

## REPORT TO LICENSING COMMITTEE

31 May 2019

<b>Subject:</b>	Annual Report of the Licensing Committee and Licensing Sub Committees for the 2018/19 Municipal Year
<b>Director:</b>	Director – Prevention and Protection – Stuart Lackenby
<b>Contribution towards Vision 2030:</b>	 
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### DECISION RECOMMENDATIONS

**That :**

The Licensing Committee annual report for the 2018/19 municipal year be approved for submission to full Council on 16 July 2019.

#### 1 **PURPOSE OF THE REPORT**

The Licensing Committee is responsible for exercising the powers and duties of the Council with regard to licensing matters under relevant legislation and required to produce an annual report to Council detailing activities undertaken throughout the year and identifying the outcomes of the Committee.

## **2 IMPLICATIONS FOR SANDWELL'S VISION**

- 2.1 The Licensing Committee outlines a range of activity being undertaken which contributes to the delivery of the 2030 Vision, in particular the following ambitions:
- 2.2 Ambition 5: our communities are built on mutual respect and taking care of each other, supported by all the agencies that ensure we feel safe and protected in our homes and local neighbourhoods.
- 2.3 Ambition 8: our distinctive towns and neighbourhoods are successful centres of community life, leisure and entertainment where people increasingly choose to bring up their families.
- 2.4 The work of Licensing Committee enforces key council policies and provides an effective response to local issues as they arise.

## **3 BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 The Licensing Committee annual report for the 2018/19 municipal year is attached to this report.

## **4 THE CURRENT POSITION**

- 4.1 The current position is outlined in the report attached.

## **5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

- 5.1 Consultation is not required on this matter as the Annual Report provides an overview of the activity that has already been carried out by Licensing Committee during the municipal year.

## **6 ALTERNATIVE OPTIONS**

- 6.1 As no proposals are contained within this report alternative options are not required.

## **7 STRATEGIC RESOURCE IMPLICATIONS**

There are no strategic resource implications arising from this report. The implications for resources arising from any matters considered by the Committee are included within the relevant reports to the Committee and referred to in the main body of the Annual Report as necessary.

## 8 LEGAL AND GOVERNANCE CONSIDERATIONS

8.1 During the municipal year the Licensing Committee have made decisions based on consideration of the following legislation:

### 8.2 **The Licensing Act, 2003:-**

Section 3 provides that the Council is a Licensing Authority and as such the Council must carry out its functions under the Licensing Act 2003.

Under Section 6 each Licensing Authority must establish a licensing committee consisting of at least ten, but not more than fifteen, members of the authority.

Section 9 states that a licensing committee may establish one or more sub-committee 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.

### 8.3 **The Gambling Act, 2005:-**

Section 2 further states that the Council is a licensing authority. The Gambling Act 2005 places a duty on the Council to undertake the licensing function specified in the Act.

Section 154 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.

Section 154 (3) 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.

### 8.4 **Private Hire & Hackney Carriage Licensing**

Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

(1) Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence—

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
- (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

(2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

- (1) A district council may require any applicant for a licence under the Act of 1847 or under this Part of this Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.
- (2) Without prejudice to the generality of the foregoing subsection—
  - (a) a district council may require an applicant for a driver's licence in respect of a hackney carriage or a private hire vehicle—
    - (i) to produce a certificate signed by a registered medical practitioner to the effect that he is physically fit to be the driver of a hackney carriage or a private hire vehicle; and
    - (ii) whether or not such a certificate has been produced, to submit to examination by a registered medical practitioner selected by the district council as to his physical fitness to be the driver of a hackney carriage or a private hire vehicle;
- (3) if any person knowingly or recklessly makes a false statement or omits any material particular in giving information under this section, he shall be guilty of an offence.

Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

- (1) Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage—
  - (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
  - (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—

(a) that he has since the grant of the licence—

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or

(b) any other reasonable cause.

8.5 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.

8.6 The Licensing Committee has already delegated the majority of its licensing functions to the Sub Committee and/or Officers.

8.7 The Licensing Committee reviews the membership of the Sub Committee each year following the appointment of members to the Licensing Committee at the Annual Council Meeting.

## **9 EQUALITY IMPACT ASSESSMENT**

9.1 In making its decisions, the Licensing Committee consider the following elements of the Human Rights Act 1998:-

- i) Article 6 which states that in determination of a person's 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;
- ii) Article 8 which states that everyone has the right to respect for his private and family life, his home and his correspondence;
- iii) Part II, Article 1 which 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.

## **10 DATA PROTECTION IMPACT ASSESSMENT**

10.1 Treatment of Exempt Information – Part 1 of schedule 12A of the Local Government Act 1972, Treatment of Confidential information – Section 50A of the Local Government (Access to Information) Act 1985 and Section 124 of the Police Act 1997.

## **11 CRIME AND DISORDER AND RISK ASSESSMENT**

11.1 All activity undertaken by Licensing Committee seeks to reduce instances of crime and disorder that may impact on all residents of the borough.

## **12 SUSTAINABILITY OF PROPOSALS**

12.1 The annual report provides an update on the business and activity of Licensing Committee during the course of the municipal year, therefore there are no proposals contained within this report.

## **13 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

13.1 This report does not have any impact on council managed property or land

## **14 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

14.1 The Licensing Committee Annual report for the 2018/19 municipal year be received.

## **15 BACKGROUND PAPERS**

15.1 The Annual Report 2018-2019 is attached.

## **16 APPENDICES:**

None

**Stuart Lackenby**  
**Director – Prevention and Protection**

