

REPORT

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Cllr Brown : Cabinet Member for Environment & Transport

LICENSING ACT 2003 – LICENSING COMMITTEE

1. Report Summary.

1.1 To recommend to Council terms of reference for the Licensing Committee and its Sub - Committees.

1.2 To recommend that Council approves changes to the Constitution consequent upon the establishment of the Licensing Committee.

2. Background.

2.1 On 29th March 2004 Council resolved ["the Resolution"] further to the Cabinet recommendation from its meeting held on 3rd March 2004 that:

- A Licensing Committee of 15 members with 6 members being drawn from the City Area Committee and 3 each from the other Area Committees be established,
- Licensing applications be determined by 4 Sub – Committees as set out above of 3 members to be drawn from the membership of the Licensing Committee as and when a sub committee is needed. In exceptional circumstances applications from outside the sub – committee's area could be determined.
- It noted that a report dealing with the terms of reference of the Licensing Committee and the impact on other council committees would be presented once guidance on procedures had been issued and the timetable for the introduction of the new licensing regime was known.

2.2 The consequence of the Resolution is that 4 area sub-committees are required to determine matters reserved for Members.

2.2.1 Draft fees guidance was issued for consultation on 4th November. The Department for Culture Media and Sport estimates an average of 27 hearings per licensing authority during the first 9 months of the new regime meaning about 2 hearings every 3 weeks.

2.2.2 The draft guidance referred to in 2.3 below sets strict time limits both for the determination of applications and for hearings to take place.

2.2.3 There will inevitably be occasions when a sub-committee will have to be held at very short notice and with membership being area based it may prove impossible to form a sub-committee or a disproportionate burden will be placed on City Area Members where there are 6 to choose from.

2.2.4 Accordingly whilst membership of sub-committees can in line with the Resolution be drawn initially from the Members for the Area Committee to whose area the application relates if a workable local solution is to be achieved it is suggested that in the event that one or more of those Members is unavailable Members shall be drawn from outside that Area Committee's area.

2.3 Draft guidance on procedures was issued for consultation in September and a report was brought to Cabinet at its last meeting on 20th October. The draft guidance deals with matters such as proceedings at meetings, public access, publicity, agendas and records but all other procedural

matters have been left to each licensing authority to determine subject to the requirements of other legislation.

2.4 The new licensing regime is due to start taking effect from and including 7th February 2005 when licensing authorities will begin processing applications.

2.5 Under the Licensing Act the licensing authority is Council but most of the functions [other than the determination and publication of the local statement of licensing policy and the establishment of licensing committees] are delegated to licensing committees who can sub-delegate to sub-committees and officers.

2.6 The Council has issued a draft Licensing Policy for consultation. The consultation period has now expired. Appendix 5 of the Policy sets out the proposed scheme of delegation, which for ease of reference is set out in Schedule 1.

2.7 The proposed terms of reference and changes to the Constitution are intended to reflect the proposed scheme of delegation.

2 Proposed terms of reference for the Licensing Committee.

As set out in Schedule 2.

4. Proposed terms of reference for Licensing Sub - Committees.

As set out in Schedule 3.

5. Proposed changes to the Constitution.

As set out in Schedule 4.

6. Consultation Undertaken.

Consultation on the draft Licensing Policy has taken place via the council's website and other media.

7. Recommendations.

It is recommended to Council that:

7.1 Council reconsiders resolution [2] to Minute 84[D] of its meeting 29th March 2004 and resolve to rescind the second sentence " In exceptional circumstances applications from outside the sub-committee's geographical area could be determined" and resolve as follows:

" Membership shall be drawn initially from the members for the area committee to whose area an application relates. In the event that one or more of those members is unavailable members shall be drawn from outside that area committee's area."

7.2 the terms of reference for the Licensing Committee are as set out in Schedule 2.

7.3 the terms of reference for Licensing Sub – Committees are as set out in Schedule 3.

7.4 the Constitution is changed as set out in Schedule 4.

8. Background Papers.

- Consultation draft Regulations and Order issued by Department for Culture, Media and Sport
- Consultation draft Salisbury District Council's Licensing Policy

9. Implications.

- **Key decision** : no
- **Financial** : none arising from this report
- **Legal** : set out in report
- **Human Rights** : none arising from this report
- **Personnel** : none arising from this report
- **Community Safety** : none arising from this report
- **Environmental** : none arising from this report
- **Council's Core Values** : excellent service
- **Wards Affected** : all

**SCHEDULE 1
DELEGATION OF FUNCTIONS**

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	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	

SCHEDULE 2
TERMS OF REFERENCE FOR THE LICENSING COMMITTEE

1. All licensing functions of the council with regard to the Licensing Act 2003 including any statutory extension modification amendment or re- enactment and any regulations or orders made under it other than
 - The determination and publication of the council's local statement of licensing policy
 - The establishment of this or any other licensing committee.
2. To ensure that appropriate training is provided in time for new members to take up their appointments when the licensing committee starts work and appropriate refresher training for members as required.
3. To assist Council in its understanding of licensing issues generally and in connection with the determination and publication of the council's local statement of licensing policy from time to time.
4. To meet with licensing committees from the other districts in Wiltshire and where practicable with licensing committees from adjacent areas.
5. To ensure there is established adequate liaison between the council and the local Magistrates Court Committee and that each agency understands the other's role in licensing.
6. To establish a local forum and/or licensing business meetings to facilitate liaison and dissemination of views and information between the various agencies and the council and to work together in promoting the licensing objectives of the Licensing Act.
7. To adopt guidance documents drawn up from time to time by officers and to review them as required.
8. To authorise the institution or defence of any legal proceedings in relation to matters within the Committee's terms of reference.

SCHEDULE 3
TERMS OF REFERENCE FOR LICENSING SUB - COMMITTEES

All relevant matters reserved for Sub – Committee decision set out in the Scheme of Delegation.

SCHEDULE 4 CHANGES TO THE CONSTITUTION

PART 2 – ARTICLES OF THE CONSTITUTION

ARTICLE 4 – THE FULL COUNCIL

4.02 Functions of the Full Council

[r] the determination and publication of the local statement of licensing policy further to the Licensing Act 2003 or any statutory extension modification amendment re-enactment of it - **Added**

ARTICLE 13 – DECISION MAKING

13.07 Decision making by other committees and sub – committees established by the Council

Subject to Article 13.08 **and in respect of the Licensing Committee and its Sub – Committees subject to the requirements of any regulations or orders made under the Licensing Act 2003 or any statutory extension modification amendment or re-enactment of it** other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them - **Changed**

PART 3 – RESPONSIBILITY FOR FUNCTIONS

AREA COMMITTEES

1.1 Non general policy functions relating to Licensing – **Deleted**

1.12

- a. The City Area [Planning and Licensing] Committee – **Deleted**. The City Area [Planning] Committee - **Substituted**
All Licensing applications – **Deleted**

PLANNING AND REGULATORY PANEL

1.1

- [Have District Wide significance [development control matters and general licensing policy **other than that relating to the Licensing Act 2003 or any statutory extension modification amendment or re-enactment of it**] - **Changed**

LICENSING COMMITTEE - **Added**

Terms of reference [as set out in Schedule 2 of this report] – **Added**

LICENSING SUB – COMMITTEES – **Added**

Terms of reference [as set out in Schedule 3 of this Report] – **Added**

PART 4 – RULES OF PROCEDURE

8. QUORUM

The quorum of a meeting will be one quarter of the whole number of members provided at least 5 members are present for an Area Committee, Overview/Scrutiny Panel, Scrutiny Coordinating Committee, **Licensing Committee** and the Planning/Regulatory Panel and in respect of **Licensing Sub – Committees and Standards Committee** it is 3 **and in the case of the Standards Committee** including one of the two independent persons.....- **Changed**

PART 6 – OFFICER SCHEME OF DELEGATION

12. Head of Environmental Health

12.19

- Late night refreshment houses
- Private places of entertainment
- Public entertainments
- Sale of intoxicants
- **Deleted**

12.20 To deal with requests for observations to be made to the magistrates on applications for the transfer of licences to retail intoxicating liquors and betting shop licences – **Deleted**

12.21 After consultation with the appropriate ward Councillor[s] to deal with requests for observations to be made to the magistrates on new applications for betting shop licences or licences to retail intoxicating liquors where there are no objections - **Deleted**

12.53 To deal with all matters delegated to "Officers" under the Licensing Act 2003 and any regulations and orders made under it [in accordance with the scheme of delegation [as set out in Schedule I of this Report] - **Added**