

Bath & North East Somerset Council

MEETING: **Licensing Committee**

DATE: **29th January 2013**

AGENDA
ITEM
NUMBER

TITLE: **Proposed changes to the Licensing Committee Terms of Reference**

WARD: **All**

AN OPEN PUBLIC ITEM

List of attachments to this report:

Annex A: Current Terms of Reference for the Licensing Committee

Annex B: Proposed Terms of Reference for the Licensing Committee.

1 THE ISSUE

- 1.1 As part of the Public Protection Service continual review of operations, looking at creating efficiencies and streamlining processes, it is proposed that the number of Licensing Sub-Committees operating on behalf of the Licensing Committee is reduced from two to one.

2 RECOMMENDATION

- 2.1 That the Committee amend the Terms of Reference for the Licensing Committee to reduce the number of sub-committees from two to one and the political makeup of the sub-committee is amended to reflect the change.
- 2.2 That the changes to the Terms of Reference are introduced from the date of the Council's Annual General Meeting in May 2013.

3 FINANCIAL IMPLICATIONS

- 3.1 The option to reduce the number of sub-committees from two to one does not increase any workload and has the advantage of making savings on the subsistence fee paid to one of the current Chairs. The current allowance for a Licensing Sub-Committee Chair is £4,443.

4 THE REPORT

- 4.1 Previously the Council had one Licensing (Regulatory) Sub-Committee to determine all objected to or contentious licence applications. The authority to grant all other applications had been delegated to officers. With the introduction of the Licensing Act 2003 the volume of applications coming before the committee increased significantly and, as required by the Act, a separate committee was set up to determine applications solely made under that Act. With the introduction of the Gambling Act 2005 the sub-committees Terms of Reference were amended to include applications under this Act as the process for considering applications is very similar to the Licensing Act. This then left the Council with the main Licensing Committee and two sub-committees, the Licensing (Gambling and Licensing) Sub-Committee and the Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee. The structure and responsibilities of all of these committees are contained in the Council's Terms of Reference a copy of which is provided in Annex A.
- 4.2 A review of the number of committee hearings held by the Council has been carried out as part of an efficiency drive and it has been identified that there has been a significant reduction in the number of reports going before the Licensing (Gambling and Licensing) Sub-Committee. In 2012 there were eight committee hearings with 10 reports going before the committee. All of these reports relate to premises licensed under the Licensing Act and, to date, there have not been any reports to the sub-committee with reference to licences under the Gambling Act.
- 4.3 A review of the number of meetings of the Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee showed that in 2012 there were nine meetings of the committee where they considered 23 reports.
- 4.4 The current arrangement for the committees is that the Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee is programmed to meet on the first Tuesday of the month and the Licensing (Gambling and Licensing) Sub-Committee meets on an ad hoc basis depending on the time an application under the Licensing Act or Gambling Act was received. The time frame for these hearings is laid down in statute.
- 4.5 The proposal is that the two sub-committees are combined to create one "Regulatory" sub-committee and this committee takes on all the responsibilities of both the existing sub-committees. The committee would still be programmed to meet on a regular scheduled day (currently Tuesday) and would also retain the flexibility to meet, as and when required, to determine applications under the Licensing or Gambling Acts.
- 4.6 The advantages to the Council of making these changes is that it reduces the overall costs of operating the sub-committees by saving the subsistence allowance paid to the additional Chair. It also creates an environment where Members are more aware of the nature and extent of Licensing throughout the district allowing them to deal with matters in the round. Whilst it is anticipated that the meetings will be held on a scheduled day (currently a Tuesday) given the time frames laid down by statute within the Licensing Act 2003 applications there will necessarily need to be some flexibility.

- 4.7 It is also proposed that a programme is introduced to ensure that all Members on the Licensing Committee receive regular training on licensing issues and committee procedures so as to ensure consistency of approach. This training will be carried out by both Council officers and, where appropriate, external trainers.
- 4.8 A copy of the existing Terms of Reference for the Licensing Committee are provided in Annex A and a copy of the proposed Terms of Reference is provided in Annex B.

5 RISK MANAGEMENT

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
That the number of sub-committees operating on behalf of the Licensing Committee is reduced two to one.	If the proposed amendments and additions are made then there will be some additional workload on certain Members. There is the opportunity to reduce the cost to the Council of providing a committee service and there is the opportunity for Members to have a better overall picture of the licensing function	The Licensing Committee consists of 12 elected Members and the sub-committee can draw from this pool. Appropriate training will be provided to all Members on the Licensing Committee.

6 EQUALITIES

6.1 Equalities Impact Assessment

An Equalities Impact Assessment has been completed and the conclusions were that there are no adverse or negative impacts of opportunity for any equality target group or for any reasons.

7 CONSULTATION

- 7.1 This report has not been sent to the Trades Union because they would have no involvement in this application.

8 ISSUES TO CONSIDER IN REACHING THE DECISION

8.1 Human Rights Act and Other Legal Implications

Article 6 - That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal by law.

The number of sub-committee hearings held will remain the same and there will be no reduction in the hearing being held within a reasonable time.

9 ADVICE SOUGHT

- 9.1 The Council's Monitoring Officer (Council Solicitor) and Section 151 Officer (Strategic Director - Support Services) have had the opportunity to input to this report and have cleared it for publication.

Contact person	Andrew Jones, Environmental Monitoring & Licensing Manager, Telephone (01225) 477557
Background papers	Council's Terms of Reference.

LICENSING COMMITTEE

Status of the Committee

The Licensing Committee is a statutory committee of the Council appointed to perform the discharge of the local authority's licensing functions, except the approval of licensing policies, the setting up of a Committee and the resolution not to issue casino licences.

Licensing policies shall be the responsibility of the Cabinet Members for Neighbourhoods and Transportation except where there is a statutory requirement for Full Council to determine policies.

The setting up of a Licensing Committee shall be the responsibility of Full Council.

Membership of the Committee

The Committee shall comprise 12 elected members of the authority in the political group proportion (5 Cons: 5 Lib Dem: 1 Labour: 1 Independent), or such other proportion agreed by the Council from time to time.

The Monitoring Officer and Divisional Director (Legal and Democratic Services) shall be authorised, by the Council, to fill vacancies on this Committee in accordance with the nominations of the relevant political group which holds the nomination rights to the vacancy.

The Committee shall be chaired by a nominee of the Liberal Democrat Group.

The Council's objectives on Licensing

In exercising its functions the Committee will have regard to the Council's visions of:-

- Where everyone fulfils their potential
- With lively, active communities
- Unique places with beautiful surroundings

In addition, the Committee will have regard to the statutory licensing objectives under the Licensing Act 2003, i.e.

- the prevention of crime and disorder ;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

The Committee will also have regard to the statutory licensing objectives under the Gambling Act 2005, i.e.

- 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.

In addition the Committee will, where applicable, have regard to –

- (a) the Council's Statement of Licensing Policy, published under section 5 of the Licensing Act 2003;
- (b) the Council's Statement of Principles published under section 349 of the Gambling Act 2005;
- (c) any other policy determined by Council or Cabinet;
- (d) any Codes of Practice and Guidance issued from time to time by the Secretary of State;
- (e) the Council's Corporate Plan and improvement priorities insofar as these do not conflict with statutory requirements which take precedence.

Powers and Duties of the Committee

1. At the request of the Council, to review the Council's licensing policies at any time within the statutory period under the Licensing Act 2003 and Gambling Act 2005 and to make recommendations to the Council for change, after the prescribed consultation has been completed.
2. To carry out all of the Council's licensing functions as covered in the Licensing Act 2003 and the Gambling Act 2005, excluding the making of licensing policies, the setting up of a Licensing Committee and the resolution not to issue casino licences (these being functions of the Council).
3. To determine individual licence applications which fall outside Officer delegations, or which are referred by Officers for Member attention, in relation to the issue and renewal of all registrations, licences, permits, consents etc. in relation to the enactments listed below and all such other enactments as may fall within the remit of the Committee:

*Animal Boarding Establishments Act
1963*

Animal Welfare Act 2006

Breeding of Dogs Act 1973

Breeding of Dogs Act 1991

*Caravan Sites and Control of
Development Act 1960*

Charities Act 2006

Dangerous Wild Animals Act 1976

Environmental Protection Act 1990

Fireworks Act 2003

Food Act 1984

Food Safety Act 1990

Gambling Act 2005

*Local Government (Miscellaneous
Provisions) Act 1976*

*Local Government (Miscellaneous
Provisions) Act 1982*

*Performing Animals (Regulation) Act 1925
Pet Animals Act 1951*

Pet Animals 1951 (Amendment) Act 1983

Petroleum (Regulation) Acts 1928 & 1936

Poisons Act 1972

*Police Factories, etc. (Miscellaneous
Provisions) Act 1916*

*Public Health (Control of Disease) Act
1984*

Riding Establishments Act 1964

Game Act 1831
Guard Dogs Act 1975
Highways Act 1980 Part VIIA
House to House Collections Act 1939
Hypnotism Act 1952
Licensing Act 2003

Riding Establishments Act 1970
Scrap Metal Dealers Act 1964
Theatres Act 1968
Town Police Clauses Act 1847
Town Police Clauses Act 1889
Transport Act 1981
Vehicles (Crime) Act 2001
Violent Crime Reduction Act 2006
Zoo Licensing Act 1981

4. To determine appeals against decisions made by the Proper Officer under the Marriages and Civil Partnerships (Approved Premises) Regulations 2005.
5. To act on behalf of Council on matters relating to Designated Public Place Orders.¹
6. To establish one or more Sub-Committees and, subject to statutorily prescribed exceptions, to delegate any of its functions to such Sub Committee(s).
7. Subject to statutorily prescribed exceptions, to delegate any of its functions to an Officer of the authority

How the Committee will operate, including Substitution and Delegated Powers

The Committee will meet in full to consider any matters on which it is asked or required to submit a recommendation to the Council.

Substitutions will be permitted at meetings of the Licensing Committee from among other members of the Council, in accordance with non-Executive Committee Procedure Rule 11, as set out in the Constitution.

The Committee has appointed 2 Sub-Committees to act as hearing Panels as follows:

- Licensing (Gambling and Licensing) Sub-Committee [3 Members - 2 Liberal Democrat, 1 Conservative] – this Sub-Committee hears and determines all applications made under the Licensing Act 2003 and the Gambling Act 2005 relating to Premises Licences, Personal Licences and gaming and club machine permits;
- Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee [3 Members – 2 Conservative, 1 Liberal Democrat] - this Sub-Committee hears and determines all applications relating to licences for hackney carriage and private hire vehicles/drivers/operators, Street Trading Consents and all applications relating to licences, permits and or consents for any other functions not covered by the other Sub-Committee.

(Chairing nomination rights for both Sub-Committees are allocated to the Liberal Democrat Group).

¹ By resolution of Council 8th November 2012

The Committee has delegated to those Sub-Committees and Officers the power to determine applications in the circumstances set out in the tables below.

The Committee has approved a scheme for substitutions with regard to the Sub Committees. Substitutes will only be drawn from the membership of the Licensing Committee and the scheme allows for any member of the Licensing Committee to substitute at Sub-Committee meetings in accordance with the wishes of the political group arranging the substitution.

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING CTTEE	SUB COMMITTEE	OFFICERS
LICENSING ACT 2003				
Approval of Statement of Licensing Policy and review	All cases			
Application for Personal Licence			If a police objection is made	If no objection made
Application for Personal Licence, with unspent convictions			If a police objection is made	If no objection made
Application for Premises Licence/Club Premises Certificate			If a relevant representation is made	If no relevant representation is made
Application for Provisional Statement			If a relevant representation is made	If no relevant representation is made
Application to vary Premises Licence/Club Premises Certificate			If a relevant representation is made	If no relevant representation is made
Application to vary Designated Premises Supervisor			If a police objection is made	All other cases
Request to be removed as Designated Premises Supervisor				All cases
Application for transfer of Premises Licence			If a police objection is made	All other cases
Application for interim authorities			If a police objection is made	All other cases
Application to review Premises Licence/Club Premises Certificate			All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.				All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases	
Determination of a police objection to a Temporary Event Notice			All cases	
Determination of Minor Variation applications for premises licences and for club premises certificates				All cases
Determination of the removal of a Designated Premises Supervisor or Personal			If a relevant representation is made	All other cases

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING CTTEE	SUB COMMITTEE	OFFICERS
Licence Holder at community premises				
Applications for the classification of unclassified films			All cases	
GAMBLING ACT 2005				
Approval of three year Statement of Licensing Principles and review	X			
Resolution not to issue casino licences	X			
Fee Setting - when appropriate				X (to be approved by Cabinet Member)
Application for premises licences			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence			Where representations have been received and not withdrawn	Where no representations have been received/ representations have been withdrawn
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence			X	
Application for club gaming /club machine permits			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits			X	

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING CTTEE	SUB COMMITTEE	OFFICERS
Applications for other permits				X
Cancellation of licensed premises gaming machine permits				X
Consideration of temporary use notice				X
Decision to give a counter notice to a temporary use notice			X	
Consideration of an Occasional Use Notice				X
Designation of "authorised person".				X
Exchange of information between various persons/bodies listed in the Act				X
Decision to initiate criminal proceedings.				X
Power to make Orders disapplying exempt gaming and the automatic entitlement to gaming machines in relation to specified premises.				X
Functions relating to the registration and regulation of small society lotteries.				X
To appoint an Advisory Panel		X		
Stage 1 of an application for a casino licence			X	
Stage 2 of an application for a casino licence		X		
OTHER				
Determination of applications for hackney carriage/private hire drivers' licences where applicants are aged 70 or over with no medical problems				X
Determination of new applications for a Sex Establishment		X		

PROPOSED LICENSING COMMITTEE TERMS OF REFERENCE

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Town Police Clauses Act 1889
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Vehicles (Crime) Act 2001
Violent Crime Reduction Act
2006
Zoo Licensing Act 1981*

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The Committee has delegated to the Sub-Committee and Officers the power to determine applications in the circumstances set out in the tables below.

The Committee has appointed a Sub-Committee to act as hearing Panels as follows:

- Licensing (Regulatory) Sub-Committee [a minimum of 3 Members - 2 Liberal Democrat, 1 Conservative] – this Sub-Committee hears and determines all licence applications, not delegated to officers, listed in the Powers and Duties of the Committee section above

(Chairing nomination rights for the Sub-Committee are allocated to the Liberal Democrat Group).

The Committee has approved a scheme for substitutions with regard to the Sub Committee. Substitutes will only be drawn from the membership of the Licensing Committee and the scheme allows for any member of the Licensing Committee to substitute at Sub-Committee meetings in accordance with the wishes of the political group arranging the substitution.

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Application for Provisional Statement			If a relevant representation is made	If no relevant representation is made
Application to vary Premises Licence/Club Premises Certificate			If a relevant representation is made	If no relevant representation is made
Application to vary Designated Premises Supervisor			If a police objection is made	All other cases
Request to be removed as Designated Premises Supervisor				All cases
Application for transfer of Premises Licence			If a police objection is made	All other cases
Application for interim authorities			If a police objection is made	All other cases
Application to review Premises Licence/Club Premises Certificate			All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.				All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases	
Determination of a police objection to a Temporary Event Notice			All cases	
Determination of Minor Variation applications for premises licences and for club premises certificates				All cases

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING CTTEE	SUB COMMITTEE	OFFICERS
Determination of the removal of a Designated Premises Supervisor or Personal Licence Holder at community premises			If a relevant representation is made	All other cases
Applications for the classification of unclassified films			All cases	
GAMBLING ACT 2005				
Approval of three year Statement of Licensing Principles and review	X			
Resolution not to issue casino licences	X			
Fee Setting - when appropriate				X (to be approved by Cabinet Member)
Application for premises licences			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence			Where representations have been received and not withdrawn	Where no representations have been received/ representations have been withdrawn
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence			X	

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING CTTEE	SUB COMMITTEE	OFFICERS
Application for club gaming /club machine permits			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits			X	
Applications for other permits				X
Cancellation of licensed premises gaming machine permits				X
Consideration of temporary use notice				X
Decision to give a counter notice to a temporary use notice			X	
Consideration of an Occasional Use Notice				X
Designation of "authorised person".				X
Exchange of information between various persons/bodies listed in the Act				X
Decision to initiate criminal proceedings.				X
Power to make Orders disapplying exempt gaming and the automatic entitlement to gaming machines in relation to specified premises.				X
Functions relating to the registration and regulation of small society lotteries.				X
To appoint an Advisory Panel		X		
Stage 1 of an application for a casino licence			X	
Stage 2 of an application for a casino licence		X		

OTHER				
Determination of applications for hackney carriage/private hire drivers' licences where applicants are aged 70 or over with no medical problems				X
Determination of new applications for a Sex Establishment		X		
Determination of uncontested renewal applications for a Sex Establishment				X