

Sandwell Metropolitan Borough Council

Licensing Committee

23rd May 2008

Establishment of Licensing Panels

1. Summary Statement

- 1.1 Under the provisions of the Licensing Act 2003, the Licensing Committee may establish one or more Licensing Sub-Committees (referred to by the Council as Panels) to assist in the discharge of the licensing functions under the Licensing Act, 2003. Further such functions of the Gambling Act, 2005 may be discharged by those Panels. The Committee is invited to establish Licensing Panels for the municipal year 2008/2009.
- 1.2 During 2007/2008, 3 Licensing Panels were established, with the membership drawn from the 15 members of the Licensing Committee. The Licensing Act 2003 specifies that each Sub-Committee (Panel) shall consist of 3 members of the Licensing Committee. However, in order to allow for illness, for example, or for instances where a member considers it would be inappropriate for him or her to proceed to hear a case, it has been the practice to ensure that 4 members are available to serve on each occasion, and the Head of Governance Services is authorised to determine, in consultation with the Chair of the Panel, which members shall constitute the Panel on that day. The fourth member remains at the meeting as an observer and can stand in if necessary to ensure that there is a quorum if any member needs to withdraw because of an interest in a particular application that they were not previously aware of.
- 1.3 Since it is important to ensure that there will always be sufficient members present at a Licensing Panel meeting, it is also recommended that, as in 2007/08, the members of the Licensing Committee who are not appointed as a member of a particular Panel be appointed as reserve members of the Panels, and that authority be given to the Head of Governance Services to call them to meetings as necessary to replace members who are not available to attend.

Further details are attached for your information

2. **Recommendations**

- 2.1 That three Licensing Panels be established, each comprising three members of the Licensing Committee;
- 2.2 That the Licensing Committee appoint members to act as Chair of each of the three Panels;
- 2.3 That the Licensing Committee appoint a pool of three members, in addition to the Chair, who will be available to sit on each Panel, and that the Head of Governance Services be authorised to determine, in consultation with the Chair of the Panel, which members will constitute the Panel of three members to hear applications on any particular occasion;
- 2.4 That those members of the Licensing Committee who are not named members of a Licensing Panel be appointed as reserve members to replace any named member on a Panel as necessary and that authority be delegated to the Head of Governance Services to call those reserve members to meetings of a Panel as necessary.

S Phelps
Head of Governance Services

Neeraj Sharma
Head of Legal Services

Contact Officers

Lorna Campbell
Democratic Services Officer
0121 569 3261

Stewart Wright
Group Manager and Solicitor
0121 569 3267

Establishment of Licensing Panels

3. **Strategic Resource Implications**

- 3.1 The costs arising from the administration and servicing of the Licensing Panels will be met from existing budgets.

4. **Legal and Statutory Implications**

- 4.1 Section 3 of the Licensing Act 2003 provides that the Council is a Licensing Authority and as such the Council must carry out its functions under the Licensing Act, 2003.
- 4.2 Under Section 6 of the Licensing Act, 2003 each Licensing Authority must establish a licensing committee consisting of at least ten, but not more than fifteen members of the authority.
- 4.3 Section 9 of the Licensing Act, 2003 states that a licensing committee may establish one or more sub-committees consisting of three members of the committee, and Section 10 provides that the committee may arrange for the discharge of any functions exercisable by it by a sub-committee established by it, or an officer of the licensing authority.
- 4.4 Section 2 of the Gambling Act 2005 further states that the Council is a licensing authority. The Gambling Act 2005 places a duty on the Council to undertake the licensing functions specified in the Act.
- 4.5 Section 154 of the Gambling Act 2005 provides that all decisions, subject to exceptions, relating to premises licences are delegated to the licensing committee of the authority that has been established under Section 6 of the Licensing Act, 2003.
- 4.6 Section 154(3) of the Gambling Act, 2005 states that Section 10 of the Licensing Act 2003 shall apply in relation to a function delegated to a licensing committee as they apply in relation to a function delegated under that Act.
- 4.7 The 2003 Act and the 2005 Act allow the Licensing Committee to arrange for the discharge of any of its functions by a Sub-Committee or by an Officer of the Licensing Authority. Arrangements may provide for more than one sub-committee or officer to discharge the same functions concurrently.
- 4.8 The Licensing Committee has already delegated the majority of its licensing functions to the Licensing Panels and/or officers.
- 4.9 The Licensing Committee reviews the membership of the Panels each year following the appointment of members to the Licensing Committee at the Annual Council meeting.

5. **Implications for the Council's Corporate Priorities**

5.1 The Licensing Act 2003 has four licensing objectives which are highly pertinent to the Council's corporate priorities, these being:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance;
- (d) the protection of children from harm.

5.2 Similarly, the Gambling Act 2005 has three licensing objectives, as follows:

- (a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- (b) Ensuring that gambling is conducted in a fair and open way;
- (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

5.3 The proposals contained within the report have implications on the following corporate priorities:-

- (i) Safer, Cleaner, Active Communities - The licensing function under the 2003 Act and the 2005 Act relating to activities associated with gambling, public entertainment and alcohol is key to partnership working with "responsible Authorities" such as the police, fire, child protection, planning, and other agencies dealing with issues of safety, crime or disorder, anti-social behaviour, protecting the young and vulnerable in the community. Whilst the legislation and duties relate to the whole of Sandwell, members of all local communities will benefit from the additional controls that these Acts will place on gambling activities and entertainment activities associated with premises in the community.
- (ii) Every Child Matters - Support for vulnerable children as there is always the potential for children to gain access to inappropriate public entertainment, and for under-age sales from premises targeted by the Licensing Act 2003. The licensing function and associated test purchasing regarding under-age sales will strengthen the existing protection. The provisions of the Gambling Act 2005 will provide similar protection in respect of gambling for this vulnerable group.

5.3 The licensing function already feeds into the Crime and Disorder Action Plan, Anti-Social Behaviour Plan, and Violent Crime / Alcohol Group action plan, but will have a greater role to play as the new legislation is enacted.

6. **Background Details**

6.1 The Committee has been asked to appoint members to act as Chairs of the three Licensing Panels. In 2007/08 the Panels were chaired by the Chair of the Licensing Committee (Panels 2) and the Vice Chair of the Licensing Committee (Panel 1 & 3). In the event of the Chair of the Licensing Panel needing to withdraw because of an interest in a particular application, the observer member would replace the Chair as a substantive member for that item, and those three members would elect a Chair for that particular item on the agenda.

Source Documents

Licensing Act 2003
Gambling Act 2005