

Meeting: Licensing and General Purposes Committee

Portfolio Area: Health and E-Government

Date: 17th January 2005

LICENSING ACT 2003 - COMMITTEE STRUCTURE

(DES)

NON-KEY DECISION

Author – Sara Baker Ext.No. 2904

Contributors – Ian Gourlay Ext.No. 2203, Paul Froggatt Ext.No. 2211

Lead Officer – Richard Evans Ext.No. 2271

Contact Officer – Richard Evans Ext.No. 2271

1 PURPOSE

To recommend to Council that a separate licensing committee be established as required by the Licensing Act 2003 and to agree terms of reference for the Committee.

2 RECOMMENDATIONS

To recommend to Council:

- 2.1 That a Licensing Committee of 13 Members be established, as required by the Licensing Act 2003, comprising the same membership and with the same Chair and Vice-Chair as the Licensing & General Purposes Committee.
- 2.2 That the terms of reference for the Licensing Committee, as detailed in Appendix 1 to this report, be agreed.
- 2.3 That a General Purposes Committee be established to deal with all other licensing and associated issues, comprising the same membership and with the same Chair and Vice-Chair as the Licensing Committee.
- 2.4 That the terms of reference for the General Purposes Committee, as detailed in Appendix 2 to this report, be agreed.
- 2.5 That as a consequence of 2.1 – 2.4 above, the existing Licensing & General Purposes Committee be disbanded.

3 BACKGROUND

- 3.1 The Licensing Act 2003 provides that each Licensing Authority must establish a Licensing Committee consisting of at least 10 and not more than 15 members of the authority. It was previously agreed by Members to establish a Licensing and General Purposes Committee of 13 Members.

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

- 4.1 In the light of recently issued guidance and because of the way the Licensing Act 2003 is worded, legal opinion suggests that it may not be lawful for the Committee to consider other licensing functions, such as taxi licensing, which have been previously been dealt with by the Licensing and General Purposes Committee. The only functions that may be discharged by a committee established under the Act are Licensing Act functions. The view is taken that when Parliament approved the Act, they had in mind the creation of a body that could, in many respects, be seen to stand apart from the Council.
- 4.2 In order to resolve this matter it is proposed that two separate committees be created - a Licensing Committee and a General Purposes Committee. They will each have their own terms of reference and procedures but the same membership. The Licensing Act Regulations will govern the Licensing Committee and the General Purposes Committee will be covered by the Council's normal constitutional rules.
- 4.3 The intention would be for the two committees to have the same Chair and Vice-Chair.
- 4.4 The proposed terms of reference for terms of reference for the Licensing Committee are attached as Appendix 1 and for the General Purposes Committee as Appendix 2.
- 4.5 The Legal Department, Committee Services, Environmental Health and the Licensing team have been consulted about these proposals.

5 IMPLICATIONS

None.

BACKGROUND DOCUMENTS

- Consultation on Draft Regulations and Order to be made under the Licensing Act 2003
- Licensing Act 2003

APPENDICES

- Appendix 1- terms of reference for Licensing Committee
- Appendix 2- terms of reference for General Purposes Committee

1. **Membership**
13
2. **Quorum**
3
3. **Reports to:**
The Council
4. **Delegations**
All matters within terms of reference.
5. **Terms of Reference**
 - 5.1 Responsibility for all matters under the Licensing Act 2003, and any subsequent associated legislation, relating to the discharge by a licensing authority of its licensing functions, (except the determination of its licensing policy with respect to its licensing functions and the publication of its licensing statement).

1. Membership

13

2. Quorum

4

3. Reports to:

- (i) The Council, where appropriate in respect of those functions set out at Table 2 (responsibility for Council functions) of Part 3 of the Constitution or as allocated in Table 1 (local choice functions) or in respect of those matters reserved to Council.
- (ii) The Executive in other cases.

4. Delegations

All matters within terms of reference.

5. Terms of Reference

5.1 Consideration of matters in accordance with the Council's policies in respect of the following:

- the grant, approval, review, refusal, revocation, renewal, transfer or variation of any licence, registration, certificate, consent, permit, approval or permission, except where such function falls within the terms of reference of another committee or where the matter has been delegated to officers of the Council.
- To consider and determine such applications for licences, registration, certificates and consents that the Head of Environmental Health Services feels necessary, owing to the nature of the application concerned.

5.2 The designation of public places where the consumption of alcohol is to be prohibited.

5.3 To consider and determine certain matters where a right of appeal exists against the decision of a Members body or an officer, including:

- Further reviews under the relevant Regulations by applicants for Housing Benefit and Council Tax Benefits.
- Appeals in relation to housing needs assessment.

These terms of reference shall exclude the hearing and determination of:-

- appeals by officers against dismissal or disciplinary action;
- grievances from Officers under the final state of the grievance procedure;

which shall be dealt with either in accordance with the terms of reference for the Appeals/Grievance Panel or in accordance with the delegations to Officers.

- 5.4 Insofar as they are not already referred to in these terms of reference, those relevant powers set out in Schedule 1 of the Local Authorities (Functions & Responsibilities) (England) Regulations as amended (See Table 2 of Part 3 of this Constitution) (subject to them being dealt with as appropriate by Officers under delegated powers).
- 5.5 Insofar as they are not already referred to in these terms of reference, those 'local choice' functions set out at Table 1 of Part 3 of this constitution.