

Licensing Committee

Agenda

Thursday 29 June 2017

7.00 pm

Courtyard Room - Hammersmith Town Hall

MEMBERSHIP

Administration:	Opposition:
Councillor Colin Aherne Councillor Daryl Brown (Vice-Chair) Councillor Iain Cassidy Councillor Larry Culhane Councillor Vivienne Lukey Councillor Guy Vincent Councillor Natalia Perez (Chair) Councillor Max Schmid	Councillor Adronie Alford Councillor Alex Karmel Councillor Michael Adam Councillor Belinda Donovan Councillor Jane Law Councillor Frances Stainton

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Date Issued: 21 June 2017

Licensing Committee Agenda

29 June 2017

<u>Item</u>		<u>Pages</u>
1. MINUTES	To approve as an accurate record, and the Chairman to sign, the minutes of the meeting of the Committee held on 21 June 2016.	1 - 3
2. APOLOGIES FOR ABSENCE		
3. DECLARATIONS OF INTEREST	<p><i>If a Councillor has a disclosable pecuniary interest in a particular item, whether or not it is entered in the Authority's register of interests, or any other significant interest which they consider should be declared in the public interest, they should declare the existence and, unless it is a sensitive interest as defined in the Member Code of Conduct, the nature of the interest at the commencement of the consideration of that item or as soon as it becomes apparent.</i></p> <p><i>At meetings where members of the public are allowed to be in attendance and speak, any Councillor with a disclosable pecuniary interest or other significant interest may also make representations, give evidence or answer questions about the matter. The Councillor must then withdraw immediately from the meeting before the matter is discussed and any vote taken.</i></p> <p><i>Where Members of the public are not allowed to be in attendance and speak, then the Councillor with a disclosable pecuniary interest should withdraw from the meeting whilst the matter is under consideration. Councillors who have declared other significant interests should also withdraw from the meeting if they consider their continued participation in the matter would not be reasonable in the circumstances and may give rise to a perception of a conflict of interest.</i></p> <p><i>Councillors are not obliged to withdraw from the meeting where a dispensation to that effect has been obtained from the Audit, Pensions and Standards Committee.</i></p>	
4. ANNUAL LICENSING TEAM UPDATE		4 - 19
5. LICENSING SUB-COMMITTEE PROCEDURE		20 - 26

London Borough of Hammersmith & Fulham

Licensing Committee Minutes



Tuesday 21 June 2016

PRESENT

Committee members: Councillors Natalia Perez (Chair), Daryl Brown (Vice-Chair), Colin Aherne, Steve Hamilton, Iain Cassidy and Larry Culhane

Officers: Nick Austin, Director of Environmental Health, Patrick Crowley, Licensing Manager, Lisa White, Licensing Officer, Heidi Titcombe, Principal Solicitor and Ainsley Gilbert, Committee Administrator.

1. PERIOD OF SILENT REFLECTION

The Chair explained that a minute's silent reflection would be held in recognition of the recent deaths of Sue Perrin, a devoted committee administrator who had supported the licensing committee for many years, and Jo Cox, the Member of Parliament for Batley and Spen who had been murdered whilst out and about in her constituency. The period of silent reflection was observed immaculately.

2. MINUTES

RESOLVED THAT:

The minutes of the meeting held on 23 June 2015 confirmed and signed as an accurate record of the proceedings.

3. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Donovan, Lukey, Schmid and Vincent.

Sgt Stuart Ratcliffe had also sent his apologies as he was involved in a police licensing operation. He had sent a written report which was tabled by Patrick Crowley, Licensing Manager.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. ANNUAL LICENSING TEAM UPDATE

Patrick Crowley, Licensing Manager, explained that the borough had good partnership working between the police and council officers. This had helped to reduce crime and disorder and made the licensing process easier for applicants. The success of the approach was shown by the large number of applications being settled before a hearing became necessary.

One appeal had been made against the licensing authority. This related to the Rose Public House which had a problem with noise nuisance emanating from its garden. Officers had carried out significant amounts of observation work, and the results of this were so compelling that the appellant withdrew their appeal, with the Premises Licence Holder agreeing to pay the council significant legal costs.

Lisa White, Licensing Officer, explained that the council tried to work with businesses to resolve issues, and was generally successful in doing so. The council had issued 4 cautions and begun 2 prosecutions where licence holders had failed to improve their standards despite assistance. She explained that the number of complaints received had dropped and that working between licensing officers and noise nuisance staff had improved. Patrick Crowley added that crime on licensed premises had reduced again.

Patrick Crowley explained that the number of adult gaming centres in the borough had reduced from 5 to 2, which he considered to be because of reduced demand. There was also one less betting shop in the borough which was likely to be due to changes in planning law.

Patrick Crowley said that there were ongoing issues with managing debt as there was no interface between Agresso and the licensing team's Uniform system. There had also been a full licensing audit which had been carried out during the year identifying three finance issues. Mr Crowley explained that two of these had been resolved, whilst the third was currently being addressed.

Patrick Crowley explained that the council was currently updating the Statement of Licensing Policy, and that the pool of local conditions had already been updated as a result of this work. Mr Crowley said that the council had also made it possible to apply for more licences online which was more convenient for applicants and easier for officers.

The Chair thanked licensing officers for their hard work and for the effort which had gone into the report and presentation.

Councillor Aherne asked how the council met its obligation to prevent gambling from being used to support crime. Patrick Crowley explained that the council's role was fairly limited as the Gambling Commission investigated more serious allegations; officers passed on information to the police and gambling commission and would also deal with low level issues at the premises.

Councillor Cassidy asked how much time officers spent working around Agresso's imperfections. Mr Crowley explained that the administration manager shared with Kensington and Chelsea spent around ninety percent of their time dealing with Agresso. It also took up a significant amount of one of the dedicated Hammersmith and Fulham officer's time. Patrick Crowley explained that there had been payments made to the council for licences which had been misallocated by Agresso, however, mechanisms were now in place to allow the service to track payments made to it. The Chair asked how much debt was owed by licensees to the council. Patrick Crowley explained that the historic debt was between £20,000 and £25,000. Nick Austin, Director for Environmental Health, said that the licensing team had successfully reduced the historic debt over the past few years, however, there was an amount of debt which might have to be written off. He explained that non-payment of fees could eventually lead to the suspension of a licence, however, this could not be enforced if the premises had genuinely changed hands.

Councillor Aherne asked whether paragraphs 21.2 and 21.3 of the draft statement of licensing policy could be tightened to ensure that only those in the vicinity of the premises could object. Heidi Titcombe, Principal Solicitor, explained that the 'Vicinity Test' for representations had been removed from the Statement of Licensing Policy as a result of a change in legislation. She explained that it was impossible to set a standard distance from premises within which an objector had to live as each premises might have different impacts. The original wording of 'in the vicinity' had proven difficult to interpret, and the legislation now allows anyone to make a representation if that representation is relevant and relates to the promotion of the licensing objectives. Patrick Crowley noted that the council did not receive many frivolous objections.

The Chair asked officers to look at the online system for submitting representations, and ensure that it made it clear to residents whether an application was open for comments and to investigate whether it is possible for an automated acknowledgement to be generated once a representation has been made. Nick Austin agreed to test the system and feed the results back to the committee.

The Chair said that she was very impressed that the collaborative working between the police and council had led to there being around 450 fewer crimes in 2015-16 than in 2012-13. She hoped that this downward trend would continue.


Meeting started: 7.05 pm
Meeting ended: 7.35 pm

Chair

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Minutes are subject to confirmation at the next meeting as a correct record of the proceedings and any amendments arising will be recorded in the minutes of that subsequent meeting.

Agenda Item 4

London Borough of Hammersmith & Fulham ANNUAL MEETING OF THE LICENSING COMMITTEE 29 JUNE 2017	 hammersmith & fulham
ANNUAL LICENSING TEAM UPDATE	
Report of the Divisional Director, Nicholas Austin, Director for Environmental Health	
Open Report	
Classification – For Information	
Key Decision: NO	
Wards Affected: None	
Accountable Director: Nicholas Austin - Director for Environmental Health	
Report Author: Patrick Crowley - Bi-borough Licensing Team Manager	Contact Details: Tel: 020 7341 5601 patrick.crowley@rbkc.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 This report provides a summary update of the work and performance of the Licensing Team for the period between 01 April 2016 and 31 March 2017.
- 1.2 Details have been included about the service improvement work undertaken in relation to the licence information displayed on the public register and the facility to make online applications.
- 1.3 An update on the Bi-Borough Service Review for the Licensing Teams in the London Borough of Hammersmith and Fulham (LBHF) and the Royal Borough of Kensington and Chelsea (RBKC).
- 1.4 Additional information has also been included on recent legislative changes.

2. RECOMMENDATIONS

- 2.1 That members of the Licensing Committee note the contents of this report and provide any comments.

3. INTRODUCTION

- 3.1 The Licensing Team covers a wide range of statutory licensing, registration and enforcement functions in the London Borough of Hammersmith & Fulham. These functions cover premises which sell and supply alcohol or provide regulated entertainment or late night refreshment; gambling premises, gaming machines and lotteries; sex establishments and sexual entertainment venues, film classification; marriage venues; non-medical poisons; and scrap metal dealers.

- 3.2 The Commercial Services Team, within the Environmental Health Service Group, are responsible for the licensing/registration of explosives/fireworks, massage and special treatment premises and therapists, and for all animal health/welfare related licensing functions within the division, namely: Riding Establishments, Animal Boarding Establishments, Pet Shops and Dangerous Wild Animals.
- 3.3 The Licensing Team work in partnership with others to promote the licensing objectives, improve public health and ensure that the Licensing Authority is fulfilling its functions efficiently.

4. REPORT

4.1 Staffing

The Licensing Team structure consists of a Bi-Borough Licensing Team Manager and Bi-Borough Licensing Administration Manager – three Licensing Officers, one Licensing Compliance Officer and two Licensing Compliance Assistants. One Licensing Officer, the Licensing Compliance Officer and the two Compliance Assistants are jointly responsible for the checking and processing of all licensing applications, invoicing and collection of annual fees, general enquiries, dealing with opposed applications and associated administration tasks, whilst two Licensing Officers are responsible for presenting the cases at Committee, dealing with pre- application advice, licensing enforcement and supporting businesses to achieve compliance.

In addition, the Royal Borough of Kensington and Chelsea's Policy and Projects Officer assists with the checking of licences prior to issue on a part time basis.

4.2 Team performance, work activity and key achievements in 2015/16

4.2.1 Licensing Act 2003

The Authority has a statutory duty to carry out its function with a view to promoting the four licensing objectives. These are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm

The work of the Licensing Team involves policy implementation, processing, inspection, enforcement, preparing reports for licensing sub-committee and service improvement.

At 1 April 2017, the authority had 850 licensed premises and had granted 3050 authorisations for personal licence holders under the Licensing Act 2003.

Tables 1 - 7 below illustrate the Licensing Authority's performance during 2016/17. Data from 2015/16 has been included for comparison purposes.

Applications

Table 1: Licence/authorisation type	No. of applications received	
	2015/16	2016/17
New premises licences applications	56	51
New personal licences applications	222	238
Premises licence Full variation applications	32	33
Premises licence Minor variation applications	30	25
Designated premises supervisor (DPS) variations applications	226	192
Transfers of premises licences applications	80	51
Temporary event notices (TENs) / Late Temporary event notices	495	518

The data in Table 1 shows that there has been a decrease of approximately 9% in the number of new premises licence applications and an increase of approximately 7.2% in the number of new personal licences.

There has been a further increase of approximately 4.6% in the number of temporary event notices, and of the 518 notices received in 2016/17, 135 (approximately 26%) were submitted under the late temporary event notice provisions.

Sub Committee Hearings

In 2016/17 a total of 10 licensing sub-committee sittings took place for new, variation and review applications, in comparison to 11 in 2015/16. A breakdown is provided below:

Where a representation is made following an application for a **new licence**, or a **full variation** of a premises licence a sub-committee is arranged.

Table 2 below illustrates the total number of sub committees for new and variation applications:

Table 2: Total number of Licensing Sub Committee hearings	New Premises Licence	Variation of a Premises Licence	TOTAL
2015/16	6	4	10
2016/17	4	5	9

A summary of the decisions made by the sub-committee can be seen in Table 3 below:

Table 3: Licensing Sub Committee outcomes	New Premises Licence				Variation of a Premises Licence			
	Granted/Agreed	Agreed in part	Refused	Total	Granted/Agreed	Agreed in part	Refused	Total
2015/16	0	6	0	6	0	3	1	4
2016/17	0	3	1	4	2	2	1	5

Similarly, where the service receives a valid application for a **review** of a licence a licensing review committee hearing is arranged.

Table 4: Licensing Review Applications and outcomes	Total	No Action	Modify Conditions	Remove DPS	Exclude Licensable Activity	Licence Suspended	Licence Revoked
2015/16	1	0	1	0	0	0	0
2016/17	1*	0	1	0	0	0	0

*The review application in 2016/17 was called by the Police towards the end of 2015/16 but dealt with by the Licensing Committee in 2016/17.

Table 4 above illustrates that the targeted work of the Police and the Council's Licensing Officers continues to influence good management in licensed premises resulting in only one licence review application in both of the last two years.

There was 1 additional sub-committee hearing in 2016/17 in relation to a personal licence application. At the conclusion of this hearing the Licensing Committee refused the application.

A full report on all applications that went to Sub-Committee has been produced by Committee Services and can be seen at Appendix 1.

Pre-application advice

Since 2015 the Licensing Team has offered a pre-application advice service for small, medium, large licence applications and extra-large events. Table 5 below illustrates the type of pre-application advice Licensing Officers have given.

TABLE 5: Licensing Pre Application Advice	Small	Medium	Large	Extra Large Events
2015/16	4	0	0	0
2016/17	1	1	0	0

Appeals

Appeals against the decision of the Licensing Sub-Committee can be brought by a number of parties involved in the application and licensing process e.g. the applicant, responsible authorities and other persons who have objected, or a licence holder in the case of reviews. This area of work can take up a considerable amount of time and it is therefore important that the service monitors this area of work in light of the decisions made and the facts of each case. There were no appeals lodged against decisions of the Licensing Committee in the last year.

4.2.2 Inspection and Enforcement

Table 6: Inspection and Enforcement	Total Number	
	2015/16	2016/17
Number of visits to businesses	243	280
Number of complaints received / investigated	116	118
Number of commenced investigations	67	43
Number of prosecution cases sent to Legal Services	2	2
Number of S19 Closure Notices	3	1
Number of S161 Closure Orders	0	0
Number of simple cautions	4	4

The reduction in 'commenced investigations' reflects a change in the way investigations are recorded on our 'Uniform' database.

Events Licensing

Officers have been involved in the planning and enforcement for a number of events in the borough this year, such as the Davis Cup, The AEGON Tennis Championship, the annual boat race, Chesterton's Polo in the Park, and a large number of smaller events held on the Borough's open spaces. This year has followed last year's trend with a number of open air pop up bars appearing in the Borough along with the Borough London's first 'urban beach' beach. All of these projects have required additional input from officers and, on occasions, pre-application advice has been offered. Additionally, regular liaison and inspections have also taken place at Chelsea, Fulham and Queens Park Rangers football stadiums along with during performance inspections at the Hammersmith Apollo.

Neverland, Wandsworth Bridge

The site was previously the car auction site alongside Wandsworth bridge. An application was made in April 2016 for a licence to allow the sale of alcohol and regulated entertainment. This application was withdrawn after representations were made from the Police and the Noise Nuisance Team. The Licensing Team and other departments worked with the applicants and advised them that an event could potentially take place without licensable activities. The site finally opened in early in 2017 without a premises licence. The site is currently operating as a bring your own alcohol venue and any music is of a background nature only. Inspections are ongoing to ensure that licensable activities are not being provided.

Scrubs Lane – Secret Cinema

A film screening was proposed to take place for Scrubs Lane for 4 weekends in the summer of 2017 with a capacity up to 4999 people. Over these weekends customers would watch a film on Scrubs Lane starting at 6pm and ending at 11:30pm. An interactive experience was proposed before the film started. Several meetings took place and agreements were finally reached with responsible authorities including the Licensing Authority. Unfortunately, the applicants withdrew the event in March 2017.

Chelsea Football Club – Victory parade

At the end of the year the Licensing Team worked with Chelsea Football Club to arrange a victory celebration on Eel Brook Common. This was later changed to an event in the stadium and then to a traditional victory parade. The event was cancelled at short notice due to security concerns given

the recent terrorist activity. Suggestions have been made by the Licensing Team including obtaining new licences for Chelsea football stadium and Eel Brook Common for future events.

4.2.3 Other Enforcement work

Simple Cautions

A total of 4 Simple Cautions were concluded in 2016/17, the results of which are summarised below:

Krystals (Superfoods), 807 Fulham Road

Following a complaint from a local resident that alcohol was being sold from the premises after hours, officers carried out a test purchase and alcohol was sold. The licence holder was advised of the sale and a warning issued. A further test purchase was undertaken to ensure the premises was in compliance, however alcohol was sold again past the permitted times. Officers interviewed the licence holder in relation to the offence. A further test purchase was organised and on this occasion alcohol was not sold. As a result, on this occasion a Simple Caution was offered and subsequently signed by the licence holder.

Riverside Market, Crisp Road, W6

Officers became aware that a Designated Premises Supervisor was not in situ at the premises. On inspection alcohol was on display and appeared to be for sale. A number of visits were undertaken by officers and advice given to the licence holder. However, alcohol remained on the display and was sold to officers on two occasions. The licence holder attended an interview under caution. The premises has now closed down and, due to the licence holder admitting the offences, a Simple Caution was offered and subsequently signed.

Mr Pereira – Designated Premises Supervisor, Mare Moto 562 King's Road

The Licensing Team received information from a local resident that the premises were operating past their permitted hours. Additionally, the residents stated that customers from Mare Moto were causing regular noise issues and were responsible for the high level of anti-social behaviour in the local area. An investigation was instigated and after a visit to the premises with the police licensing officer a substantial amount of CCTV was obtained. The CCTV showed numerous offences under the Licensing Act 2003. The CCTV showed Mr Pereira on the premises whilst a number of the offences were committed. Following an extensive investigation Mr Pereira signed a Simple Caution for the offences and surrendered his personal licence.

Mr Saraiva - Personal licence holder

Mr Saraiva contacted the Licensing Team and advised that he was recently sentenced for offences under the Offences Against the Person Act 1861 and the Criminal Justice Act 1988. Under the Licensing Act 2003 a personal licence holder must notify the court that he holds a personal licence prior to being sentenced, Mr Saraiva advised the licensing team that he forgot to tell the court he held a personal licence. Following an investigation and obtaining a police witness statement Mr Saraiva was offered a Simple Caution which he accepted and signed.

4.2.4 **Legal Cases**

3 legal files were concluded in 2016/17, which are summarised below:

Ross Inn Limited - Mare Moto, 562 King's Road

The Licensing Team received information from a local resident that the premises were operating past their permitted hours. Additionally, the resident stated that customers from Mare Moto were causing regular noise issues and were responsible for the high level of anti-social behaviour in the local area. An investigation was instigated and after a visit to the premises with the police licensing officer a substantial amount of CCTV was obtained. The CCTV showed numerous offences under the Licensing Act 2003 over several dates. Following an extensive investigation, the matter was referred to the legal team for prosecution. On the 15th February 2017 the defendants appeared in court and pleaded guilty to nine offences under the Licensing Act 2003. The court fined Ross Inn Limited £7,750 and a total of £4,387 was awarded in costs.

Today's Express, 86a Lillie Road, W14

Following a resident complaint that alcohol was being sold outside of the permitted hours, a test purchase was undertaken by officers, and alcohol was sold. Subsequently, licensing officers and police officers undertook a number of inspections at the premises and witnessed a number of breaches. Following an investigation, legal action was taken. On the 24 May 2016, the licence holder pleaded guilty to six offences under the Licensing Act 2003. The licence holder was fined £1004 and £1300 in costs.

Booty Food & Wine, Daling Road

A number of inspections took place at this premises following complaints of out of hours sales. Numerous breaches of conditions were observed including CCTV which could not be accessed and a personal licence holder who was not on duty. Further inspections which were undertaken showed repeated breaches of licence conditions.

At the Hammersmith Magistrates Court on 28th June 2016 the Defendant pleaded guilty to all 10 offences. The Defendant was given credit for his early guilty plea and was fined £660.00 in total for the 10 offences:

- 4 offences committed on 25th April 2015
- 4 offences committed on 6th July 2015; and
- 2 offences committed on 6th January 2016

The Defendant was ordered to contribute to the Prosecution's costs in the sum of £1,000.00. A £66 victim surcharge was imposed.

4.2.5 **Current/on-going investigations**

QPR, Loftus Road, South Africa Road

In the summer of 2016 officers witnessed alcohol being sold during the second half period of matches at a number of fixtures at QPR. Warning letters were issued for these breaches of the club's licence conditions. The licence holder was invited to the Town Hall for a PACE interview but when representatives of the club finally agreed to attend they refused to answer questions which were specific to the offences and instead focused on new measures which had been put in place. The interview questions were put to the licence holder via email but these questions have still not been responded to. A new licence has been granted at QPR and the previous licence has been

surrendered. This matter is still ongoing and is going to be passed over to our legal team for a decision as to any further legal action.

Pick and Save, 39 Goldhawk Road

This premises operates as an off licence and started selling alcohol via its website using their existing licence. After asking the licence holder to apply to amend their licence to include internet sales conditions this website was taken down.

German Doner Kebab, Fulham Broadway, SW6

Officers received reports that the premises was operating until the early hours of the morning. As a result, officers carried out test purchases at the premises. The premises failed two test purchases after being warned and given advice. The owner has been requested to attend two interviews under caution and has failed to attend. A third invitation to attend an interview will be sent. If the owner fails to turn up for the final interview the matter will be referred to the legal team. The premises was recently refused a licence by the licensing sub-committee.

Al Reef & Today's Express, 86 Lillie Road, SW6

Complaints were received from residents, police, noise and nuisance and the community safety team that the premises was generating noise, crime and anti-social behaviour in the area. As a result of the complaints and suspected offences under the Licensing Act 2003, officers requested CCTV from the premises. The CCTV appears to show offences under the Licensing Act 2003. An interview in writing is currently being prepared to send to the operator in relation to these offences.

Other work undertaken by the Licensing Team

Immigration work

A number of visits were made with HM Customs and Immigration Teams. These visits targeted off licences and small supermarkets in the Uxbridge Road and Goldhawk Road. Six premises were visited during the visits and one individual was found to be working illegally. One premises (Super and Save, 70 Uxbridge Road) was also alleged to have breached six conditions attached to their licence. The licence holder has been invited for a PACE interview as a result of this visit.

Enforcement procedures

A number of enforcement procedures have been created for the Licensing Team. Drafting the procedures allowed officers to review how actions are undertaken and ensures continuity across the service.

4.2.6 Gambling Act 2005

The Authority has a statutory duty to carry out functions with a view to promoting the licensing objectives. These are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The team issues premises licences for the following; bingo halls, betting shops, adult gaming centres, family entertainment centres, casino and horse racing/dog tracks.

Applications

Table 7 below details the types of gambling premises in the borough.

Table 7: Types of gambling premises	Total	
	2015/16	2016/17
Adult Gaming Centres	2	2
Betting Shops/ Track Betting	43	43
Bingo	3	3
Total	48	48

As can be seen the number of licensed gambling premises has remained static during the past 12 months.

The Gambling Act 2005 states that licensing authorities should aim to permit the use of a premises for gambling in so far as it thinks it is in accordance with the relevant codes of practice, guidance and reasonably consistent with the licensing objectives. As such the Council should look to grant a licence unless there is clear evidence that to do so would be detrimental to one or more of the Gambling Act's objectives.

An interested party or a responsible authority may apply to the council to review a premises licence where the operator has failed to meet one or more of the licensing objectives. The decision will be based on whether the request for the review:

- raises an issue relevant to any relevant code of practice, any relevant guidance issued by the Gambling Commission, the licensing objectives for the Gambling Act, or the Statement of Gambling Principles;
- is frivolous or vexatious;
- will cause the licensing authority to alter, revoke (withdraw) or suspend the licence; or
- raises grounds that are substantially the same as, or different from, grounds within an earlier request for a review or from representations made in relation to the application for the premises licence.

There were no reviews of any Gambling Premises Licences in 2015/16.

4.3 **Service Improvements**

Data Integrity

In the past 12 months work has continued to review and improve the recording and management of application and licence data held on the department's licensing database (Uniform), including:-

Implementing a system, via Companies House, to monitor companies that hold a licence so the team is kept up to date and receive notification of change of registered name/address and/or administration/liquidation affecting the validity of the premises licence.

Implementing a system to record lottery returns for small lottery societies and reminders for societies to ensure that returns are submitted after each lottery draw.

Additional information obtained for all premises licences to ensure that the rateable value, fee band, and VOA reference number are correct. This has enabled application and annual fees to be charged at the correct rate.

A review of additional information held for premises licences to specify the main use of the premises, whether the primary use is the sale of alcohol, whether the premises are within a cumulative impact zone and whether the premises are subject to an early morning restriction order.

Implementing a system to ensure all licensing application fees are reconciled.

Implementation of reports to produce statistical data for statutory returns and management reports.

Involvement in the development of iApply, a national web platform which will connect to, and integrate with, the team's licensing database, enabling data to be passed directly from the online application form to the licensing database. Whilst this initiative is on-going we are also researching alternative options for online applications to ensure that the team and our customers benefit from the most suitable and cost effective product.

Work has continued to ensure that the way information is displayed to members of the public and licensees is clear and understandable, which includes:

- (i) A review of licensing webpages for all functions covered by the licensing team, ensuring that web pages are well structured and the content is up to date.
- (ii) Improvements to the licensing information displayed on public access.

The work is still ongoing and further improvements to the management of our electronic records will continue in 2017/18.

A full review has taken place of the actual costs associated with administering various licensing functions to calculate the associated application and licence fees (where we have the ability to set these fees) to ensure compliance with the EU Services Directive.

4.4 Policy Update

4.4.1 Statement of Licensing Policy

The Licensing Act 2003 ("The 2003 Act") requires every Council to have a 'Statement of Licensing Policy' ("SLP") which will include information stipulated within the Secretary of State's Statutory Guidance to Licensing Authorities in England and Wales, as amended from time to time.

The Council's SLP provides advice and guidance to the Licensing Authority when exercising its statutory functions as a Licensing Authority under the 2003 Act. The SLP is an essential tool to assist Responsible Authorities (mainly regulators) and the Licensing Committee during the decision making process to ensure that those decisions reached are sound and robust enough to withstand an appeal or judicial challenge. It also provides guidance to both applicants, objectors and professional advisers, and provides key information to the magistrates' courts hearing appeals against licensing decisions.

The 2003 Act also requires that the Council's SLP be reviewed via public consultation, formally adopted and published every five years. The review process of the SLP began in June 2015. The

current SLP was adopted in July 2012 and therefore any revised policy must be adopted and published by July 2017. The SLP was updated to reflect changes in licensing laws and the section 182 Guidance, before public consultation.

Following a 16 week consultation period, the draft SLP was updated in view of the consultation comments received and went before the Community Safety, Environment and Residents Services Policy and Accountability Committee on the 18 November 2015, where it was resolved that the Committee recommend that Council approve and adopt the revised Statement of Licensing Policy.

Further lengthy discussions took place regarding the draft Statement of Licensing Policy and on the 8 March 2016 it was placed before the Economic Regeneration, Housing and the Arts Policy and Accountability Committee. It was resolved that the Committee note the contents of the report.

Discussions continued regarding the content of the SLP and on the 17 May 2017 the revised Policy was adopted by Full Council. The new version of the Policy will come into effect on the 3 July 2017

A link to the current policy can be found here: [Statement of Licensing Policy](#). A copy of the new, amended Statement of Licensing Policy can be found here: <https://www.lbhf.gov.uk/business/licensing/licensing-policy>

4.4.2 Statement of Gambling Policy 2016

The Council's Statement of Gambling Policy was revised and came in to effect on 04 January 2016. The current Statement of Gambling Principles can be found on the licensing pages on the council's website. A link to the Statement of Gambling Principles can be found here: [Statement of Gambling Principles](#)

4.4.3 Shared management arrangements

The shared management roles have worked well, with the Head of Service, Licensing Manager and Licensing Admin Manager roles being shared across the licensing team for Hammersmith & Fulham and Kensington and Chelsea.

The two teams have been co-located at the Council Offices in Pembroke Road W8 since October 2014, which has benefitted both teams in terms of sharing good practice, improving service delivery and reducing overall operational costs.

The following benefits have also been realised from the shared management arrangements:

- reducing overall operational costs to residents;
- building in resilience to cater for future demand;
- making service improvements;
- maximising licensing income;
- operating best practice: and
- pooling professional technical expertise and competence.

4.5 Priorities for the next 12 months (in addition to current investigations and enforcement)

Many of the priorities that were identified last year still remain, as follows:

- Ongoing work to improve local pubwatch schemes.
- Continue to pursue the accreditation of Trading Standards Officers, so that they can issue Fixed Penalty Notices for the illegal sale of alcohol to underage children.

- Work with business intelligence to improve the crime report information that the team receive.
- Continue to make improvements to the licensing information displayed on Public Access.

5. LEGISLATION CHANGES

5.1 The Immigration Act 2016

- Personal & premises licences cannot be issued to those **disqualified** by their immigration status.
- Licences issued on or after 6 April 2017 will **lapse** if the holder's lawful leave or permission to work ends.
- The Home Office's Secretary of State will be added to the list of **responsible authorities**.
- Immigration Officers will have **powers to enter** premises to investigate whether immigration offences are being committed in connection with licensable activities.

From the 6 April 2017, licensing authorities have been required to check the eligibility to work for all those applying for personal licences and premises licensed for the sale of alcohol and late night refreshment.

The new provisions mean that licences must not be issued to disqualified persons, who are:

- Unlawfully present in the UK,
- Not permitted to work, or
- Permitted to work, but not in this licensable activity.

An application from a person disqualified on these grounds is **invalid** and must be **rejected**.

5.2 The House of Lords Select Committee on the Licensing Act 2003

This Select Committee was formed to examine the effects of the Licensing Act 2003 and how it has been working over the past 10 years. Written and oral evidence was taken over a period of about 6 months in 2016 and the Select Committee produced its recommendations in April 2017. Full details can be found at:

<https://www.parliament.uk/business/committees/committees-a-z/lords-select/licensing-act-2003/news-parliament-2015/licensing-act-report-published/>

The main recommendations of the Select Committee are as follows;

- The Government made a substantial error in creating new committees for local authorities to deal with licensing. The evidence received about the poor operation of licensing committees was convincing and the committee was extremely concerned by what it heard.
- Planning committees are more effective and reliable, and are well-equipped for making licensing decisions. They should take over the licensing function. Coordination between the licensing and planning systems should begin immediately.
- Licensing appeals should no longer go to magistrates' courts but should, like planning appeals, go to the planning inspectorate.

- The Late Night Levy does not pay for the cost of policing as intended, and in its current form is fundamentally wrong in principle and in practice. Unless amendments already made prove effective, the Late Night Levy should be repealed. So should Early Morning Restriction Orders, which no local authority has yet introduced.
- Fees for licensing should be set locally, not nationally. In doing so, local authorities must bear in mind that there are doubts about the legality of any element of a fee which goes beyond what is needed to process the application.
- There is no justification for the Licensing Act not applying to sales airside at airports.
- The legality of Minimum Unit Pricing is still under consideration by the Supreme Court. If it is found to be lawful and is introduced in Scotland, and is found to be effective in cutting down excessive drinking, England and Wales should follow Scotland's lead.
- Scotland's example should also be followed in helping disabled people to access licensed premises by requiring an application for a premises licence to include a disabled access statement.
- Licensing Authorities should publicise the reasons which have led them to settle an appeal and should hesitate to compromise if they are effectively reversing an earlier decision which residents and others intervening may have thought they could rely on.
- That the Home Office discuss with the Local Government Association, licensing solicitors and other stakeholders, the length and form of the minimum training a councillor should receive before being allowed to sit as a member of a sub-committee, and the length and form and frequency of refresher training.
- The section 182 Guidance should indicate the degree of formality required, the structure of hearings, and the order in which the parties should normally appear. It should make clear that parties must be allowed sufficient time to make their representations.

6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES

- 6.1 There are approximately 900 licensed premises (including premises licensed under the Gambling Act 2005) and LBHF has granted 3050 authorisations for personal licence holders under Licensing Act 2003 since 2005.
- 6.2 The amount of licensing debt outstanding decreased during 2016-17 as opposed to last year there was an increase due to the delay in recovery caused by the implementation of the new financial systems. This meant that a decreased provision for bad debt was required.
- 6.3 Implications verified by Tai' Oyinlola- Finance Manager (Environment), 020 8753 2224.

7. COMMENTS OF THE DIRECTOR OF LAW

- 7.1 The legal implications are contained within the body of this report.
- 7.2 Implications verified by Heidi Titcombe – Principal Solicitor (Planning, Highways and Licensing), 020 7361 2617

8. IMPLICATIONS FOR BUSINESS

- 8.1 Businesses wishing to sell alcohol or provide facilities for entertainment, late night refreshment or gambling are required by law to be licensed. Under the Licensing Act 2003 application fees and annual fees are set by the Secretary of State. These fees have remained at the same level as when the Act came into force in 2005. Under the Gambling Act 2005 application fees and annual

fees are set by the Council on a cost recovery basis, subject to a maximum fee depending on the type of premises and type of application.

- 8.2 Operating without a licence, or in breach of licence conditions, is a criminal offence and substantial fines (or even imprisonment) can be levied by the court on conviction. If licence breaches are identified a graduated response is taken to try to achieve compliance without resorting to prosecution, in accordance with the Environmental Health Service Group Enforcement Policy; https://www.lbhf.gov.uk/sites/default/files/section_attachments/2016_lbhf_environmental_service_s_enforcement_policy_0.pdf

9. PROCUREMENT AND IT STRATEGY IMPLICATIONS

- 9.1 This is not applicable in this case.

10. CONCLUSION

- 10.1 Officers will continue to work in partnership with all statutory agencies to develop new procedures and enforcement policies to facilitate the effective operation of new and existing legislation and to promote the selling of alcohol responsibly.

List of Appendices

Appendix Number	Description
Appendix 1	Applications heard at Sub Committee in 2016/17

Appendix 1


Licensing Sub-Committee Hearings 2016-17

Date of Hea	Premises	Postcode	Type	Ward	Decision	Description
06/04/16	The Old Oak	W14	Interim Steps	North End	Licence Suspension Maintained	Application by the landlord to amend the interim steps imposed following a serious incident to allow the premises to re-open.
14/04/16	The Old Oak	W14	Full Review	North End	To amend opening hours and introduce additional conditions.	Application made by the Metropolitan Police for a review following a serious incident.
14/04/16	Bowmans News	W14	Variation	North End	Refused	Application to amend licenced hours and to remove conditions.
30/08/16	The Tommy Tucker	SW6	Variation	Parsons Green and Walham	Grant with Conditions	Variation application to add a licenced function room on the first floor of the premises and also to extend hours for alcohol, recorded music and late night refreshment.
21/09/16	Martins	W6	New Grant	North End	Grant with Conditions	Application for off-sales licence for the full hours of the newsagents.
	Kona Kai	SW6	Variation	Parsons Green and Walham	Grant with Conditions	Variation application to increase the licenced area.
29/09/16	Personal Licence	N/A	Contested Personal Licence	N/A	Refused	An application for a personal licence made by a resident with relevant criminal convictions which was opposed by the police.
10/11/16	The Foundry, Smiths Square	W6	New Grant	Hammersmith Broadway	Grant with Conditions	An application for a new premises licence in a purpose built unit in a new development.
01/12/2016 and 12/01/2017	German Doner Kebab	SW6	New Grant	Town	Adjourned then Refused	An application to provide late night refreshment in the Fulham cumulative impact area.
23/02/17	The Jam Tree (First Floor)	SW6	Variation	Parsons Green and Walham	Grant with Conditions	Variation to extend licenced hours.
23/02/17	The Jam Tree (Ground & Mezzanine)	SW6	Variation	Parsons Green and Walham	Grant with Conditions	Variation to extend licenced hours.
28/03/17	Rossodisera	SW6	New Grant	Fulham Broadway	Grant with Conditions	Application for an alcohol licence for an italian restaurant.

Date	Premises	Type	Reason for Cancellation
27/06/16	Neverland, Albert Wharf SW6 2TY	New Grant	Withdrawn by Applicant
03/08/16	The Tommy Tucker, Waterford Road SW6 2DR	Variation	Incorrect Service of Notices
01/03/17	Pergola on the Roof, BBC Car Park W12 7RJ	New Grant	Objections Withdrawn
19/04/17	QPR Stadium	New Grant	Objections Withdrawn

This appendix only includes hearings cancelled after an agenda had been published.

Agenda Item 5

London Borough of Hammersmith & Fulham ANNUAL MEETING OF THE LICENSING COMMITTEE 29 JUNE 2017	 hammersmith & fulham
Licensing Sub-Committee Procedure	
Report of the Director of Law	
Open Report	
Classification – For Decision	
Key Decision: NO	
Wards Affected: None	
Accountable Director: Tasnim Shakwat, Director of Law	
Report Author: Heidi Titcombe, Principal Solicitor, Shared Legal Services	Contact Details: Tel: 020 7361 2617 E-mail: heidi.titcombe@rbkc.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 This report provides recommends that a standard procedure should be adopted when dealing with all licensing applications which need to be determined by the Licensing Committee and its Sub-Committees (the “Committee”) under the Licensing Act 2003 and the Gambling Act 2005 or any Acts which amend or vary these Acts.

2. RECOMMENDATIONS

- 2.1 That members of the Licensing Committee approve the suggested procedure specified in Appendix 1 or approve the procedure subject to any amendments the Committee wishes to make;
- 2.2 Once approved the procedure may be amended by the Director of Environmental Health in consultation with the Chair of the Licensing Committee.
- 2.3 The Committee is asked to confirm whether the approved procedure can be used as a template for other licensing applications considered by the Committee.

3. INTRODUCTION

- 3.1 The Committee determines a variety of licensing applications in relation to the grant, variation and review of applications and notices under the Licensing Act 2003 and the Gambling Act 2005.
- 3.2. All applications must be determined in accordance with The Licensing Act 2003 (Hearings) Regulations 2005 (as amended), but subject to this, the Licensing Authority is entitled to establish its own procedure for determining applications and for carrying out its functions under these Acts.

- 3.3 The Council has been following an informal procedure for many years but it was considered that it would be helpful to provide a more formal procedure so that the parties and their representatives will know what to expect at the hearing. **Appendix 1** sets out the suggested procedure which could be adopted by the Committee.
- 3.4 The Committee will need to decide whether they wish to adopt a time limit for each party to present its case before the Committee. If the Committee does consider a time limit would be helpful, the Committee will need to consider whether the ten minute time limit suggested in the procedure would be sufficient of whether they wish to extend or reduce the time limit.
- 3.5 There is no requirement for the Committee to allow the Parties to cross-examine any other party attending the hearing. However, it is often helpful to allow this to assess whether or not the application should be granted and whether there are any merits to the representations made. The Committee can grant permission for the parties to cross-examine the other parties if they wish to do so. It is suggested that this should be considered at the beginning of the hearing. If Committee wish to allow cross-examination, it is asked to consider whether a time limit of say five minutes should be imposed, so that the hearing proceeds at an efficient pace. The Chair would always have discretion to extend this limit if they consider it appropriate to do in any given case.
- 3.6 The Committee deals with a variety of licensing applications for lotteries; sex establishments and sexual entertainment venues; film classifications, marriage venues; non-medical poisons and scrap metal dealers to mention a few. This procedure could also be used as a template for other licensing applications if the Committee wishes to do so, subject to any variations which may be needed in light of the differing legislative requirements which may be applicable.

4. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES

- 4.1 There are no financial implications.

5. COMMENTS OF THE DIRECTOR OF LAW

- 5.1 The Licensing Committee is entitled to set its own procedure for determining licensing applications provided it complies with any legislation which may be applicable under the particular licensing regime.

6. IMPLICATIONS FOR BUSINESS

- 6.1 There are no business implications.

7. PROCUREMENT AND IT STRATEGY IMPLICATIONS

- 7.1 This is not applicable in this case.

List of Appendices

Appendix Number	Description
Appendix 1	Draft Procedure

APPENDIX 1

PROCEDURE FOR LICENSING HEARINGS

1.0 Scope

- 1.1 This procedure applies to all applications, representations, notices and requests for review and such other functions which are required to be determined or considered by the Licensing Committee and its Sub-Committees (“the Committee”) of the Council. This will include applications for the grant, variation and review of Premises Licences or Club Premises Certificates; Temporary Event Notices; Personal Licences and any other application, representation or notices which the Committee is required to determine under the Licensing Act 2003 and the Gambling Act 2005, or such other Acts or regulations amending the same.

2.0 Representations

- 2.1 Any person who wishes to make a representation regarding an application for a licence or who wishes to request a review of a licence should write to the Licensing Department at London Borough of Hammersmith and Fulham, Council Offices, 37 Pembroke Road, London, W8 or email the licensing Department on licensing@lbhf.gov.uk. Each representation and request for review should fully explain the nature of the points made and outline, in detail, the evidence relied upon to substantiate those points.
- 2.2 The Council is unable to accept anonymous representations or requests for review. Representations or requests for review will only be relevant if they relate to one or more of the four licensing objectives:
- (a) The Prevention of Crime and Disorder;
 - (b) Public Safety;
 - (c) The Prevention of Public Nuisance; and
 - (d) The Protection of Children from Harm.

- 2.3 Representations must be made in accordance with the time limits set out in the legislation.

3.0 Arrangements for Licensing Hearings

- 3.1 Licensing hearings will normally take place at the Town Hall, King Street, Hammersmith or such other venue as the Council advises. The hearing will normally take place before a Sub-Committee of the full Licensing Committee. The Sub-Committee will comprise three councillors but the hearing can proceed with two councillors as the quorum shall be two. The Sub-Committee will normally be advised by a legal officer and attended by a committee co-ordinator.
- 3.2 The hearing will take place in public. However, in exceptional circumstances, when the Committee considers that it is in the public interest, it may exclude the public from all or any part of a hearing.

- 3.3 If any person, who intends to be present at the hearing, has any special needs, (for example in connection with access, hearing, language or vision) it is appropriate that they be brought to the attention of the Council prior to the hearing in order that appropriate provision may be made.
- 3.4 The licensing hearing will normally be held within the period of 20 working days from the day when the consultation period ends. The Council will give appropriate notice of the hearing. The period of notice will depend upon the type of hearing, which is stated in The Licensing Act 2003 (Hearings) Regulations 2005. Expedited Reviews and Temporary Event Notices have different time limits.
- 3.5 A Notice of the hearing will be accompanied by:
- a copy of this procedure note;
 - confirmation that a party may be assisted or represented by a person whether or not that person is legally qualified;
 - confirmation that a party to the hearing may address the authority, give further information on a point on which the authority requires clarification and, if considered by the Council to be required, question another party to the hearing;
 - the consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the party's absence); and
 - a note of any particular points on which the Council wants clarification.
- 3.6 The Council's licensing officer will normally prepare a report for consideration by the Committee. This report will be sent to the parties and will be accompanied by the relevant documentary material that has been submitted by the parties.
- 3.7 All parties upon whom a notice of hearing has been served are required to give to the Council notice of:
- whether they intend to attend or to be represented at the hearing;
 - whether or not they consider a hearing to be unnecessary; and
 - whether they wish to request that another person appear at the hearing (other than their representative). If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the Council.

This notice has to be given to the Council no later than the day indicated in the notice served.

Right to be represented

- 3.8 A Party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

4.0 **Procedure at the Hearing**

- 4.1 The Chair of the Committee will open the hearing by introducing the members of the Committee and will ask the parties present to identify themselves. The Chair will explain the procedure to be adopted.
- 4.2 The procedure of the hearing will take the form of a discussion, led by the Chair of the Committee, generally in line with the procedure specified below. However, the Chair has the discretion to amend the procedure as they consider appropriate.
- 4.3 The Licensing Officer will be asked to introduce the report and to provide any additional comments which may have arisen since the committee papers were published.
- 4.4 Each Party will then be asked to address the Committee and call any witnesses in support of their application, representation or notice. The usual order will be for the Applicant to go first, followed by the Responsible Authorities and then followed by the Other Persons, who have made valid representations to the Licensing Authority.
- 4.5 Each Party will address the Committee once, for a **maximum of ten minutes to present their case or representations**. During this time, the Party will be expected to explain their case and present any evidence in support, including factual; references to legislation, authorities and dealing with any conditions which might be proposed or under consideration. In exceptional cases the Chair may extend the time for each submission, where it is necessary for the determination of the case. **No extra time will be allowed for summing up Party's case or representations.**
- 4.6 The Committee will allow each Party an equal amount of time to present their case or representations.
- 4.7 **Cross-examination.** A Party will not normally be allowed to cross-examine the other Party, unless they have first requested and been granted permission to question the opposing party by the Committee.
- 4.8 Where cross-examination has been granted, that Party may cross-examine the other Party for a maximum of five minutes in total. Parties may not generally cross-examine a Party on the same side.
- 4.9 In summary, the procedure will generally be as set out below:-

Firstly, the Applicant

- Applicant (or their representative) will present their case or representations for a maximum of 10 minutes;
- the Committee will ask questions of the Applicant and their witnesses;
- If permitted, the Responsible Authorities and other Parties may cross-examine the Applicant and/or their witnesses for a maximum of 5 minutes;
- the Legal Adviser may ask questions, if appropriate, particularly regarding conditions.

Secondly, the Responsible Authorities (“RAs”)

- Each RA (or their representative) shall make their representations - 10 minutes maximum
- Committee questions each of the RAs.
- Legal Adviser questions RAs, if necessary.
- The Applicant may cross-examine each of the RAs, if permission granted for a maximum of 5 minutes.

Thirdly, the Other Persons (“OPs”)

- Each OP (or their representative) shall make their representations for a maximum of 10 minutes
 - Committee questions each of the OPs.
 - Legal Adviser questions OPs, if necessary.
 - If permitted, the Applicant may cross-examine each of the OPs, for a maximum of 5 minutes.
- 4.10 The Committee will normally retire to make their decision in private. Once a decision has been reached the Committee will normally return into open session and announce the decision. Alternatively, the Committee may make its decision within 5 working days of the close of the hearing.
- 4.11 If, during its deliberations, the Committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point the hearing will be reconvened to deal with that issue.
- 4.12 The Committee may allow the production of documentary or other evidence produced by a party in support of its case at the hearing provided all other parties give their consent. Even if new material is permitted, the hearing may need to be adjourned to allow time to consider it and for other parties to respond to it. Accordingly, any application to have new material considered should demonstrate exceptional reasons for its admission. It is, therefore important for parties to ensure that all evidence is submitted in writing as soon as possible and in accordance with the relevant timescales.
- 4.13 The Chair of the Committee may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or may permit the person to return only on such conditions as he may specify.
- 4.14 It should be noted that the Committee has no power to award costs to any party to the hearing.
- 4.15 When dealing with reviews, a Responsible Authority or Other Person will be the applicant and the procedure caters for this process.

5.0 Procedure following the hearing

5.1 The Licensing Authority will notify the parties to the hearing of the decision in writing. Where required by the Licensing Act 2003, the Council will also notify the chief officer of the police even though the chief officer was not a party to the hearing. The decision notice will be accompanied by information regarding the right of the parties to appeal against the Council's decision.

6.0 Failure to attend the hearing

6.1 If a Party has informed the Authority that he or she will not attend or be represented at the hearing, the hearing can proceed in his or her absence.

6.2 If a Party has failed to indicate whether or not he or she will attend or be represented at the hearing, the Committee may: -

(a) adjourn the hearing to a specified date, where it considers it is necessary in the public interest; or

(b) hold the hearing in the Party's absence.

6.3 Where the Committee holds the hearing in the absence of a Party, the Committee shall consider the application and/or any valid representations or notice, which, that Party has previously submitted, during the Committee's consideration of the application.

6.4 Where the hearing has been adjourned to a specified date, the Authority must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

JUNE 2017