process.
- 3.8 Through the development of a new listing process and scoring system for applications it will be possible to assess applications from the date they are received whether a hearing will defiantly occur, e.g. applications against policy. It is planned that applications will be listed to go before a Licensing Sub-Committee as soon as possible following the end of the consultation period. That could mean that applications are heard up to two weeks earlier than they are now. If there is a need for more time from the applicants, responsible

authorities or interested parties then the application would be adjourned by officers to a date that is suitable for all concerned, as is the case at the moment.

- 3.9 If the Committee is minded to agree to this proposal, officers will start developing a more sophisticated scheduling process for applications that require determination at a Licensing Sub-Committee. Initially the aim will be to eliminate one hearing per month in the May and June. The results of this trial will be put before the Licensing Committee in July for further consideration and whether there is scope to attempt to reduce the number of hearings further.
- 3.10 Whilst reducing the number of hearings officers will ensure that large applications, which have multiple objectors or reviews are not listed on hearing dates which have a reasonable number of applications. Officers are also seeking the views of the Committee on whether there should be a cap on the maximum length a hearing should last. At present there are no limits and applications will be considered until the agenda has been completed. However, on rare occasions hearings can go on for the majority of the day.
- 3.11 Officers are proposing a cap of 4:30pm for Licensing Sub-Committee hearings where any items that haven't been considered by that time will be deferred to the next available Licensing Sub-Committee hearing. Officers are also proposing that there is a provision for the Chairman of the Licensing Sub-Committee to set at the outset of the meeting a set 30 minute lunch break if it is perceived that the determination of the applications on the agenda will exceed 1pm. This break will allow the Sub-Committee members, officers and other parties at the hearing to have a break from the proceedings for refreshments. If members agree to the cap and lunch provisions a trial will be undertaken between April and June to assess the effectiveness of these measures. The outcome of this trial will be assessed a report will be put before the Licensing Committee in July to decide whether the cap and lunch provision should be adopted as standard procedure.

Hearing internal and external procedure documents

- 3.12 The current rules of procedures meet the legislative requirements under the Licensing Act 2003, Gambling Act 2005 and Local Government (Miscellaneous Provisions) Act 1982. However, these documents are technical and not user friendly. These rules only set out the legal requirements associated with the relevant Acts.
- 3.13 It is proposed to produce a new guidance and rules document for Licensing Sub-Committee hearings which will relate to all licensing regimes, is designed to be customer focused and set out the operational practices for the Sub-Committee. By producing this guidance and rules it will allow an opportunity for Members of the Licensing Committee to agree a consistent approach to running their Sub-Committee hearings. An emphasis within these rules will be on how the Sub-Committee will conduct the hearing but it will also provide information about timings, the layout, and the role of the Legal and Policy advisors; Senior Licensing Officers role and the documents that benefit the Sub-Committee in determining applications.

- 3.14 It is hoped that the new guidance and rules will reassure local residents about the process of attending a hearing and also advise applicants and their agents about how the Licensing Sub-Committee will run and what is expected of them. The new guidance will also help achieve consistency across the five Licensing Sub-Committees in running their hearings.
- 3.15 It is proposed that officers will engage with local residents, amenity societies, Citizens Advice, Solicitors, Councillors and other internal stakeholders for their views on what works at these hearings, what doesn't work and if there are any ideas to improve the hearing process in anyway. A report along with the new draft guidance and rules will be provided to the Committee for comment and agreement in July.

4. Legal Implications

- 4.1 The proposed changes and trials will be devised to ensure that any statutory requirements are met. There will also be significant consideration to any potential change in its effects on the Council's defence of any appeals concerning Licensing Sub-Committee decisions. Any risks relating to the proposed changes will be fully assessed and guidance sought from the Council's legal officers.

5. Staffing Implications

- 5.1 The proposed changes and trials will have no effect on staffing levels. However, the proposals, if successful will allow more efficient management of resources to adapt to other service pressures.

6. Consultation

- 6.1 As mentioned above there will be consultation carried out during the trials of the revised Licensing Sub-Committee report with members of the Committee, applicants and their agents; responsible authorities and interested parties. We will be seeking views on these revised report structures so that they provide adequate information for the decision making process whilst meeting the objective of reducing the amount of paper and unnecessary duplicate content.
- 6.2 In addition to consulting on the report structure Members of the Committee will also be consulted on how the changes to the frequency of the Licensing Sub-Committee hearings and the more enhanced form of listing applications for these hearings has gone

7. Reason(s) for Decision(s)

- 7.1 To enable a review of the end to end process for processing applications from receipt to determination. This will achieve the Council's drive to eliminate inefficiencies within process and will lead to a better experience for our customers.

If you have any queries about this report or wish to inspect one of the background papers please contact Mr Kerry Simpkin on 020 7641 1840, email ksimpkin@westminster.gov.uk

Background Papers

Licensing Sub-Committee Minutes and Agendas 2013, 2014 and 2015

Licensing Sub-Committee data analysis for 2013, 2014 and 2015 (Excel Spreadsheets)