


REPORT TO

Licensing Committee

16 September 2019

Subject:	Establishment of Licensing Sub Committees
Director:	Director – Prevention and Protection Stuart Lackenby
Contribution towards Vision 2030:	
Contact Officer(s):	Trisha Newton Senior Democratic Services Officer 0121 569 3193 Trisha_newton@sandwell.gov.uk

DECISION RECOMMENDATIONS

That :

1. the Committee confirms the revised appointments to the three Licensing Sub Committees, 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 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.
2. the Director of Law and Governance and Monitoring Officer, in consultation with the Chair of the Licensing Committee, be authorised to select members from the Licensing Committee as necessary to serve on Licensing Sub Committees to ensure a quorum should a named member not be available for a meeting or unable to consider a particular case due to a conflict of interest.

3. the Head of Governance be authorised to make the necessary changes to the Council's Constitution in order to reflect the decisions of the Committee on the above recommendations.

1 **PURPOSE OF THE REPORT**

- 1.1 At its annual meeting on 21 May 2019, the Council appointed a statutory Licensing Committee which the Council declared would also sit as the Council Committee to carry out other licensing functions.
- 1.2 At its meeting on 31st May 2019, the Licensing Committee appointed members to three Sub Committees (Minute No. 5/19 refers). Following a revision to the appointments at the Council meeting on 16 July 2019, the Committee is invited to revise the appointments to Licensing Sub Committees for the remainder of the municipal year 2019/2020.
- 1.3 The Licensing Act 2003 specifies that each Sub Committee shall consist of three members of the Licensing Committee. The Council at its meeting on 21 May 2019 appointed a Licensing Committee comprising 15 members, including one Chair and two Vice Chairs.
- 1.4 The Sub Committees will consist of five members with a Chair/Vice Chair each sitting on a Sub Committee. However, in accordance with the provisions of the Act, Sub Committees sitting to consider Licensing Act 2003/Gambling Act 2005 functions must consist of only three members.
- 1.5 It is recommended that the Director of Law and Governance and Monitoring Officer, in consultation with the Chair of the Licensing Committee, be authorised to select members from the Licensing Committee to serve on Sub Committees as necessary and to ensure a quorum should a named member not be available for a meeting or unable to consider a particular case due to a conflict of interest.
- 1.6 Further details are attached for your information.

2 **IMPLICATIONS FOR VISION 2030**

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.

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.

Ambition 10 Sandwell now has a national reputation for getting things done, where all local partners are focused on what really matters in people's lives and communities.

Sandwell Partnership (SSP) is the local statutory Community Safety Partnership for the borough. A wide range of agencies, including Trading Standards and Licensing, work together to tackle crime and improve community safety through the partnership. Licensing works with responsible bodies, such as the Police, to ensure that the aims of the authorities' policies, in respect of licensable activities, are achieved and that legal standards are maintained.

3 BACKGROUND AND MAIN CONSIDERATIONS

The Licensing Sub Committees are appointed under the provisions of the Licensing Act, 2003 and are therefore not subject to the proportionality requirements of the Local Government and Housing Act 1989. However, other licensing functions will be subject to proportionality. As Sandwell is currently a single party authority, the proportionality provisions will not apply.

4 THE CURRENT POSITION

At its annual meeting on 21 May 2019, the Council appointed a statutory Licensing Committee which the Council declared would also sit as the Council Committee to carry out other licensing functions

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

Non Required

6 ALTERNATIVE OPTIONS

In order to uphold the Licensing Objectives and support Sandwell's Vision there are no alternatives.

7 STRATEGIC RESOURCE IMPLICATIONS

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

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 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.
- 8.2 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.
- 8.3 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.
- 8.4 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.
- 8.5 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.
- 8.6 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.
- 8.7 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.
- 8.8 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.
- 8.9 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.
- 8.10 Article 8 states that everyone has the right to respect for his private and family life, his home and his correspondence.

- 8.11 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.
- 8.12 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.
- 8.13 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.

9 EQUALITY IMPACT ASSESSMENT

It was not necessary to undertake an Equality Impact Assessment.

10 DATA PROTECTION IMPACT ASSESSMENT

It was not necessary to undertake and Data Protection Impact Assessment.

11 CRIME AND DISORDER AND RISK ASSESSMENT

The Licensing Committee through the Licensing Sub Committees help to deter and prevent crime and disorder by exercising its quasi-judicial powers.

12 SUSTAINABILITY OF PROPOSALS

There are no direct sustainability issues arising from this report.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE

There are no direct health and wellbeing implications from this report.

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

There is no direct impact on any council managed property or land from this report.

15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

The purpose of the report is to allow the Licensing Committee to make an informed decision in respect to the Establishment of Licensing Sub Committee's as set out in the recommendations at the beginning of this report.

16 BACKGROUND PAPERS

Source Documents

Licensing Act 2003

Gambling Act 2005

17 APPENDICES:

Appendix 1 – Licensing Sub Committee's

Director Stuart Lackenby
Director Prevention and Protection