

LICENSING ACT 2003 - CHANGES REQUIRED TO THE COUNCIL'S CONSTITUTION

1 SUMMARY

- 1.1 This report sets out the changes required to the Council's Constitution to facilitate the discharge of the Council's functions under the Licensing Act 2003.

2 DISCUSSION

- 2.1 The Appeals and Licensing Committee needs to consider and recommend appropriate changes to the Council's Constitution so that the Authority can exercise its hearings function in accordance with the Licensing Act 2003.
- 2.2 At its meeting on 31 August the Committee agreed that, given the likely workload and the requirement under the Licensing Act 2003 that Sub-Committees of three Members determine licensing appeals, it would be appropriate for the Appeals and Licensing Committee to comprise 15 Members. The Committee also agreed that an additional nine Members should be appointed on a pro-rata basis (initially for training purposes).
- 2.3 During discussion on 31 August, Members observed that there may be merit in considering the retention of the current Committee membership for the purpose of hearing non-Licensing Act 2003 appeals. Based on an interpretation of the legislation, together with the latest guidance from the Department for Culture, Media and Sport, officers have concluded that it would be right for the Council to have two distinct Committees - one that deals with the discharge of the Council's functions under the Licensing Act 2003 (the Licensing Committee), and another that deals with any other appeals that may arise (the Appeals Committee). The terms of reference/scheme of delegation for both Committees as they would appear in the Constitution are set out at Appendix 1 of this report.
- 2.4 In terms of Sub-Committee arrangements for the Licensing Committee, it is suggested that it would be appropriate to delegate authority to officers, in consultation with the Chairman of the Licensing Committee, to appoint three Members to serve on a Licensing Sub-Committee. The need to ensure that at least three Members are present at a hearing points to there being merit in the identification of a reserve Member who can be called on should one of the three appointees be unavoidably detained.

2.5 Against the need to be able to facilitate a high number of potential appeals, it is suggested that there would be merit in identifying set days when hearings could be heard for the remaining part of the 2004/05 Municipal Year and the 2005/06 Municipal Year. Known calendar commitments, together with the value of maximising likely Member availability, points to it being practicable to identify daytime on Tuesdays (am and pm) for this purpose.

2.6 The third paragraph on page 1.2 of the Constitution would need rewording to reflect the revised Committee arrangements. Item (g) on page 3.1 of the Constitution would need to include the Licensing Policy Statement, to indicate that licensing policy would be set by Full Council.

3 RESOURCE IMPLICATIONS

3.1 There are no resource implications in this Municipal Year. The situation will be reviewed next year.

4 RECOMMENDATION

4.1 It is proposed that the Committee **RECOMMENDS** to Council:-

- (1) That the current Appeals and Licensing Committee be replaced with two Committees - a Licensing Committee and an Appeals Committee. The terms of reference of these Committees to be included in the Constitution on the basis set out at Appendix 1 of this report and membership for the remainder of the Municipal Year to be as follows:-

Appeals Committee

Chairman:
Councillor Mrs B J Wilkins

Vice-Chairman:
Councillor G A Mockford

Councillors:
K A Gibbs, K H Hudson, T Livings,
R A Oatham

Licensing Committee

Chairman:
Councillor Mrs B J Wilkins

Vice-Chairman:
Councillor G A Mockford

Councillors:
Mrs R Brown, T G Cutmore,
K A Gibbs, Mrs H L A Glynn,
Mrs S A Harper, K H Hudson,
A J Humphries, T Livings,
C J Lumley, R A Oatham,
D G Stansby, Mrs M A Starke,
M G B Starke

- (2) That the words 'and an Appeals and Licensing Committee' in the final line of the third paragraph on page 1.2 of the Constitution be replaced with 'a Licensing Committee and an Appeals Committee' and the words

'Licensing Policy Statement' be included in item (g) on page 3.1 of the Constitution.

- (3) That the timetable of meetings for the period March to April 2005 be adjusted to include provision for daytime licensing hearings on Tuesdays (am and pm). The draft timetable for the 2005/06 Municipal Year to also include such provision. (HAMS)

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Background Papers:-

None

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