



Licensing Committee

on 27 May 2010

Report Title: **Establishment of Licensing Sub-Committees**

Joint Report of: **Deputy Head of Local Democracy & Member Services and Head of Legal Services**

Forward Plan ref. no. **N/A**

Wards Affected: **All**

Report: **Non-Key Decision**

1. Purpose

1.1 To establish three Licensing Sub-Committees to conduct the majority of licensing hearings, and to note the provisions for the appointment of substitutes.

2. Recommendations

2.1 To note the terms of reference of the Licensing Committee in the Council's Constitution attached as Appendix 1 to this report.

2.2 That Members agree the establishment of three Licensing Sub-Committees with the membership set out in Appendix 2 to this report. (to follow)

2.3 That Members confirm the terms of reference of the Licensing Sub-Committees in the Constitution attached as Appendix 3 to this report.

2.4 That Members note the provisions in the Committee Procedure Rules, Part 4, Section B of the Constitution and the delegations to the Head of Local Democracy and Member Services (Appendix E Section 9 paragraph 1.4 of the Constitution) for the appointment of a substitute Member of a Licensing Sub-Committee from among the Members of the Committee when the permanent Sub-Committee Member is unable to attend for any reason.

2.5 To note that the Council Procedure Rules in Part 4 B of the Constitution do not apply to hearings, which are governed by the Local Licensing Procedure Rules and the relevant Regulations.

2.6 To note that the other business of the Committee, except for hearings, is governed by the Council's Procedure Rules (Council Standing Orders) noting the substitution rule as detailed under Part 4 Section B of the Constitution.

Report Authorised by:



Ken Pryor, Deputy Head of Local Democracy and Member Services – John Suddaby, Head of Legal Services

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3. Executive Summary

3.1 Members are recommended to establish three Licensing Sub-Committees and to confirm the existing terms of reference for these bodies. In order to ensure that the Sub-Committees can function, their membership and quorum would be three Members, and would allow for delegated power to appoint substitute Members.

4. Reasons for any change in policy or for new policy development (if applicable)

N/A

5. Local Government (Access to Information) Act 1985

5.1 The following background papers were used in the preparation of this report:

(i) the Council's Constitution and (ii) Local Licensing Procedure Rules

6. Licensing Committee

6.1 The full Council appoints the membership of the Licensing Committee including its Chair and Vice-Chair. By law there must be at least 10 but no more than 15 appointed Members. The Committee can still meet and undertake its business with a quorum of 4 Members.

6.2 The Council can determine the terms of reference of the Committee. These are currently set out in Part 3 C of the Council's Constitution and attached as Appendix 1 to this report. Members are invited to note the Committee's terms of reference and, in particular, the reference to the Committee of all premises sites or events where 500 or more persons are expected to be present.

7. Establishing the Licensing Sub-Committees

7.1 The Licensing Committee may establish Sub-Committees to assist with holding hearings for the less major cases. Although the membership for these has been reported to Annual Council, legally it is the Licensing Committee that fixes the Sub-Committees' membership and confirms their terms of reference.

- 7.2 Last year there were 3 Licensing Sub-Committees to deal with the very large number of contested applications. It is anticipated that the volume of applications will continue for the foreseeable future. It is recommended that 3 Licensing Sub-Committees be appointed and this should be sufficient. The appointed membership of the Sub-Committees is fixed by law at 3 Members. The Council's own Local Licensing Procedure Rules set the quorum for hearings at 3 Members since this promotes better decision-making.
- 7.3 The membership of the 3 Licensing Sub-Committees will be set out in Appendix 2 to this report, which will be circulated once the membership of the full Licensing Committee is confirmed. The proposed membership of the Licensing Committee will dictate that two Members of the parent Committee will not be appointed members of a Sub-Committee but can be shown as "unassigned". These two members will be called upon to act as substitutes on the Sub Committees as required.
- 7.4 On occasions an appointed Member of a Licensing Sub-Committee cannot take part in the decision on a particular case because of a conflict of interest or because the premises in question lie in the Member's own Ward. In such cases, and any other case where a Member is unexpectedly absent or seriously late, it will be necessary to appoint a substitute Member often at short notice. The Members appointed as substitutes would always be trained Members of the main Committee who were able to make themselves available.
- 7.5 Members of the Committee are asked to note the existing terms of reference of the Licensing Sub-Committees. These are currently set out in Part 3 C of the Constitution and attached as Appendix 3 to this report. Members will note that the great majority of hearings will fall to the Sub-Committees but any case of special significance or difficulty can be called up to the parent Committee to decide. Reports on matters of general concern and decisions on general procedural issues will come to the Committee.

8 Recommendations

- 8.1 To note the terms of reference of the Licensing Committee in of the Council's Constitution attached as Appendix 1 to this report.
- 8.2 That Members agree the establishment of three Licensing Sub-Committees with the membership set out in Appendix 2 to this report. (to follow)
- 8.3 That Members note the terms of reference of the Licensing Sub-Committees in the Constitution attached as Appendix 3 to this report.
- 8.4 That Members note the provisions in the officer scheme of delegation for the appointment of a substitute Member of a Licensing Sub-Committee from among the Members of the Committee when the permanent Sub-Committee Member is unable to attend for any reason.
- 8.5 To note that the Council Procedure Rules in Part 4 B of the Constitution do not apply to hearings, which are governed by the Local Licensing Procedure Rules and the relevant Regulations.

8.6 To note that the other business of the Committee, except for hearings, is governed by the Council's Procedure Rules (Council Standing Orders) noting the substitution rule as detailed under Part 4 Section B of the Constitution.

9 Comments of the Chief Financial Officer

9.1 The CFO has been consulted on this report and has no specific financial comments to make.

10. Comments of the Head of Legal Services

10.1 The legal implications are set out in the body of this report.

11. Use of Appendices / Tables / Photographs.

11.1 Appendix 1 to this report is the terms of reference of the Licensing Committee

11.2 Appendix 2 to this report is the proposed membership of the three Licensing Sub-Committees (to follow)

11.3 Appendix 3 to this report is the terms of reference of the Licensing Sub-Committees

**TERMS OF REFERENCE OF THE LICENSING COMMITTEE
COUNCIL'S CONSTITUTION PART 3 SECTION C**

6. Licensing Committee

- (1) The Licensing Committee has all the functions referred to it by law under the Licensing Act 2003 and the Gambling Act 2005. These include:
 - (a) To be responsible for monitoring the operation of the Acts licensable activities and gambling in the Borough;
 - (b) To receive reports on these matters and on the functions delegated to the Licensing Sub-Committees and to officers. To call for a report on any individual case;
 - (c) To be consulted on the review and determination of the Licensing Policy Statement and the Statement of Gambling Policy including procedures for Council consultation with external stakeholders;
 - (d) To determine the procedures to be followed in handling applications, notices, representations and all hearings, subject to the relevant Regulations;
 - (e) Subject to Regulations, to determine the fees payable for applications for premises licences and related matters under the Gambling Act 2005;
 - (f) To exercise the functions of the Licensing Sub-Committees in relation to any premises, site or event where 500 or more persons are to be present;
 - (g) To exercise the functions of the Licensing Sub-Committees in any case referred to the Committee by its Chair, or by the Chair of a Licensing Sub-Committee on the grounds of its special significance or difficulty;
 - (h) In a Council Election Year when there is a need to hold a hearing in the period between Election day and the Annual Meeting of the Council, those Members of the Licensing Committee who are re-elected as Councillors shall meet as the Licensing Committee to exercise any of the functions of the Licensing Sub-Committees, or under (f) above, and shall elect a Chair for the meeting.

- (2) Excluded from the Licensing Committee's terms of reference are:
- (a) The functions statutorily referred to the General Purposes Committee, the Cabinet and the full Council including the formal review and determination of the Licensing Policy Statement and the Statement of Gambling Policy;
 - (b) The functions delegated to the Licensing Sub-Committees, as set out below, except where referred back to the Committee under sub-paragraph 6(1)(g) above.

APPENDIX 3

TERMS OF REFERENCE OF THE LICENSING SUB-COMMITTEES COUNCIL'S CONSTITUTION PART 3 SECTION C

3. Under Licensing Committee

3.1 Licensing Sub-Committees

General Provisions

- (a) To exercise all the functions listed in these terms of reference in relation to any premises, site or event where less than 500 persons are to be present;
- (b) The Chair of a Licensing Sub-Committee may, before hearing it, refer any case falling within these terms of reference to the Licensing Committee on the grounds of its special significance or difficulty. This power may also be exercised by the Chair of the Licensing Committee;
- (c) Licensing Sub-Committees have the power to make final decisions on behalf of the Council on matters within their terms of reference and there is no right of appeal to the Licensing Committee.

Functions under both the Licensing Act 2003 and the Gambling Act 2005

- (d) To determine applications for premises licences where relevant representations have been made;
- (e) To determine applications for provisional statements where relevant representations have been made;
- (f) To determine applications for variations of premises licences where relevant representations have been made;
- (g) To determine valid applications for review of premises licences;
- (h) To decide on any other matter where it is necessary or desirable for Members to make that decision;

Functions under the Licensing Act 2003 alone

- (i) To determine applications to vary designated premises supervisors following police objections;
- (j) To determine applications for transfer of premises licences following police objections;
- (k) To consider police objections made to interim authority notices;
- (l) To determine applications for club premises certificates where relevant representations have been made;
- (m) To determine applications to vary club premises certificates where relevant representations have been made;
- (n) To determine valid applications for review of club premises certificates;
- (o) To decide whether to give counter notices following police objections to temporary event notices;
- (p) To determine applications for grants of personal licences following police objections;
- (q) To determine applications for renewals of personal licences following police objections;
- (r) To decide on revocation of personal licences where convictions come to light after grant;

Functions under the Gambling Act 2005 alone

- (s) To determine applications for transfers of premises licences following representations by the Gambling Commission or others;
- (t) To determine applications for the re-instatement of premises licences where relevant representations have been made;
- (u) To decide whether to give counter notices following objections to temporary use notices;
- (v) To determine applications for the grant of club gaming permits and club machine permits where objections have been received;

- (w) To determine proposals to cancel club gaming permits and club machine permits where the holder requests a hearing;
- (x) When the licence holder requests a hearing, to determine officer proposals: (i) to make an order removing the entitlement of an on-premises alcohol licence holder to have one or two gaming machines, or (ii) to cancel or vary a licensed premises gaming machine permit;
- (y) To determine licensed premises gaming machine permit applications for 5 or more machines and all applications for any number of machines where there is cause for concern about the proper management of the premises;