

Committee: General Purposes Urgency Sub	Date: 25 October 2004	Title of Report: Establishment of Licensing Committee
Classification: For General Release		Report of : Director of Legal and Administrative Services
Wards involved:	All	
Policy context:	Management of the Council	
Financial Summary:	There are no financial implications arising from the proposals in this report	
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1. Summary of this Report

- 1.1 This report is submitted in view of the need to establish a new Licensing Committee/Sub-Committee structure in order to deal with the requirements of the Licensing Act 2003. Reports in respect of other procedural matters and the formal establishment of Sub-Committees will be submitted to the Licensing Committee in due course.

2. Recommendations

- 2.1 That the Council be recommended to establish a Licensing Committee of 15 Members (12 Majority Party Members and 3 Minority Party Members) with the terms of reference as set out in Appendix A.
- 2.2 That the Council's Standing Orders apply to proceedings and meetings of the Licensing Committee.
- 2.3 That the Council be recommended to adopt a new Standing Order, as set out in paragraph 3.8 of the report.
- 2.4 That the Council be recommended to amend the name of the existing Licensing Sub-Committees to the "Licensing (Entertainment and Night Cafes) Sub-Committee."

3. Background Information

- 3.1 The Licensing Act 2003 will be implemented in two stages. From the first appointed day to the second appointed day (known as the transitional period), premises will continue to operate under the existing licensing arrangements for sale of alcohol and public entertainment etc and applications for renewals under the existing arrangements will continue.
- 3.2 During the transitional period, which is due to commence on 7 February 2005 (the first appointed day), applications must be determined within two months of receipt otherwise they will be either deemed to be granted (in the case of applications to convert existing licences into new premises licences for the purposes of the new regime) or refused (in the case of applications to vary the terms and conditions of existing licences). This requirement means that there will need to be very frequent meetings of the new Licensing Sub-Committees.
- 3.3 The membership of the new Licensing Committee must, as a matter of law, be between 10-15 Members of the Council and its membership may only be appointed by the full Council. This applies also to any changes to the membership. In view of the expected heavy workload and frequency of meetings it will be important to have the maximum number of Members, but this will be the subject of a further detailed report to the Licensing Committee. Therefore, it is proposed that a Licensing Committee of 15 Members be established, with a proportional split of 12 Majority Party Members and 3 Minority Party Members. The rules relating to proportionality, namely the Local Government (Committees and Political Groups) Regulations 1990, do not apply to a Licensing Committee established under the 2003 Act, or to its Sub-Committees, but nevertheless a proportional split is recommended.
- 3.4 Once established, the Licensing Committee will need to meet to establish its Sub-Committees. The Licensing Committee will be recommended to establish five Sub-Committees, each with three Members. Members on the Licensing Sub-Committee can only be drawn from the membership of the Licensing Committee. The membership of the Sub-Committees can be varied provided the Members are drawn from the membership of the Licensing Committee. It is suggested that the Licensing Committee, when setting up the Sub-Committees, delegate the appointment of Members to the Licensing Sub-Committees to the Director of Legal and Administrative Services in consultation with the Chief Whip. As previously stated, the rules relating to proportionality do not apply. A programme of meetings will be drawn up and Members canvassed for their availability with the formal appointments being made by the Director of Legal and Administrative Services under delegated authority. This is similar to the current procedure.
- 3.5 The Licensing Committee has, under the provisions of Section 9 of the Licensing Act 2003, not only the power to establish Sub-Committees, but subject to regulations regulate its own procedure and that of its Sub-Committees. Regulations, currently in draft, will impact on these procedures. A separate report will be submitted to the Licensing Committee on these matters together with a proposed training programme for Members and also the schedule of delegations of functions to Officers. The draft regulations which are

currently the subject of consultation do contain detailed provisions concerning proceedings at Licensing Sub-Committees, but they are silent with respect to the conduct of business at the Licensing Committee itself.

- 3.6 The workload of the 15 Members of the Licensing Committee Members will be significant, especially in Westminster, which is the largest licensing authority in the country. There seems no sensible reason why membership of the Committee should be so limited, although the limit is imposed by primary legislation. Accordingly, an application has been made to the Office of the Deputy Prime Minister, under Section 16 of the Local Government Act 2000, for an exemption to the requirement for a maximum of 15 Members only. Section 16 allows the ODPM to relax any requirement contained in legislation where it is necessary to do so to enable a best value authority to carry out its functions economically efficiently and expeditiously.
- 3.7 The Licensing Act 2003 disapplies the legislation which applies to ordinary Committees of the Council so far as the new Licensing Committee is concerned. Accordingly at present that there would be no formal legal rights of access to Committee papers or meetings. In order to avoid confusion it is proposed to apply the Council's existing Standing Orders to meetings of the Licensing Committee and its Urgency Sub-Committee. Insofar as meetings of the Licensing Sub-Committees are concerned these matters will be addressed in the further report to be prepared to the Licensing Committee.
- 3.8 From time to time it may be necessary to obtain a decision by the Licensing Committee urgently. It is proposed to add provision for this, along similar lines to those already in place for the General Purposes Committee. The Committee is therefore being recommended to ask the Council to adopt the following revised Standing Orders 40 (3) and (5).
- “(3) A meeting of the Cabinet Urgency Committee or the General Purposes **or Licensing** Urgency Sub-Committees shall be empowered to decide any matter within the terms of reference of the Cabinet or the General Purposes **or Licensing** Committees or any of its Sub-Committees which has been referred to it for decision by the Chief Executive or any Chief Officer provided that the Urgency Committee or Urgency Sub-Committee is satisfied that the matter cannot wait until the next ordinary meeting of the Cabinet or General Purposes Committee **or Licensing Committee**.
- (5) Where the Chief Executive or any Chief Officer is of the opinion that a matter which is within the terms of reference of the General Purposes Committee **or the Licensing Urgency Sub-Committee** or the Cabinet but does not require a meeting of either the General Purposes Urgency Sub-Committee, **the Licensing Committee** or the Urgency Committee of the Cabinet he may send a written report to the members of the Urgency Committee/Sub-Committee, and any Ward Members who would otherwise have been consulted in accordance with the Code of Governance, and make a decision on that matter provided that:

- (a) subject to (b) below, no matter shall be decided by a Chief Officer pursuant to this Standing Order until the expiration of four clear days from the report being sent and provided further that any written representation received before a decision is taken in accordance with this Standing Order must be considered by the relevant Chief Officer before exercising these powers;
- (b) in the case of a matter which the Chief Officer considers to be exceptionally urgent he may take a decision before the expiration of four clear days provided he has advised the Members to be consulted of his intention to do so. When taking a key decision under these powers Chief Officers shall also comply with the provisions of Regulations 9(1) and 16 of the Local Authority (Executive Arrangements) (Access to Information) (England) Regulations 2000;
- (c) in the case of a report submitted in the names of more than one Officer the first named Chief Officer shall exercise these powers unless the matter has been referred to the Chief Executive by any Chief Officer or has been called in by the Chief Executive for decision in which case the matter shall be determined by the Chief Executive."

3.9 During the transition period the existing licensing requirements will continue to be the responsibility of the Cabinet Member (in the case of executive decisions) or otherwise (in particular public entertainment/night café, sex establishments as well as street trading applications) the existing Licensing (Major Applications Committee and its Sub-Committees. It is intended that these should continue concurrently with the new arrangements, although this will be reviewed by Officers from time to time to ensure the best use of resources is being made. In order to identify these matters separately from transitional matters a change of Committee/Sub-Committee name is recommended (see para 2.4). At the end of the transitional period the Committee arrangements for street trading matters and other licensing matters will need to be reviewed. A report will be made on this to a General Purposes Committee in due course.

4. Legal Implications

4.1 These are set out in the body of the report.

4.2 The Licensing Act provides that the Secretary of State may make regulations, in respect of:

- (a) The proceedings of Licensing committees and their Sub-Committees (including provision about the validity of proceedings and the quorum for meetings).
- (b) Public access to the meetings of those Committees and Sub-Committees.
- (c) The publicity to be given to those meetings.

- (d) The Agendas and records to be produced in respect of those meetings, and
- (e) Public access to such agendas and records and other information about those meetings.

4.2 Subject to such regulations, each Licensing Committee may regulate its own procedure and that of its Sub-Committee.

4.4 These regulations are currently in the course of consultation and the requirements of the regulations once formally made are reflected in rules of procedure to be submitted to the Licensing Committee in due course.

5. Financial Implications

5.1 The cost implications of the additional Sub-Committee meetings has been included in the growth requirement for the implementation of the Licensing Act 2003.

If you have any questions about this report, or wish to inspect one of the background papers, please contact Mick Steward

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 BACKGROUND PAPERS.

The documents referred to in compiling this report are as follows:

None.