

Licensing Committee

on

22 May 2008Report Title: **Establishment of Licensing Sub-Committees**Report of: **Head of Local Democracy & Member 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 hearings under the Licensing Act 2003 and the Gambling Act 2005.

2. Recommendations

- 2.1 To note the terms of reference of the Licensing Committee in Part 3 Section C of 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 Part 3 Section C of the Constitution, attached as Appendix 3 to this report.
- 2.4 That Members note the powers delegated to the Head of Local Democracy and Member Services at the meeting of the Committee on 14 April 2008: -
- (a) To make appointments to the membership of special Licensing Sub-Committees from among the Members of the Licensing Committee;
 - (b) To appoint an additional Member or Members to any scheduled meeting of a Licensing Sub-Committee from among the Members of the Licensing Committee whenever the appointment of a substitute Member under the Committee Procedure Rules (Part 4, Section B) would be impracticable and the meeting would otherwise be inquorate;
 - (c) The exercise of the delegated powers in (a) and (b) above shall be, so far as practicable, in consultation with the Chair of the Licensing Committee and the Chief Whip of each Group and with a view to achieving political balance in the membership of Licensing Committees.

Report Authorised by:

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2 Executive Summary

3.1 Members are recommended to establish three Licensing Sub-Committees and to confirm the existing terms of reference for these bodies. Their membership and quorum must be three Members. To ensure that the Sub-Committees function effectively there are special delegated powers to appoint substitute Members and to appoint special Sub-Committees agreed by the 14 April Committee meeting.

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

N/A

4 Local Government (Access to Information) Act 1985

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

the Council's Constitution

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 Section 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. There have been no changes to the Committee's terms of reference since May 2007 when the additional functions relating to the Gambling Act 2005 were added.

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 must be the Licensing Committee that fixes the Sub-Committees' membership and confirms their terms of reference.

7.2 For the last two years there have been 3 Licensing Sub-Committees to deal with the very large number of contested applications that followed the introduction of the new system under the Licensing Act 2003 and, from September 2007, the new responsibilities for gambling premises under the Gambling Act 2005. It is anticipated that the volume of applications of all kinds will continue to be high for the foreseeable future and that many of these will be contested. It is recommended that 3 Licensing Sub-Committees be appointed and this should be sufficient.

- 7.3 The appointed membership for each Sub-Committee is fixed by law at 3 Members. The membership of the 3 Licensing Sub-Committees for 2008/09 is set out in Appendix 2 to this report (to follow).
- 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. In such a case the Member should give written notice to the Head of Local Democracy and Member Services, well before the date of the meeting, asking for the appointment of a substitute Member under the Committee Procedure Rules.
- 7.5 Occasionally, where a Member is unexpectedly absent or seriously late, it will be necessary to appoint a substitute Member at short notice on the day of the meeting. This can now be done under the delegated powers noted in paragraph 2.4 above. The Members appointed as substitutes would always be trained Members of the main Committee who were able to make themselves available.
- 7.6 Members of the Committee are asked to note and confirm the existing terms of reference of the Licensing Sub-Committees. These are currently set out in Part 3 Section 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.
- 7.7 There have been no changes to the terms of reference of the Sub-Committees since May 2007 when the additional functions relating to the Gambling Act 2005 were added.

8 Recommendations

- 8.1 To note the terms of reference of the Licensing Committee in Part 3 Section C 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 confirm the terms of reference of the Licensing Sub-Committees in Part 3 Section C of the Constitution, attached as Appendix 3 to this report.
- 8.4 That Members note the powers delegated to the Head of Local Democracy and Member Services at the meeting of the Committee on 14 April 2008: -
- (a) To make appointments to the membership of special Licensing Sub-Committees from among the Members of the Licensing Committee;
 - (b) To appoint an additional Member or Members to any scheduled meeting of a Licensing Sub-Committee from among the Members of the Licensing Committee whenever the appointment of a substitute Member under the

Committee Procedure Rules (Part 4, Section B) would be impracticable and the meeting would otherwise be inquorate;

- (c) The exercise of the delegated powers in (a) and (b) above shall be, so far as practicable, in consultation with the Chair of the Licensing Committee and the Chief Whip of each Group and with a view to achieving political balance in the membership of Licensing Committees.

9 Comments of the Chief Financial Officer

- 9.1 There are no specific financial implications.

10. Comments of the Head of Legal Services

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

12. Use of Appendices / Tables / Photographs.

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

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

- 12.3 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.

**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;