

COUNCIL – 23RD FEBURARY 2015

Report of the Licensing Committee

ITEM 8.5 LICENSING SUB-COMMITTEE PROCEDURES

Purpose of Report

To consider a recommendation of the Licensing Committee to revise the order of proceedings for Licensing Sub-committee hearings and replace the current version in the Council's Constitution, in the light of recent experience.

Recommendation

That the revised order of proceedings for Licensing Sub-committee hearings replace the current version in the Council's Constitution, as outlined in the appendix of the report considered by the Licensing Committee (attached as an Annex).

Reason

To ensure that the proceedings for Sub-committee hearings are operating effectively.

Policy Justification and Previous Decisions

The order of proceedings for Licensing Sub-committee hearings forms part of the Council's Constitution. Any changes to the Constitution require approval by full Council.

At its meeting on 10th February 2015, the Licensing Committee considered a joint report of the Head of Regulatory Services and Head of Strategic Support regarding Licensing Committee and Licensing Sub-Committee procedures including a Licensing Sub-committee update.

The order of proceedings for Licensing Sub-committee hearings was reviewed and a proposed revised version was recommended as set out in the appendix of the report attached as an annex.

The following extract from the minutes of that meeting details the consideration and decisions of the Committee:

16. LICENSING COMMITTEE AND LICENSING SUB-COMMITTEE PROCEDURES AND LICENSING SUB-COMMITTEE UPDATE

A joint report of the Head of Regulatory Services and the Head of Strategic Support was submitted, setting out Licensing Committee and Licensing Sub-committee procedures and providing a Licensing Sub-committee update (item 6 on the agenda filed with these minutes).

RESOLVED

1. *that it be recommended to Council that the revised order of proceedings for Licensing Sub-committee hearings appended to the submitted report replace the current version in the Council's Constitution;*
2. *that the changes to procedures set out in Part B of the report in respect of the publication of agendas and notices of Licensing Sub-committee meetings be approved;*
3. *that the information in respect of the outcome of the Licensing Sub-committee hearings held between 1st October 2014 and 31st January 2015 and appeals against Sub-committee decisions be noted;*
4. *that the proposal for there to be 2 scheduled meetings of the Committee each Council year be supported.*

Reasons

1. *To ensure that the proceedings for Sub-committee hearings are operating effectively.*
2. *To provide greater transparency for Sub-committee meetings.*
3. *To keep the Committee informed about the work of the Licensing Sub-committees.*
4. *To provide an effective method of managing the work of the Committee.*

Implementation Timetable including Future Decisions

Once decided by Council, the change will come into immediate effect.

Report Implications

The following implications have been identified for this report.

Financial Implications

None.

Risk Management

No specific risks have been identified in relation to this decision.

Background Papers: None specific to the referral to Council

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LICENSING COMMITTEE – 10TH FEBRUARY 2015

Joint Report of the Head of Regulatory Services
and the Head of Strategic Support

Part A

ITEM 06 LICENSING COMMITTEE AND LICENSING SUB-COMMITTEE
PROCEDURES AND LICENSING SUB-COMMITTEE UPDATEPurpose of Report

To enable the Committee to review the procedures used for Licensing Sub-Committee hearings in the light of recent experience.

Recommendations

1. **That it be recommended to Council** that the revised order of proceedings for Licensing Sub-committee hearings appended to this report replace the current version in the Council's Constitution.
2. That the changes to procedures set out in Part B of the report in respect of the publication of agendas and notices of Licensing Sub-committee meetings be approved.
3. That the information in respect of the outcome of the Licensing Sub-committee hearings held between 1st October 2014 and 31st January 2015 and appeals against Sub-committee decisions be noted.
4. That the proposal for there to be 2 scheduled meetings of the Committee each Council year be supported.

Reasons

1. To ensure that the proceedings for Sub-committee hearings are operating effectively.
2. To provide greater transparency for Sub-committee meetings.
3. To keep the Committee informed about the work of the Licensing Sub-committees.
4. To provide an effective method of managing the work of the Committee.

Policy Justification and Previous Decisions

The Council's Constitution sets out certain of the Council's licensing functions under the Licensing Act 2003 which must be undertaken by a Sub-committee made up of 3 members of the Licensing Committee.

Implementation Timetable including Future Decisions

The order of proceedings for Licensing Sub-committee hearings forms part of the Council's Constitution. Any changes to the Constitution require approval by full Council and any amendments to the proceedings recommended by the Committee would be submitted to the meeting of the Council programmed for 23rd February 2015.

Report Implications

Financial Implications

None.

Risk Management

There are no specific risks associated with this report.

Background Papers: None

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Part B

Licensing Committee Meetings

1. For the 2014/15 Council year there were 6 programmed meetings of the Licensing Committee. During the year to date, 3 meetings have taken place and 2 have been cancelled. This continues the pattern of recent years and suggests that fewer meetings per year are needed. Under the revised guidance issued by the Home Office under section 182 of the Licensing Act 2003, Licensing Committees should receive regular reports on decisions made by officers so that they maintain an overview of the general situation.
2. The list of Committee meeting dates for 2015/16 will be submitted to the Council meeting in February. It is proposed that the Committee has 2 programmed meetings each year, in April and October, in order to be provided with the following information from officers:
 - an update of any legislative or policy change for alcohol, regulated entertainment, taxi and private hire licensing and sex establishments made by central government;
 - an update on any recent Case Law;
 - an update on the performance of the Licensing Team in regard to licenses issued under delegated powers, complaints, compliance, enforcement and prosecution action being taken;
 - future Council policy proposals;
 - fee increases;
 - summary of Sub-committee decisions.
3. Should the Licensing Committee need to meet in addition to the programmed meetings, additional meetings will be arranged in consultation with Members. Licensing Sub-committee meetings will be called on an 'as needs' basis in consultation with Members.

Licensing Sub-committee Hearings

4. The Council's Constitution sets out certain of the Council's licensing functions under the Licensing Act 2003 which must be undertaken by a Sub-committee made up of 3 members of the Licensing Committee. These functions mainly relate to licence applications where there have been representations by a relevant authority or reviews have been requested by a relevant authority of an existing licence.
5. There were a number of Licensing Sub-committee hearings held between 1st October 2014 and 31st January 2015: 1 for a new licence and 5 for reviews of existing licences. The following Sub-committee hearing was held for a new Premises Licence application.

Date	New Applications & Variations	Application	Representations	Decision
26/1/15	154 Leicester Road, Mountsorrel	New Premises Licence	Environmental Protection 12 Interested parties	Grant

6. The following Sub-Committee hearings were held for Premises Licence reviews.

Date	Premises Reviewed	Applicant	Representations	Decision
13/11/14	International Supermarket (Loughborough)	Trading Standards	Licensing Authority	Revoke
17/11/14	Quarrymaster Public House (Mountsorrel)	Leicestershire Police	Licensing Authority Environmental Protection 3 Interested Parties	Revoke
26/11/14	Apple Tree Public House (Quorn)	Environmental Protection	Licensing Authority 4 Interested Parties	Conditions Added
12/12/14	Syston Spice (Syston)	Fire & rescue Service	None	Suspended for 1 month
15/12/14	Costcutter (Barrow)	Trading Standards	Licensing Authority	Suspended for 2 months and removal of DPS

7. The Quarrymaster Public House has appealed its revocation and a hearing is scheduled before Loughborough Magistrates Court in March 2015.

8. Experience from these hearings has been used to review the arrangements for Sub-committee hearings to ensure that they are operating effectively.

Notice of Sub-committee Hearings

9. The legislation governing the arrangements for Licensing Sub-committee hearings, the Licensing Act 2003 (Hearings) Regulations 2005, is specific to those hearings. As a result the arrangement for such matters, as the providing notice of meetings, is different to that which governs other local authority meetings.

10. The Regulations set out the period of notice that is required and the persons who notice must be given to for different hearings dependent on the matter for which the hearing is being held. The Regulations set out that hearings should be held in public unless there is a greater public interest for all or part of a hearing to be held in private. It is therefore proposed that, except where officers believe that all or part of a hearing should be held in private, the agenda for Sub-committee hearings are also published on the Council's website. Any information required to be withheld because of the Data Protection Act would not be published. This

would enable the public to be aware of meetings that they have a right to attend. Ward councillors would also be informed about the publication of agendas for hearings relating to licensing matters in their wards.

Procedure at Sub-committee Hearings

11. The order of proceedings for Licensing Sub-committee hearings has been reviewed and a proposed revised version is appended to this report. The following main changes have been made:
 - additional items that the Sub-committee may be required to consider have been included in the preliminaries section;
 - the order has been simplified so that it can more easily be applied to different types of hearings and clarification added as to who the applicant is in different types of hearings;
 - the order has been simplified so that the principles that the person who initiated the hearing speaks first and the licence holder or licence applicant has the ability to speak last are applied.
12. The order of proceedings forms part of the Council's Constitution. Any changes to the Constitution require approval by full Council and any amendments to the proceedings recommended by the Committee would be submitted to the meeting of the Council programmed for 23rd February 2015.

Publication of Decisions of Sub-committee Hearings

13. The Regulations require that notification of the decisions taken at Sub-committees hearings must be provided to the parties and that a record must be kept by the Council of the hearing. It is proposed that, except where the hearing has been held in private, the notice of the Sub-committee's decision is published along with the agenda for the meeting. Any information required to be withheld because of the Data Protection Act would not be published. This would complement providing the public with notice of Sub-committee meetings by also providing the public with information about the outcome of the meeting.

Appendix

Revised order of proceedings for Licensing Sub-committee hearings

12.14 Licensing Committee procedures

Order of proceedings for Licensing Sub-committee hearings

1. Preliminaries

- Opening remarks by the Chair of the Sub-committee.
- The Chair will ensure the parties understand the procedure to be followed.
- The Sub-committee will decide whether part or all of the hearing should be held in private because the public interest in doing so outweighs the public interest in holding the meeting or that part of the meeting in public.
- The Sub-committee will consider requests from any of the parties for permission for another person to appear at the hearing as a witness.
- The Sub-committee will decide what action to take if a party does not attend the hearing.

2. Licensing Officer

The Licensing Officer will present his/her report and outline relevant information such as representations, information that has been requested from the parties, legislation, the Council's Licensing Policy and Government guidance.

The different parties participating in the hearing, with the consent of the Sub-committee, and members of the Sub-committee may ask questions of the Licensing Officer.

3. The Applicant – in the case of a new licence the applicant is the person applying for the licence; in the case of a review the applicant is the responsible authority applying for the review

After the applicant has spoken, the different parties participating in the hearing, with the consent of the Sub-committee, and members of the Sub-committee may ask questions of the applicant.

If the applicant is not present any information provided by the applicant will be considered by the Sub-committee.

4. Responsible Authorities

After each responsible authority has spoken, the different parties participating in the hearing, with the consent of the Sub-committee, and members of the Sub-committee may ask questions of the responsible authority.

If any responsible authorities are not present any information provided by the responsible authorities will be considered by the Sub-committee.

5. Interested Parties (residents etc.)

After each interested party has spoken, the different parties participating in the hearing, with the consent of the Sub-committee, and members of the Sub-committee may ask questions of the interested party.

If any interested parties are not present any information provided by the interested parties will be considered by the Sub-committee.

6. Any Remaining Parties – in the case of reviews of current licences this will include the licence holder

After each remaining party has spoken, the different parties participating in the hearing, with the consent of the Sub-committee, and members of the Sub-committee may ask questions of the party.

If any remaining parties are not present any information provided by the interested parties will be considered by the Sub-committee.

7. Closing Statements

Closing statements will be made in the following order:

- Each interested party
- Each responsible authority
- The applicant
- The licence holder if the licence holder is not the applicant

8. The Decision

The Sub-committee's legal advisor will make any statements as necessary to summarise the proceedings and clarify the legal issues and principles to be applied by the Sub-committee in reaching its decision.

The Sub-committee will retire to reach its decision with the legal advisor and clerk/administrator (if present). Alternatively the Sub-committee may ask for the meeting room to be cleared to enable it to do so. If during its deliberations the Sub-committee consider it is necessary to ask a question of a party, then the Sub-committee will reconvene in the presence of all parties to do so.

The Sub-committee will reconvene to announce its decision.