

Licensing Sub-Committee proposed procedural changes

Portfolio:	Community
Ward(s) Affected:	n/a

Purpose

To advise the Committee of proposed minor changes to the administration of Licensing Sub-Committees in accordance with best practice.

Background

1. The Legal and Licensing team have produced a members' handbook for Licensing Sub-committees which contains details of legislation, advice and statutory guidance and a walk-through of the committee process to assist new members. As a result of that training session, two further issues were identified, (i) the status of reserve members and (ii) the physical layout of the location for the Sub-Committee meeting. Proposals to address these two issues are contained within this report.

Current Position

2. **Members Handbook**

The handbook contains nine active sections, being:

Introduction and Contents

Section 1 - SHBC Statement of Licensing Policy

Section 2 - Guidance on conducting hearings and on decision making process

Section 3 - Hearing procedure and Draft Decision notice

Section 4 - Application notes sheet

Section 5 - Hearing Procedure for Review applications and Draft Decision

Section 6 - Pool of Conditions

Section 7 - Guidance documents

Section 8 - Members notes section

Section 9 - Licensing Act 2003 section 182 guidance

Section 1 reproduces the current Statement of Licensing Policy (2011 to 2014) for the Council.

Section 2 reproduces guidance to all local authorities from the Local Authority Co-ordinators of Regulatory Services (LACoRS). The guidance was last updated January 2010.

Sections 3 & 5 (Annexes A & B) provide a walk-through of the Hearing procedure for new or variation applications and for review applications. The documents are written to assist all members on the procedure for a Licensing Sub-Committee. The procedure can be followed as a script but can also be used as an aide memoire or as general guidance. Both sections are fronted by a checklist detailing the principal stages of the procedure for use by more experienced members.

Section 4 provides members with a pro forma Application note and evaluation sheet to support members in their initial reading of the agenda before the meeting and to assist them in reaching their decisions.

Section 6 contains a pool of conditions which may be amended and attached as part of the Committee decision.

Section 7 contains general guidance documents including definitions of the main terminology used, Licensing Act 2003 guidance regarding the timetable required for hearings, a list of frequently asked questions produced by LACoRS and advice notes relating to noise, licensing and smoke-free issues, public disorder and neighbours reproduced from various sources. These documents are relevant to one or more of the licensing objectives.

Section 8 provides a filing place for members own notes.

Section 9 provides Licensing Act 2003 Section 182 guidance (this has been circulated to members separately and it is anticipated that new guidance will be issued next year).

3. Reserve Members

Reserve members are required to attend Licensing Sub Committees to provide cover should one of the existing members either be unable to attend or find that they have an interest in the matter which precludes them from continuing to take part. It is recommended that reserve members remain throughout the whole of the proceedings as it is possible that a sitting member may identify an interest as a result of evidence presented throughout the proceedings. Reserve members must sit separately from all other parties to the Sub-Committee meeting.

4. Layout of Licensing Sub Committee Hearings

Legal Officers of the Council recently attended a training session run by the Institute of Licensing and 5 Essex Court (a leading Chambers specialising in licensing law).

As part of the training, the barrister referred to the Licensing Act 2003 (Hearings) Regulations 2005:

Section 23 – A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider representations, application or notice as the case may require.

The barrister commented that the hearing should take the “form of a discussion”. It may be helpful to consider the layout of the room to facilitate this. If the furniture is sufficiently flexible it may be appropriate to arrange all persons around a triangle. Hearings that take place in large Council Chambers where the councillors sit on a raised platform may not be conducive to the atmosphere of having a “discussion”.

Members are asked to consider whether they wish to make any changes to the current layout of Licensing Sub-Committee Hearings.

Options

5.

- (i). Members can decide to agree to use the members' handbook, agree with amendments, or reject it.
- (ii). The Committee can decide to require reserve members to remain for the full hearing or not.
- (iii). The Committee can decide to change the seating arrangements for the Sub-Committee hearings or leave the arrangements in their current form.

Proposals

6. It is proposed that, subject to the Committee's view,

- (i) The Members Handbook be adopted for use by members and that a copy be made available to each member for use at Sub-Committee hearings and that the handbook be regularly updated by the Legal and Licensing team.
- (ii) Reserve members be required to remain for the whole of the Sub-Committee hearing.
- (iii) Any changes proposed by the Committee to the layout of Sub-Committee hearings be implemented.

7. This agenda item has been previously reviewed by the Constitution Review Working Group and any comments arising from that meeting will form the basis of an oral report to this meeting.

Resource Indications

8. There are no resource indications for the Council.

Recommendation

9. The Committee is advised to comment and note (i) the use of the handbook for use by members of the Licensing Sub-Committee; (ii) the requirement for reserve members to attend the complete meeting when asked to act as reserve; and (iii) such changes to the layout of the Sub-Committee meeting room be made if necessary as required, on a case by case basis having regard to legal advice.

Background Papers: None

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