


Non-Executive Report of the: Licensing Committee 14 June 2016	
Report of: Melanie Clay, Corporate Director, Law, Probity & Governance	Classification: Unrestricted
Establishment of Licensing Sub Committees, Terms of Reference & Schedule of Dates	

Originating Officer(s)	Antonella Burgio, Senior Committee Officer
Wards affected	All wards

Summary

The purpose of this report is to establish Licensing Sub Committees, appoint their membership and to note the proposed Terms of Reference, Schedule of Dates and Rules of Procedure.

Recommendations:

The Licensing Committee is recommended to:

1. Consider and note the contents of the report and;
 - i. resolve that the functions in respect of determination of applications where representations have been made be discharged by Sub Committees established by the Licensing Committee;
 - ii. determine how many Sub Committees to establish;
 - iii. determine, if so wished, how many Sub Committee Chairs to appoint
 - iv. determine whether to appoint membership of the Sub Committees

2. Note the Licensing Sub Committee's Terms of Reference, Schedule of Dates and Rules of Procedure attached as Appendices 1, 2 and 3 of the report.

1. REASONS FOR THE DECISIONS

- 1.1 This report is for the information of the Committee and no specific decisions are required.

2. ALTERNATIVE OPTIONS

- 2.1 Not applicable to noting reports.

3. DETAILS OF REPORT

- 3.1 In accordance with the Licensing Act 2003, Full Council at its meeting held on 18th May 2016 agreed that the Licensing Committee would consist of 15 Members and noted that the Committee would exercise its powers to appoint Sub Committees with the power to consider and determine Licensing applications. It was also noted that, under the Licensing Act 2003, proportionality rules are not applicable to Licensing Sub Committees.
- 3.2 The Licensing Act 2003 allows a Sub Committee to consist of three Members with the quorum also being three; it is not therefore possible to consider increasing the membership beyond that number. This also means that it is imperative that Members attend meetings as arranged and that the Committee needs to give careful consideration to the number of Sub Committees to establish so as to allow the greatest degree of Member participation, whilst sharing the workload.
- 3.3 It is entirely within the remit of the Licensing Committee to determine the number and operation of its Sub Committees. The previous Licensing Committee decided that all Members of the Licensing Committee would serve on its Sub Committees and elected to appoint eight Members of the Committee to act as Sub Committee Chairs: the Chair, Vice Chair and six other Members.
- 3.4 As stated above, proportionality rules do not apply to the Sub Committees and this, together with what is proposed, means that a Sub Committee could be formed with one named Chair and any other two Members. This would allow considerable flexibility and ensure that workloads could be distributed amongst the membership. Where possible, and in line with Licensing Guidance, Members would not be asked to consider applications for premises within their Ward, thus ensuring an open and transparent decision making process. Alternatively, the Committee may wish to consider making fixed appointments to an agreed number of Sub Committees.
- 3.5 Members should also be aware that the 2003 Act provides that where it is not possible to determine an application within one hearing, hearings must continue on consecutive days. Whilst it is unlikely that this scenario will occur with any frequency, officers will ensure that the possibility of this occurring will

be taken into account when establishing Member availability. In addition, Members will be asked to indicate if they are available for daytime meetings as it may be possible to hold a number of meetings during the day and thus reducing the number of meetings that would need to be scheduled during the evening.

- 3.6 Council has approved a schedule of dates for Licensing Sub Committees, and whilst it will be necessary to look to these dates in the first instance, whether or not they can be utilised will depend on member availability and the period of time within which an application will have to be considered. Officers will advise as to the current position regarding the number of applications received and the likely impact of this, at the meeting.
- 3.7 Members are also asked to note the proposed Terms of Reference attached as Appendix 1, the Schedules of Dates for the Licensing Sub Committee meetings attached as Appendix 2 and the Rules of Procedure attached as Appendix 3, to this report.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 No material financial implications, such as additional Allowances, are proposed as a result of introducing Sub-Committees. Any minor incidental expenditure that may arise will be contained within the existing Directorate of Law, Probity & Governance budget.

5. LEGAL COMMENTS

- 5.1 Section 6 of the Licensing Act 2003 (“the 2003 Act”) provides that each licensing authority must establish a Licensing Committee consisting of at least ten, but not more than fifteen, members of the authority.
- 5.2 The overwhelming majority of contested licence applications will be heard by Licensing Sub Committees. Pursuant to section 9(1) of 2003 Act, a Licensing Committee may establish one or more sub-committees consisting of three members of the committee. Section 10 of the 2003 Act then allows for the Licensing Committee to arrange for its functions relating to contested hearings to be delegated to the sub committees. In order that the Council can deal with the potential large number of contested applications it will be preferable if the Licensing Committee does delegate this function. Further, due to the nature of the hearing Regulations, Sub Committees will be better able to consider applications much more quickly than the main Licensing Committee.
- 5.3 The delegation of functions not only applies to licensing authority functions under the 2003 Act but also to licensing authority functions under the Gambling Act 2005 (“the 2005 Act”). Section 154(1) of the 2005 Act provides that licensing authority functions under that part of the 2005 Act (that is part 8) are delegated to a Licensing Committee of the licensing authority established under section 6 of the 2003 Act. Section 154(3) of the 2005 Act provides that

section 10 of the 2003 Act applies in relation to functions delegated to the Licensing Committee by virtue of section 154(1) of the 2005 Act.

- 5.4 As the Sub Committee is appointed pursuant to the powers in Section 9 of the Licensing Act 2003, then it is not classed as an advisory or an ordinary Committee/Sub Committee of the Council. Further, as the Sub Committee does not fall within one of the other named categories of bodies for the purposes of section 15 to and schedule 1 of the Local Government and Housing Act 1989 then the Sub Committees do not have to reflect the political make up of the Council and therefore the proportionality principles do not apply.
- 5.5 Finally, as to the Licensing Committee, section 9(3) of the Licensing Act 2003 gives power to the Licensing Committee, subject to any Regulations made by Government, that the Committee may regulate its own procedure and that of its Sub Committees.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 In drawing up the schedule of dates, consideration was given to avoiding school holiday dates and known dates of religious holidays and other important dates where at all possible.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 There are no specific Best Value implications arising from this noting report.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no specific sustainability implications arising from this noting report

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 There are no specific risk management implications arising from this noting report.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no specific crime and disorder implications arising from this report.
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Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

- Appendix 1 – Terms of Reference
- Appendix 2 – Schedule of Dates for the Licensing Sub Committees
- Appendix 3 – Rules of Procedure

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- None

Officer contact details for documents:

- N/A