

Agenda item:

Licensing Committee on 21 February 2006

Report Title: **Extending the Duration of the Licensing Bodies in Election Year**

Report of: **Head of Legal Services and Monitoring Officer**

Wards(s) affected: **All**

Report for: **Non-Key Decision and Recommendation to Council**

1. Purpose

1.1 To recommend to full Council that it should continue the operation of the existing Licensing Committee until the Annual Meeting in order to ensure that the Council's statutory duties to hear Licensing applications are discharged and to continue in operation the Licensing Sub-Committees for the same purpose.

2. Recommendations

2.1 That Members recommend to full Council the continuation of the appointments of all Members of the Licensing Committee from the Council Elections until the Annual Meeting on 22 May subject to:

- (i) individual Members being re-elected as Councillors
- (ii) the Licensing Committee, or any Emergency Sub-Committee it appoints, only having power to act for the purposes of determining contested applications that must legally be determined in the above period.

2.2 That Members recommend to full Council the grant of a special delegated power to the Chief Executive to appoint any additional Members of the Licensing Committee needed to increase its membership to 10 to be exercised only in the period between the Council Elections and the Annual Meeting.

2.3 That Members resolve to continue the appointments of all Members of the Licensing Sub-Committees from the Council Elections until the Annual Meeting subject to the same provisos as in paragraph 2.1 (i) and (ii) above.

Report Authorised by:

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3. Executive Summary

This report explains the problems that may arise in the event that the Council is obliged to hold licensing hearings in the period between the Council Elections and the Annual Meeting when Council bodies would not normally meet. The Monitoring Officer recommends the continuation of the life of the existing Licensing Committee and its Sub-Committees.

4. Local Government (Access to Information) Act 1985

4.1 The following background papers were used in the preparation of this report and can be inspected at Alexandra House 10 Station Road, Wood Green, London N22 7TR by contacting Terence Mitchison on 020 8489 5936:

The Council's Constitution

5. Background

- 5.1 Normally, none of the Council's Committees or Sub-Committees would meet in the period between the Council Elections and the Annual Meeting when new appointments are made to all Committees and other bodies.
- 5.2 There is a particular problem in connection with licensing decisions under the Licensing Act 2003. When an application is made it must be advertised for a period of 28 days and then, if there is an objection, there is a fixed period, generally 20 working days, within which the Council must hold a hearing into the application. These time limits may vary for different types of application.
- 5.3 In the event of applications being made in late March or early April that result in objections, there could be a legal obligation to hold hearings between the Elections and the Annual Meeting ("the interim period").
- 5.4 Strictly speaking, in these circumstances it will not be possible to defer a hearing until after the Annual Meeting when the Licensing Committee and its Sub-Committees had been appointed. No provision is made for this in the licensing legislation.
- 5.5 The Monitoring Officer recommends that in order to be as sure as possible that the Council can discharge its statutory duties, full Council should be asked to extend the duration of the appointments to the existing Licensing Committee so as to give it express power to act during the interim period.

- 5.6 Any extended appointments would be subject to the Member in question being re-elected on 4 May. It would also be subject to the Licensing Committee only having power to act for the purposes of determining any applications that the Council was legally bound to have determined during the interim period.
- 5.7 The Licensing Committee could determine applications after hearings itself or it could appoint an Emergency Licensing Sub-Committee with the requisite three Members to hear and decide contested cases. In either event, the only powers of the Licensing bodies would be to decide contested cases in the interim period. At, and after, Annual Council any such emergency arrangements would be replaced by the normal procedures for appointing licensing bodies.
- 5.8 Another potential problem is that a Licensing Committee must have a membership of at least 10 but no more than 15 Councillors. In the event that fewer than 10 of the current Members were to be re-elected, then the Committee itself could not continue to act at all during the interim period, even to appoint a Sub-Committee.
- 5.9 In order to avoid this problem, it is recommended that the Licensing Committee should now resolve to extend the appointments of its Licensing Sub-Committees (or at least those that have three Members) from the Council Elections until the Annual Meeting. This would be subject to the same provisos as in paragraph 5.6 above i.e. individual Members being re-elected and the Sub-Committee only having power to act where it is legally necessary to hold a hearing in the interim period.
- 5.10 These extended appointments to the Licensing Sub-Committees are within the jurisdiction of the Licensing Committee itself rather than full Council. They can validly be made now while the Committee has the requisite legal membership.
- 5.11 As a safeguard against the possibility that none of the Licensing Sub-Committees still have three Members after the Elections, and that the Licensing Committee itself has less than 10 Members, it is recommended that a special delegation be granted to the Chief Executive. This would be a delegated power to appoint any additional councillors needed to make up the membership of the Licensing Committee to 10. This delegation could only be exercised in the interim period. It must be granted by full Council. Accordingly, the Licensing Committee is asked to recommend such a delegation to the meeting of full Council on 20 March. The General Purposes Committee will be invited to make a similar recommendation when it meets on 2 March.

6 Recommendations

- 6.1 That Members recommend to full Council the continuation of the appointments of all Members of the Licensing Committee from the Council Elections until the Annual Meeting on 22 May subject to:
- (i) individual Members being re-elected as Councillors
 - (ii) the Licensing Committee, or any Emergency Sub-Committee it appoints, only having power to act for the purposes of determining contested applications that must legally be determined in the above period.

- 6.2 That Members recommend to full Council the grant of a special delegated power to the Chief Executive to appoint any additional Members of the Licensing Committee needed to increase its membership to 10 to be exercised only in the period between the Council Elections and the Annual Meeting.
- 6.3 That Members resolve to continue the appointments of all Members of the Licensing Sub-Committees from the Council Elections until the Annual Meeting subject to the same provisos as in paragraph 6.1 (i) and (ii) above.

7. Equalities Implications

- 7.1 There are no specific equalities implications.

8. Financial Implications

- 8.1 There are no specific financial implications.

9. Legal Implications

- 9.1 The legal implications are set out in the main report.