



Licensing Committee

Thursday 17 September 2020 at 6.00 pm

This will be held as a virtual online meeting

The link to view this meeting via the live webcast is available [HERE](#)

Membership:

Members

Councillors:

Denselow (Chair)

Long (Vice-Chair)

Ahmed

Chohan

Hector

Hylton

Kennelly

McLeish

Maurice

Shahzad

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For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:

www.brent.gov.uk/committees

The press and public are welcome to attend this as an online virtual meeting. The link to view the meeting live is available [HERE](#)

Notes for Members - Declarations of Interest:

If a Member is aware they have a Disclosable Pecuniary Interest* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent and must leave the room without participating in discussion of the item.

If a Member is aware they have a Personal Interest** in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent.

If the Personal Interest is also significant enough to affect your judgement of a public interest and either it affects a financial position or relates to a regulatory matter then after disclosing the interest to the meeting the Member must leave the room without participating in discussion of the item, except that they may first make representations, answer questions or give evidence relating to the matter, provided that the public are allowed to attend the meeting for those purposes.

***Disclosable Pecuniary Interests:**

- (a) **Employment, etc.** - Any employment, office, trade, profession or vocation carried on for profit gain.
- (b) **Sponsorship** - Any payment or other financial benefit in respect of expenses in carrying out duties as a member, or of election; including from a trade union.
- (c) **Contracts** - Any current contract for goods, services or works, between the Councillors or their partner (or a body in which one has a beneficial interest) and the council.
- (d) **Land** - Any beneficial interest in land which is within the council's area.
- (e) **Licences** - Any licence to occupy land in the council's area for a month or longer.
- (f) **Corporate tenancies** - Any tenancy between the council and a body in which the Councillor or their partner have a beneficial interest.
- (g) **Securities** - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

****Personal Interests:**

The business relates to or affects:

- (a) Anybody of which you are a member or in a position of general control or management, and:
 - To which you are appointed by the council;
 - which exercises functions of a public nature;
 - which is directed is to charitable purposes;
 - whose principal purposes include the influence of public opinion or policy (including a political party or trade union).
- (b) The interests of a person from whom you have received gifts or hospitality of at least £50 as a member in the municipal year;

or

A decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of:

- You yourself;
- a member of your family or your friend or any person with whom you have a close association or any person or body who is the subject of a registrable personal interest.

Agenda

Introductions, if appropriate.

Item	Page
1 Apologies for absence and clarification of alternate members	
2 Declarations of interests	
Members are invited to declare at this stage of the meeting, the nature and existence of any relevant disclosable pecuniary, personal or prejudicial interests in the items on this agenda and to specify the item(s) to which they relate.	
3 Minutes of the previous meeting	1 - 6
To approve the minutes of the previous meeting held on 26 August 2020 as a correct record.	
4 Licensing Sub-Committee Appointments and Decision-making Arrangements	7-12
This report fulfils the Committee's duty to review and determine the representation of political groups on its Regulatory Sub-Committee and to make appointments in accordance with the wishes of the political groups concerned.	
5 Appointments to Sub-Committees	13-14
To confirm the appointment of members to the Committee's Alcohol and Entertainment Licensing Sub-Committee and Regulatory Sub-Committee, in accordance with the wishes of the political groups concerned (document to follow at a later stage).	

Date of the next meeting: **To be arranged as needed**

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MINUTES OF THE LICENSING COMMITTEE

**Held as an online virtual meeting on Wednesday, 26 August 2020
6.00pm**

PRESENT (in remote attendance): Councillor Ahmed (Chair), Long, Kennelly, Chohan, Shahzad, Mitchell Murray

1. Apologies for absence and clarification of alternate members

No apologies were received

2. Declarations of interests

There were no declarations of personal or prejudicial interest

3. Minutes of the previous meeting

RESOLVED that the minutes of the previous meeting, held on 7 November 2019, were approved and signed as an accurate record of the meeting

4. Matters Arising

Under matters arising, Councillor Long made a request to the licensing team that they provide members with regular updated figures for the policy, as there had now been Alcohol and Entertainment Licensing Sub-Committee hearings which had taken place – if the figures remained static, then she felt the decision making process would be much more difficult. In order to clarify further, Councillor Long advised that that the figures included incidents of anti-social behaviour which whilst still valid would change.

5. Fees for the Licensing of Tables and Chairs under the Business and Planning Act 2020

The Committee received a report from the Strategic Director of Regeneration & Environment regarding the Fees for the Licensing of Tables and Chairs under the Business and planning Act 2020.

Simon Legg (Head of Regulatory Services introduced the report and gave some background to the new Ac. As part of the update the Committee noted:

- The proposals for the fee charged by Brent Council's Licensing Team following applications for tables and chairs (under new business and planning act - pavement licences) under the new Business and Planning Act 2020.
- Members were being requested to agree to set the fee of £100 (the maximum charge permitted under the legislation) for each and every licence that was received. The licence would be valid for a duration of minimum 3 months and not

exceeding until 30 September 2021. The reason for this specific date was that the Act did not allow these licenses to be in force past that date.

- There may be a shorter duration, if the Council considered that they wished to only give a business a licence for a short period of time, for example on a trial basis, to see if there were any complaints or problems arising. If an application was issued for a shorter period, then the intention was to take one application fee and issue the licence for that short period i.e. 3 months. If after that period the applicant wished to re-apply to extend their licence, then the Council would not charge for a re-application fee if it was from the same original applicant. It was not possible to issue licences for longer term than the end September 2021.
- The legislation had been in place since 22 July 2020, the Act provided pavement licence which allowed businesses to place removable processes and make it easier for businesses to apply to trade outside their premises in response to the lockdown and concerns about social distancing. The legislation was one of the government's schemes to help stimulate the hospitality sector.
- One of the criteria applicants must satisfy to successfully apply for a license was to demonstrate there was clear pavement access outside their premises. The whole application process was intended to be cheaper, quicker and more efficient than the existing processes. Where possible, the Government was keen for local authorities to encourage businesses and support them gaining successful applications.
- Local authorities could change what they wanted but no more than £100. The London Borough of Brent proposed to charge the maximum fee of £100 to cover the cost of administration.
- The Chief Executive had, under her emergency planning delegated powers authorised the approval of two applications, with all future applications to now be considered by the Licensing team.
- The annual fee in this instance worked out cheaper than the current charge. If the fee charged was less, it may increase costs and Brent might receive more applications from business which would not only bring increased workloads, but also have a detrimental effect on the character of its high streets.
- The basis of the additional administrative charges to the Council in terms of processing the applications as a result of this change in legislation.

Comments were then invited from the Committee, with the following issues raised:

- a. Councillor Shahzad - spoke about the position of some shops in his ward (Cricklewood) who used the forecourt to display goods which were not on the public footpath. In these cases he felt the Council should not charge any fees.
- b. Councillor Mitchell Murray queried the position if it was not felt there was enough space on the pavement. In these cases she assumed that the licence would not

be granted and expressed her support for the proposed charge and approach outlined in the report whilst also requesting details of how the process would be monitored and enforced.

Simon Legg responded to the queries stating that whilst trading outside business premises was complex. If there was a private forecourt, there would be no suggestion of the Council levying a fee. A licence would only be required if a businesses wanted to use Council owned pavements and the fee would apply to those businesses who wanted to serve food & drink i.e. hospitality trade – restaurants, cafes, bars, pubs. The licence was not intended for those businesses wanting to display goods outside their shop.

Where permission was given, a business must retain a 2 metres clear pavement area. Officer's discretion would, however, be used to support businesses if an application was received from a business on a quiet side street, where 2 meter clear pavement access might not be possible.

Monitoring would be undertaken through CCTV and by Licensing staff to ensure compliance, with Councillor Mitchell Murray suggesting the possible use of the technology currently used by staff for the collection of garden rubbish to assist.

- c. Councillor Long felt that a charge of £2.00 a week was reasonable for trading on the pavement and queried:
- The process to ensure that furniture was not left on the highways overnight;
 - If someone had a licence for three months and applied in spring 2021; whether there would be an extra charge; and
 - If premises already had a trading licence, whether they could hand in that notice and go onto the new licence;

Simon Legg responded by saying that there was a requirement that the licence had to be on display, this may not be a high tech solution but the licence would need to be visible. If shops owned their forecourt, they may not need a licence or if they are already licenced under existing legislation, there was no need to display a license. It was a condition within any licence that all furniture will be taken inside at the end of the trading day and area kept clean and it would not be the council's intention when a trader had traded for three months then re-applied later, to levy another £100 fee.

If someone already had a licence, the council recommended to continue under those arrangements, as these new arrangements were only temporary. If businesses transferred to new scheme, it might mean they lose some of the arrangements under their existing permits. It would be in the businesses best interest to continue with the current licence. Councillor Mitchell Murray supported the need for licences to be on display with Councillor Chohan commenting that this was a good opportunity to give businesses a chance to get back on their feet.

- d. In response to a further query, Simon Legg advised that the legislation did permit smoking outside of premises, as long as there was provision for non smokers as well. However, Brent for public health reasons, had decided not to permit any

smoking outside of the premises. Under this licence, Shisha bars would not be permitted to allow smoking outside, but food and drink could be served.

- e. Councillor Kennelly asked how residents would be consulted on the proposals with details of approved businesses published on the website to make it easier for residents to check.

In response, Simon Legg advised that the current criteria stated that statutory notice was placed outside premises and the process allowed residents to make representations. The council must consult with residents and statutory partners, including police, highways, fire authority whilst also looking to try and balance this against the need to support local business. In terms of publishing a list, further discussion would be undertaken with officers given the need to ensure this was kept updated. Councillor Kennelly, whilst keen to support the hospitality sector also felt there would be a need to ensure consultation was as wide as possible, given the emergency nature of the legislation. Simon Legg confirmed that details of all decision made in relation to licenses would be published online in the same way as for other licences would also include the display of statutory notices.

- f. Councillor Shahzad highlighted a suggestion about possibly marking up areas outside premises, including the potential use of pavement studs. In response, Simon Legg advised that whilst possible this would be expensive to maintain on a permanent basis. The alternative was to use the furniture or other temporary barriers i.e. flower pots with no requirement for a permanent marking. This would, he felt, be more relevant in areas where there were a number of premises or more limited space, although in these areas applications would need to be assessed on individual basis to ensure adequate distance could be maintained. If not, it was unlikely the licence would be granted. This was an approach supported by Councillors Mitchell-Murray and Long
- g. In response to a query regarding monitoring on event days at the Stadium Simon Legg confirmed that it would not be possible for business in the Wembley area to operate under the licence. This would also be a condition to any premises in the footprint of Notting Hill Carnival.
- h. In response to a query relating to the serving of alcohol, Simon Legg confirmed provision had been made in the Act for premises to include the serving of alcohol on tables and chairs, as long as they had the relevant licence. This would, however, be subject to certain conditions and submission of a detailed plan as part of their assessment to show adequate spacing between tables. Any deviation from the plan or movement would be in breach of the licence and would result in the necessary enforcement action. CCTV would be used to support monitoring along with the neighbourhood patrol officers.
- i. In terms of the administrative arrangements and costs, Simon Legg advised that the additional support required would initially involve the use of agency staff to process the applications, with the focus then moving on to enforcing the scheme.


As no further issues were raised, the Chair thanked Simon for the report and it was **RESOLVED:**

- (1) To approve setting the fee at £100 (maximum permitted under the Act) for each pavement licence application.
- (2) To approve that the above fee shall be for a licence duration until 30 September 2021, unless due to representations or otherwise, a shorter period of not less than 3 months was considered more appropriate by the Council's Licensing Team. If a shorter term licence was granted, the business would be able to reapply without a further fee to extend the licence duration up to 30 September 2021.

The meeting closed at 7.05pm

COUNCILLOR AHMED
Chair

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 Brent	Licensing Committee 17 September 2020
	Report from the Director of Legal and HR Services
Licensing Sub-Committee Appointments and Decision-making Arrangements	

Wards Affected:	All
Key or Non-Key Decision:	Non-Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Debra Norman Director of Legal and HR Services Email: debra.norman@brent.gov.uk Tel: 020 8937 1578 Biancia Robinson Senior Solicitor (Governance) Email: biancia.robinson@brent.gov.uk Tel: 020 8937 1366

1.0 Summary

- 1.1 This report fulfils the Committee's duty to review and determine the representation of political groups on its Regulatory Sub-Committee and to make appointments in accordance with the wishes of the political groups concerned.

2.0 Recommendations

That the Committee:

- 2.1 Agree the allocation of seats to political groups on the Regulatory Sub-Committee, in accordance with political balance rules.
- 2.2 Appoint Members and substitutes to each of its Sub-Committees; and

3.0 Detail

- 3.1 The Licensing Committee covers all the Council's licensing and registration functions, including being the Council's statutory licensing committee when discharging licensing functions under the Licensing Act 2003 and the Gambling Act 2005.

- 3.2 In practice, functions under the Licensing Act 2003 and the Gambling Act 2005 are discharged by the Committee's Alcohol & Entertainment Licensing Sub-Committee and officers.
- 3.3 As it also exercises the Council's other licensing and registration functions, the Committee (to that extent) is also classified as an ordinary committee of the Council.
- 3.4 ***Alcohol, entertainment and gambling licensing***
- 3.4.1 The Licensing Committee has established and operates a single three Member sub-committee called the Alcohol and Entertainment Licensing Sub-Committee.
- 3.4.2 The Sub-Committee comprises of the Chair, Vice-Chair of the main Committee along with one other Member appointed from within the main Licensing Committee membership. The remaining other seven Members of the main Committee are then appointed as substitutes for this Sub-Committee, so that any of these can be selected whenever the needs arises.
- 3.4.3 This Sub-Committee is chaired by the Chair or, in his/her absence, the Vice-Chair of the Licensing Committee. In the absence of the Chair or Vice-Chair, one of the three Sub-Committee Members chosen by the Sub-Committee will act as Chair.
- 3.4.4 In establishing the Sub-Committee, the main Committee approved the following delegations:
- 'To consider and determine applications and other matters under the Licensing Act 2003 which cannot be determined by officers in accordance with section 10 of the Licensing Act 2003 or any other enactment and any other matter referred to it for determination by the Strategic Director Regeneration and Environment.'*
- 'To consider and determine applications and other matters under the Gambling Act 2005 which cannot be determined by officers in accordance with section 10 of the Licensing Act 2003, as applied by various provisions of the Gambling Act 2005 or any other enactment, and any other matter referred to it for determination by the Strategic Director Regeneration and Environment.'*
- 3.4.5 In addition, the Committee has approved the following delegations to the Strategic Director Regeneration and Environment, which were also extended on 22 May 2019 to the Operational Director Regeneration Growth and Employment:
- 'To consider and determine applications and other matters under the Licensing Act 2003 which can be determined by officers in accordance with section 10 of the Licensing Act 2003 or any other enactment.'*
- 'To consider and determine applications and other matters under the Gambling Act 2005 which can be determined by officers in accordance with section 10 of the Licensing Act 2003, as applied by various provisions of the Gambling Act 2005 or any other enactment.'*

- 3.4.6 Given the frequency of licensing hearings, appointing substitutes from the full membership of the Committee helps to ensure that, over a period of time, all available Committee Members will have the opportunity to decide contested applications and conduct hearings.

3.5 *All other (non-executive) licensing and registration functions*

- 3.5.1 The Licensing Committee has also established a further Sub-Committee known as the Regulatory Sub-Committee. This is comprised of five Members appointed from the membership of the main Licensing Committee, with the remit to exercise all of the Committee's non-Licensing Act and Gambling Act functions.
- 3.5.2 This Sub-Committee is chaired by the Chair or, in his/her absence, the Vice-Chair of the main Licensing Committee and in the absence of the Chair or Vice-Chair, one of the five Sub-Committee Members acts as Chair.
- 3.5.3 The other five Members of the main Committee are appointed as substitutes for this Sub-Committee so that any of these can be selected whenever the needs arises.
- 3.5.4 When establishing the Sub-Committee, the main Licensing Committee approved the following delegations:
- 'To discharge all of the Licensing Committee's licensing and registration functions which do not relate to the Licensing Act 2003 or the Gambling Act 2005.'*
- 3.5.5 Existing officer delegation arrangements, whether based on specific committee delegations or the Council's general scheme of officer delegations (as set out in Part 3 of the Constitution) will continue to apply in respect of these general licensing and registration functions.

Political balance

- 3.6 There is no legal requirement to apply political balance rules to the Alcohol and Entertainment Licensing Sub-Committee and it would be impractical to do so. The need for Licensing Act hearings is frequent, and sometimes urgent, and securing the availability of Members is not always straightforward. Therefore, maximum flexibility is essential.
- 3.7 As the main Committee has been constituted as an ordinary committee of the Council so that it can carry out additional functions, statutory political balance rules do apply to the main Licensing Committee.
- 3.8 Accordingly, when at its meeting on 14 September 2020 Full Council reviewed and determined the representation of political groups on its committees, it included the main Licensing Committee with the appointment of Members also agreed, in accordance with the wishes of the political groups concerned.
- 3.9 In terms of the Regulatory Sub-Committee, this means that the Licensing Committee also has a statutory duty to review and determine the representation of political groups on this Sub-Committee as soon as practicable after the Full

Council review. The Committee then has a duty to make appointments to the Sub-Committee giving effect to the wishes of the political group allocated seats.

- 3.10 The allocation of seats is determined by applying the political balance principles prescribed by the Local Government and Housing Act 1989 and supplemented by the Local Government (Committees and Political Groups) Regulations 1990. These principles are set out below and are designed to ensure that the political composition of committees and sub-committees, as far as reasonably practicable, replicate the political composition of Full Council.
- 3.11 The political balance principles are:
- (i) That not all the seats on the sub-committee are allocated to the same political group.
 - (ii) That the majority of the seats on the sub-committee are allocated to a particular political group if the number of persons belonging to that group is a majority of the Council's Membership.
 - (iii) Subject to paragraphs (i) and to (ii) above, that the number of the seats on the sub-committee which are allocated to each political group bears the same proportion to the number of all the seats on that sub-committee as is borne by the number of Members of that group to the Membership of the Council.
- 3.12 There is a fourth principle which applies to the appointment of ordinary committees and which was therefore applied at the recent Annual Council meeting. The legislation does not apply this principle to appointment of sub-committees.
- 3.13 The Membership of the Council stands at 63 councillors with the composition of political groups as follows:
- 59 Labour Group councillors (93.65%) and three Conservative Group councillors (4.76%).
- According to the political balance rules, a political group for this purpose is a group of two or more members. As a result of the by-election in Alperton ward held in January 2020, the Council's membership also now includes one Liberal Democrat councillor, representing 1.59% of the total composition of the Council. In light of the rules relating to political balance, this single member is not treated as having formed a political group for the purposes of the review.
- 3.14 Based on a Regulatory Sub-Committee with Five seats, the Labour Group is entitled to an allocation of Four seats and the Conservative Group is entitled to be allocated the remaining one seat.
- 3.15 Having regard to the wishes expressed by the political groups, which have been detailed under Agenda Item 5 (to be circulated as a supplementary paper), the Committee is requested to appoint Five Members to the Regulatory Sub-Committee and three to the Alcohol & Entertainment Licensing Sub Committee.

4.0 Financial Implications

4.1 There are none arising directly from this report.

5.0 Legal Implications

5.1 These are addressed in the body of the report.

6.0 Equality Implications

6.1 None.

Report sign off:

DEBRA NORMAN

Director of Legal, HR, Audit and Investigations
Services

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APPOINTMENTS TO LICENSING SUB-COMMITTEES

2020/2021 MUNICIPAL YEAR

ALCOHOL AND ENTERTAINMENT SUB-COMMITTEE

DENSELOW (C)	LABOUR
LONG	LABOUR
CHOHAN	LABOUR

SUBSTITUTE MEMBERS:

AHMED, HECTOR, HYLTON, KENNELLY, MAURICE, MCLEISH, SHAHZAD

REGULATORY SUB-COMMITTEE

DENSELOW (C)	LABOUR
AHMED	LABOUR
CHOHAN	LABOUR
LONG	LABOUR
MAURICE	CONSERVATIVE

SUBSTITUTE MEMBERS:

HECTOR, HYLTON, KENNELLY, MCLEISH, SHAHZAD

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