

Licensing Committee

13 November 2018

Subject:	Establishment of Licensing Sub Committees
Director:	Director - Monitoring Officer - Surjit Tour
Contribution towards Vision 2030:	
Contact Officer(s):	Trisha Newton Trisha_newton@sandwell.gov.uk

DECISION RECOMMENDATIONS

That the Licensing Committee:

- 2.1 approve the revised membership of the three Sub Committees, as set out in appendix 1, to undertake those functions set out in the terms of reference, each comprising three members of the Licensing Committee when considering matters in relation to the Licensing Act 2003/Gambling Act 2005 and five/six members of the Licensing Committee when considering matters affecting applications for licences and licences previously granted under the terms of the Local Government (Miscellaneous Provisions) Act 1976.

1 PURPOSE OF THE REPORT

- 1.1 At its annual meeting on 22 May 2018, the Council appointed a statutory Licensing Committee which the Council also declared would also sit as the Council Committee to carry out other licensing functions. The Committee comprised 15 members, including one Chair and two Vice Chairs.
- 1.2 Under the provisions of the Licensing Act 2003, the Licensing Committee may establish one or more Licensing Sub Committees to assist in the discharge of the licensing functions under the Licensing Act, 2003. Further such functions of the Gambling Act, 2005 may also be discharged by those Sub Committees.

- 1.3 At its meeting on 1 June 2018, the Licensing Committee appointed members to the three Licensing Sub Committees (Minute No. 5/18 refers).
- 1.4 One of the Vice Chairs has resigned from the position and it is therefore recommended that the Committee confirms the membership of the three Sub Committees, pending the appointment of a second Vice Chair by Council.
- 1.5 For the interim period, Sub Committee 3 would consist of six members.

2 IMPLICATIONS FOR SANDWELL'S VISION

- 2.1 The Licensing Act 2003 has four licensing objectives which are highly pertinent to the Council's Scorecard 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.
- 2.2 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.
- 2.3 Trading Standards and Licensing is a member of the Sandwell Drug and Alcohol Policy group, which reports to the Safer Sandwell Partnership.

3 STRATEGIC RESOURCE IMPLICATIONS

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

4 LEGAL AND GOVERNANCE CONSIDERATIONS

- 4.1 In order for the same members to make all licensing decisions, the Council may appoint a statutory licensing committee and then declare that that committee may also sit as a Council committee to carry out other licensing functions.
- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 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.
- 4.6 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.
- 4.7 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.
- 4.8 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.
- 4.9 Article 6 of the Human Rights Act 1998 state that in determination of a persons civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

- 4.10 Article 8 states that everyone has the right to respect for his private and family life, his home and his correspondence.
- 4.11 Part II, Article 1 of the Act states that every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles on international law.
- 4.12 The Licensing Committee will review the membership of the Sub Committees each year following the appointment of members to the Licensing Committee at the Annual Council meeting.
- 4.13 Parliament has given the Council various licensing functions but legislation does not always allow choice in how a Council may operate those functions, for example, Scrap Metal Dealers licensing regime is a matter for the Leader and Cabinet to operate and the Licensing Act 2003 requires the Council to establish a statutory licensing committee to undertake licensing functions, as set out in the Act. Otherwise, the Council has general discretion to create Council committees under the Local Government Act 1972 to make licensing related decisions.

5 EQUALITY IMPACT ASSESSMENT

- 5.1 There is no requirement for an equality impact assessment.

6 DATA PROTECTION IMPACT ASSESSMENT

- 6.1 There is no requirement for a data protection impact assessment.

7 CRIME AND DISORDER AND RISK ASSESSMENT

- 7.1 There is no requirement for a crime and disorder and risk assessment.

8 APPENDICES:

Proposed Sub Committees.
Terms of Reference.

Surjit Tour
Director – Monitoring Officer

Statutory Licensing Sub Committee (Chair + 2 members)

	Councillor Piper (Abbey)	Councillor Dr Crumpton (Old Warley)	Councillor Piper/Councillor Dr Crumpton (Abbey) (Old Warley)
A	Councillor P Davies (Hateley Heath) Councillor L Giles (Wednesbury North)	Councillor Lewis (Friar Park) Councillor Millard (Blackheath)	Councillor S Crumpton (Oldbury) Councillor S Davies (Langley)
B	Councillor Allen (Great Bridge) Councillor Downing (Oldbury)	Councillor Eaves (Rowley) Councillor Padda (Greets Green & Lyng)	Councillor K Davies (Smethwick) Councillor Tranter (Rowley) Councillor White (Cradley Heath & Old Hill)

Non-Statutory Licensing Sub Committee

Sub Committee 1

Councillor Piper
Councillor P Davies
Councillor L Giles
Councillor Allen
Councillor Downing

Sub Committee 2

Councillor Dr Crumpton
Councillor Lewis
Councillor Millard
Councillor Eaves
Councillor Padda

Sub Committee 3

Councillor Piper or Councillor Dr Crumpton
Councillor S Crumpton
Councillor S Davies
Councillor K Davies
Councillor Tranter
Councillor White

Licensing Sub Committee

Terms of Reference

Statutory Licensing Committee

- (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;

and 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 relevant convictions.	If a police objection is made
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.

Determination of interim steps pending summary review	All cases
Decision to give counter notice following police objection to temporary event notice	All cases
Review following review notice	If a police objection has been made.
Review following closure order	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 or environmental health objection to a temporary event notice.	All cases.
Review of provisional licence to consider revocation or suspension.	All cases.

- (2) Exercise those functions of the Licensing Committee under the Gambling Act 2005 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 166 of the Gambling Act 2005 (Casino Resolution);
 - b) any function conferred on the Licensing Authority by Section 212 of the Gambling Act 2005 (Fees);
 - c) any function conferred on the Licensing Authority by Section 349 of the Gambling Act 2005 (Statement of Principles);
 - d) any function specifically reserved to the Licensing Committee;

and in particular, deal with the following matters in the circumstances indicated:-

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
Application for licensed premises gaming 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.	

Section 101 of the Local Government Act 1972

- (3) Functions relating to the licensing of private hire and hackney carriage licenses, with the exception of any review and recommendations to the Cabinet on the guidance for use in connection with applications for private hire and hackney carriage licenses;
- (4) Exercise those functions of the Licensing Committee under Section 101 of the Local Government Act 1972 the Council's powers and duties under the following Acts and Regulations:-

Betting, Gaming and Lotteries Act 1963;

Town Police Clauses Act 1847;

Local Government (Miscellaneous Provisions) Act 1976;

House to House Collections Act 1939;

Local Government (Miscellaneous Provisions) Act 1982;

Theatres Act 1968;

The Police, Factories etc. (Miscellaneous Provisions) Act 1916;

Safety of Sports Grounds Act 1975.

- (5) The registration and licensing of matters under other existing or future miscellaneous statutes, government directives or directions not referred to or dealt with by any other Committee, including in particular, and where appropriate to this Council, those functions B 1 to B 72 inclusive set out in Appendix 1 (Functions not to be the responsibility of an Authority's Executive) to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- (6) Functions under any of the "relevant statutory provisions" within the meaning of Part 1 (Health, safety and welfare in connection with work, and the control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.
- (7) Functions for the licensing of sex establishments in accordance with the Local Government (Miscellaneous Provisions) Act 1982 Section 2 and Schedule 3, together with any regulations made under the Act.

ends