

# Report to Licensing Committee

**16 August 2022**

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| <b>Subject:</b>         | Appointment to Licensing Sub Committees   |
| <b>Director:</b>        | Surjit Tour<br>Director of Law and Governance and Monitoring Officer  |
| <b>Contact Officer:</b> | Trisha Newton<br>Senior Democratic Services Officer<br><a href="mailto:trisha_newton@sandwell.gov.uk">trisha_newton@sandwell.gov.uk</a> |

## 1 Recommendations

- 1.1 To approve changes to the appointment to Sub Committees to reflect changes in membership approved at Council on 26 July 2022, with each Sub Committee 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, and that the Committee make appointments to those Sub Committees.
- 2.1 To approve the revised Terms of Reference for Licensing Sub Committees.




## 2 Reasons for Recommendations

- 2.1 Further to Minute No. 108/22, at the Council meeting on 26 July 2022, a change to the appointment of members to the Licensing Committee was approved and it has therefore become necessary to revise the appointment to the Licensing Sub Committees.



- 2.2 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.
- 2.3 The Licensing Act 2003 specifies that each Sub Committee shall consist of three members of the Licensing Committee. The Council at its meeting on 24 May 2022 appointed a Licensing Committee comprising 15 members, including one Chair and two Vice Chairs.
- 2.4 The Terms of Reference have been revised to reflect recent changes in legislation.

### 3 How does this deliver objectives of the Corporate Plan?

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|    | <p>The Licensing Act 2003 has four licensing objectives which are highly pertinent to the Council's Corporate Plan these being:-</p>   |
|   | <p>(a) the prevention of crime and disorder;</p>   |
|  | <p>(b) public safety;</p>  |
|   | <p>(c) the prevention of public nuisance;</p>  |
|   | <p>(d) the protection of children from harm.</p> <p>Similarly, the Gambling Act 2005 has three licensing objectives, as follows:-</p> <p>(a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;</p> <p>(b) Ensuring that gambling is conducted in a fair and open way</p> <p>(c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.</p> |



## 4 Context and Key Issues

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.

For 2022/23, the proportionality provisions will apply, when considering licensing functions other than those under the provisions of the Licensing Act 2003, and seats have been allocated to the Sub Committees accordingly.

## 5 Alternative Options

- 5.1 There is no alternative option, the functions sit within the remit of the Licensing Committee.

## 6 Implications

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| <b>Legal and Governance:</b> | <p>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. 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. 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.</p> <p>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. Section 154 of the Gambling Act 2005 provides that all decisions, subject to exceptions, relating to premises licences</p> |
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|  | <p>are delegated to the licensing committee of the authority that has been established under Section 6 of the Licensing Act, 2003. 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.</p> <p>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.</p> |
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## 7. Appendices

Appointment to Sub Committees  
Terms of Reference

## 8. Background Papers

None

