

Licensing Committee and Licensing Panel Annual Report 2010/11

Foreword – Chair of the Licensing Committee

My role involves chairing, leading and co-ordinating the activities of the Licensing Committee. The Committee seeks to add value to the Council by ensuring the effective and efficient discharge of the Licensing functions and by assisting the Executive with the development of any policies and procedures.

Amongst other things this involves ensuring that:-

- i) Licensing functions are undertaken in a positive, constructive and non-partisan manner which enhances the reputation of the Council;
- ii) that performance is monitored;
- iii) that functions are carried out within budget and that the regulatory processes which underpin the Committee's work are promoted.

The Licensing Committee is responsible for exercising the powers and duties of the Council with regard to licensing matters under relevant legislation conferring powers and duties relating to the same upon the Council.

The Licensing Committee is also authorised, to appoint such sub-committees as it considers necessary to discharge powers and duties specified by the Committee. Four sub-committees, or Licensing Panels, have supported the work of the main Licensing Committee primarily in order to deal with issues related to the Licensing Act 2003 and the Gambling Act 2005.

Councillor Peter Allen
Chairman – Licensing Committee

The Licensing Committee

Each year Council establishes the Licensing Committee to

- i) deal with all matters relating to the discharge of the functions of the Licensing Authority under the Licensing Act 2003 and any regulations made under that Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 5 of the Licensing Act 2003 (Statement of Licensing Policy) and any function discharged under Section 7(5)(a) of that Act by a committee other than the Licensing Committee;
- ii) deal with all matters relating to the discharge of the functions of the Licensing Authority under the Gambling Act 2005 and any regulations made under the 2005 Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 166 of the 2005 Act (Casino Resolution) and Section 349 of the 2005 Act (Statement of Principles).

The full terms of reference for the Licensing Committee are attached at Appendix 1.

Membership

During the 2010/11 Municipal Year the following members were appointed to the Licensing Committee:-

Councillors Allen, Downing (Vice Chair), Edis, Grainger, R Horton, A Hughes, B Price, Rouf (Chair), Silvester, Tagger and Tranter.

Meeting Schedule

During 2010/11 the Licensing Committee met on the following occasions:-

- i) 21 May, 2010;
- ii) 27 August, 2010;
- iii) 25 October, 2010.

At its meeting on 21 May the Committee met to establish four Licensing Panels which predominantly meet to determine applications under the Licensing Act 2003 and the Gambling Act

2005. Further detail on the work of the Licensing Panels is set out below.

Members considered the Home Office consultation on Re-balancing the Licensing Act at the Licensing Committee on 27 August and provided a response accordingly. Further details on the implications of changes to the Licensing Act are set out below.

A review of the Authority's statement of Licensing Principles was required in 2010 and so at its meeting on 25 October the Licensing Committee considered the revised version of this document prior to its adoption by Council.

Licensing Panels

The Licensing Committee establishes four Licensing Panels to exercise its functions under the Licensing Act 2003 and Gambling Act 2005 and any regulations made under these Acts. The terms of reference for Licensing Panels can be found at Appendix 2. Essentially Licensing Panels deal with the following applications under the Licensing Act 2003:-

Application for personal licence.	If a police objection has been made.
Application for personal licence with unspent convictions.	All cases.
Application for premises licence / club premises certificate.	If a relevant representation is made.
Application for provisional statement.	If a relevant representation is made.
Application to vary premises licence / club premises certificate.	If a relevant representation is made.
Application to vary designated premises supervisor.	If a police objection has been made.
Application for transfer of premises licence.	If a police objection has been made.
Applications for interim authorities.	If a police objection has been made.

Application to review premises licence / club premises certificate.	All cases.
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Under the Gambling Act 2005 the following types of application are considered:-

Application for premises licence.	If a relevant representation is made
Application for a variation to a licence.	If a relevant representation is made
Application for a transfer of a licence.	If a relevant representation is made
Application for provisional statement.	If a relevant representation is made
Application for club gaming/club machine permits.	If a relevant representation is made
Cancellation of club gaming/club machine permits.	
Review of premises licence.	
Decision to give a counter notice to a temporary use notice.	

Membership

Panel 1

Councillor Rouf (Chair);
Councillors P Davies and R Horton.

Panel 2

Councillor Rouf (Chair);
Councillors B Price and Silvester.

Panel 3

Councillor Rouf (Chair);
Councillors A Hughes and Tranter.

Panel 4

Councillor Downing (Chair);
Councillors Allen and Tagger.

Meeting Schedule

Given the specific time frame in which applications under both the Licensing Act 2003 and the Gambling Act 2005 have to be considered meetings of Licensing Panels are not specified in the Council Yearbook but are convened as necessary during the year.

In 2010/11 there were 28 meetings of the Licensing Panels which covered over 60 hours in actual meeting time and considered 45 applications. The Panels met on the following dates:-

Panel 1	Panel 2	Panel 3	Panel 4
10 June 2010	27 May 2010	4 June 2010	11 November 2010
20 July 2010	14 June 2010	12 July 2010	12 January 2011
20 August 2010	5 August 2010	4 April 2011	14 February 2011
1 November 2010	23 August 2010	12 May 2011	8 March 2011
7 December 2010	27 September 2010		15 April 2011
12 January 2011	14 October 2010		
7 February 2011	13 December 2010		
12 April 2011	17 March 2010		
	18 April 2011		
	26 April 2011		
	12 May 2011		
	17 May 2011		

Applications considered

Detailed in the table below is a breakdown of the type of applications considered by the Panels, under the Licensing Act 2003, together with further information on the responsible authority requesting the review:-

Reviews

Police	1
Police closure	0
Police summary first review	2
Police summary full review	2
Trading Standards	27
Environmental Health	2
Interested party	2
Total Reviews	36

Reason for review

protect children from harm	26
public nuisance	3
serious crime or disorder	5
crime disorder/public safety/protect children	1
public nuisance/crime disorder	1
TOTAL	36

Other Hearings

Grant application	5
Variation application	2
Police objection to a Temporary Event Notice	2
Total other hearings	9
Total All Hearings	45

Appeals

Any decision of a Licensing Panel has the right of appeal in a Magistrates Court. During 2010/11 three appeals were lodged. One appeal was subsequently withdrawn and costs of £100 were awarded to Sandwell Metropolitan Borough Council, one was dismissed with costs of £1,000 being awarded to the Council.

The third appeal was upheld with the Council being ordered to pay £1,600 in costs.

The Future - Rebalancing the Licensing Act

In July 2010 the Home Office published “Rebalancing the Licensing Act - a consultation on empowering individuals, families and local communities to shape and determine local licensing”.

The Consultation, which ran for six weeks, laid out the Government’s plans to overhaul the current licensing regime.

SMBC submitted a formal response to this consultation and in particular supported the greater flexibility and powers suggested throughout the consultation document for licensing authorities to play their part in responding to alcohol related harm in the local area.

The Council particularly welcomed the introduction of a fifth licensing objective of preventing harm to the health of the public. Alcohol harms health directly, for example through alcohol related illness and disease, and indirectly with its links to violence. This fifth licensing objective would give licensing authorities more power to protect their communities from these harms.

Moves referred to in the consultation document to involve the local community to a greater extent the Council felt were very positive and would help give local people a say on licensing in their neighbourhood, and can help ensure a partnership approach between local people and licensing authorities.

The changes proposed to the use of cumulative impact policies it was felt would definitely go some way to helping to give licensing authorities greater powers to look at the local context and prevent certain areas having an unnecessary proliferation of licensed premises. This, alongside other changes such as the proposed

late night levy, would help licensing authorities to consider licensing applications in the wider strategic and geographical context. The local licensing authority should have the authority to look at how many outlets there are for the sale of alcohol in one area and be able to restrict the numbers. For example here in Sandwell we have 10 alcohol outlets within the town centre of Wednesbury all competing for custom and on price with one another. This situation is not unusual throughout the Borough. We need the authority to define and decide locally when we have saturation, and ideally the power to limit the granting of licenses before an area reaches saturation point.

A number of the proposals outlined in the Rebalancing the Licensing Act consultation have been taken forward in the Police Reform and Social Responsibility Act, which received royal assent on 15 September 2011.

Licensing Committee

The Licensing Committee shall:-

1. deal with all matters relating to the discharge of the functions of the Licensing Authority under the Licensing Act 2003 (referred to as “the 2003 Act”) and any regulations made under that Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 5 of the Licensing Act 2003 (Statement of Licensing Policy) and any function discharged under Section 7(5)(a) of that Act by a committee other than the Licensing Committee;
2. deal with all matters relating to the discharge of the functions of the Licensing Authority under the Gambling Act 2005 (referred to as the “2005 Act”) and any regulations made under the 2005 Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 166 of the 2005 Act (Casino Resolution) and Section 349 of the 2005 Act (Statement of Principles).
3. deal with the determination of fees as they relate to gambling as provided for by Section 212 of the 2005 Act and any regulations made there under, subject to consultation with the appropriate Cabinet Member on the budgetary implications.
4. regulate its own procedure and that of the Licensing Panels, subject to any relevant regulations which may be issued under the 2003 Act and the 2005 Act.

Appendix 2

Licensing Panel

The Licensing Panel shall:-

1. exercise those functions of the Licensing Committee under the Licensing Act 2003 and any regulations made under that Act, together with any related functions, with the exception of:-
 - a) any function conferred on the Licensing Authority by Section 5 of the Licensing Act 2003 (Statement of Licensing Policy);
 - b) any function discharged under Section 7(5)(a) of that Act by a committee other than the Licensing Committee;
 - c) any function specifically reserved to the Licensing Committee;
2. in particular, deal with the following matters in the circumstances indicated:-

Application for personal licence.	If a police objection has been made.
Application for personal licence with unspent convictions.	All cases.
Application for premises licence / club premises certificate.	If a relevant representation is made.
Application for provisional statement.	If a relevant representation is made.
Application to vary premises licence / club premises certificate.	If a relevant representation is made.
Application to vary designated premises supervisor.	If a police objection has been made.
Application for transfer of premises licence.	If a police objection has been made.
Applications for interim authorities.	If a police objection has been made.

Application to review premises licence / club premises certificate. 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.