

Proposed transfer of functions to the Licensing Committee

Community Services Committee Thursday, 15 June 2023

Report of: Head of Legal Services & Monitoring Officer

Purpose: For recommending to Full Council

Publication status: Open

Wards affected: All

Executive summary:

This report recommends arrangements to enable the Council's licensing functions to be administered through a single Licensing Committee. This would involve transferring responsibility for the following functions from this Committee to the Licensing Committee:

Determination of licence applications for hackney carriage / private hire vehicles; animal welfare; pollution control; house to house and street collection licences; street trading; scrap metal dealing; sex establishments and other premises requiring licences /registration/ permits for purposes other than alcohol, entertainment or gambling.

The Licensing Committee would then be able to deal with the matters referred to above, as well as those relating to alcohol, entertainment and gambling as at present.

The proposed revised terms of reference for the Licensing Committee would enable it to comply with statutory requirements for dealing with both:

- alcohol and regulated entertainment licensing matters under the Licensing Act 2003; and
- matters regarding other types of licences as permitted by section 101 the Local Government Act 1972.

This report supports the Council's priority of: Building a better Council

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Recommendation to Council:

That, subject to the current review of hackney carriage and private hire trades licensing policy being completed by the Community Services Committee, the following amendments be made to the scheme of delegation to Committees (Part E of the Council's constitution) so that responsibility for all licensing functions is undertaken by a single Licensing Committee and its Sub-Committee:

Community Services Committee

- (a) Removal of the following clause (vi) within its terms of reference:

Determination of licence applications for hackney carriage / private hire vehicles; animal welfare; pollution control; house to house and street collection licences; street trading; scrap metal dealing; sex establishments and other premises requiring licences /registration/ permits for purposes other than alcohol, entertainment or gambling.

- (b) Abolition of the Regulatory Sub-Committee (which has previously been constituted to undertake any licensing hearings in connection with (a) above).

Licensing Committee

New Terms of Reference to be in accordance with Appendix A.

Introduction and background

1. Section 6 of the Licensing Act 2003 requires licensing authorities to establish a committee of between 10 and 15 members to deal with licensing matters in respect of alcohol and regulated entertainment. Until now, this Council's Licensing Committee has operated for that sole purpose, with a Sub-Committee of three members conducting hearings for the determination of specific licensing applications or reviews where there are objections or representations. If there are no such representations, Officers are authorised to determine the matter.
2. The Council has always sought to make its Licensing Committee politically balanced, despite this not being a statutory requirement.
3. Other licencing matters (e.g. taxi licensing) have been dealt with under the remit of the Community Services Committee, with a Regulatory Sub-Committee established to conduct any associated hearings (although that Sub-Committee has not been called upon to meet in recent years).

4. These prior arrangements have complied with the legal interpretation that two separate committees for dealing with licensing matters are required, i.e.:
 - one in respect of the Licensing Act 2003 for alcohol and regulated entertainment licensing; and
 - another 'ordinary committee' constituted under section 101 the Local Government Act 1972 for dealing with other types of licences (*all of the Council's other Committees are currently constituted as 'ordinary committees'*).
5. However, it is common practice among local authorities to establish a single committee which deals with both alcohol & regulated entertainment and other licensing functions for optimum consistency and convenience. The proposed revised terms of reference for this Council's Licensing Committee at Appendix A would meet legal requirements by clarifying that the Committee would act as both:
 - (i) the statutory committee under the Licensing Act 2003 (Section 6) when dealing with alcohol and regulated entertainment licensing matters; and
 - (ii) an 'ordinary committee of the Council' as defined by the Local Government Act 1972 (Section 101) when dealing with other types of licensing.
6. To meet the requirements of both statutes, the Licensing Committee would need to continue to comprise between 10 and 15 members and be politically balanced. There would then need to be just one Sub-Committee to deal with hearings required to determine any form of Council controlled licence, comprising three principal members, with the ability to draw upon substitutes from the rest of the Licensing Committee's membership.
7. Except for the conclusion of the review of 'hackney carriage and private hire trades licensing policy' (elsewhere on this agenda) the Licensing Committee would also consider future reports regarding licensing policy matters currently dealt with by Community Services. As the Community Services Committee is already engaged in approving a draft version of the aforementioned policy for consultation purposes, it would be sensible for that same committee to be able to ratify the final (post consultation) version later in the year.
8. Unlike policies for alcohol and entertainment licensing, there is no statutory provision for certain other types of licensing policies (e.g. regarding 'taxis') to be ratified by Full Council. The recommended scheme of delegation for the Licensing Committee at Appendix A therefore provides flexibility for that committee to resolve policy matters where legislation permits.

9. The Community Services Committee would retain responsibility for:
- the provision of Hackney Carriage ranks and variations in fees and fares in respect of Hackney Carriage and Private Hire Vehicles; and
 - setting fees for various types of licences
- as these matters do not relate to licensing applications.

Key implications

Comments of the Chief Finance Officer

There are no financial implications associated with this report.

Comments of the Head of Legal Services

The Head of Legal and Monitoring Officer has been consulted and has no further comments to add.

Equality

Having had regard to the council's obligations, it is considered that there are no human rights or equalities implications associated with this report, as they will apply equally to everyone regardless of any protected characteristic.

Climate change

There are no climate change implications associated with this report.

Appendices

Appendix A – Proposed amendments to the Licensing Committee's terms of reference.

Background papers

None

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