

Report to the Overview and Scrutiny Committee



Date of meeting: 15 April 2010

Report: Constitution and Member Services SSP
Subject: Licensing Committee - Review of Membership
Responsible Officer: Ian Willett (01992 564243)
Alison Mitchell (01992 564017)
Democratic Services Officer: A Hendry (01992 564246)

Recommendations:

- (1) That consideration of whether to increase the number of members appointed to the Licensing Committee be deferred;
- (2) That an additional paragraph 3.4 for inclusion in Appendix 4 (Annex 3) (Conduct of Business by the Licensing Committee and Sub-Committees) be approved as follows:

"3.4 In the case of any hearing pursuant to the summary review procedure under the Violent Crime Reduction Act 2006, the membership of any Sub-Committee adjudicating on such a review shall comprise any three members drawn from the Licensing Committee subject to the proviso that no member should serve more than one hearing."
- (3) That a report be submitted to the Council recommending that this change be approved and published in the Constitution.

Report:

Introduction

1. The Licensing Committee of the Council is currently constituted by 15 Councillors, divided between the political groups in accordance with pro-rata rules. It was thought that a review of the number of members serving on the Licensing Committee was necessary as a result of new Police initiatives under the Violent Crime Reduction Act 2006. This Act allows the Police to seek summary reviews of licences for premises which have a history of anti-social or similar behaviour.
2. The summary review procedure allows the Police to initiate an expedited review of the premises licence if a senior officer of the force is of the opinion that the premises in question are associated with serious crime or serious disorder or both.
3. Within 48 hours of receipt of the application, the Licensing Authority must give the premises licence holder and responsible authorities a copy of the certificate and must consider whether it is necessary to take interim steps. The Authority may consider the application without giving the holder of the premises licence an opportunity to make representations.
4. A number of interim steps can be considered by the Licensing Authority and these relate to the conditions of the premises licence, exclusion of the sale of alcohol by retail, removal of the designated premises supervisor from the licence or the suspension of the

licence itself.

Summary Reviews - Procedure

5. If the authority decides that interim steps are necessary, the licence holder may make representations to the Licensing Authority. On receipt of the representations the authority must hold a hearing within 48 hours of receipt of those representations unless they are withdrawn. The procedure followed is for 3 members of the Licensing Committee to be constituted as a Licensing Sub-Committee to hold a hearing. At that hearing the Licensing Sub-Committee must consider whether the interim steps are necessary for the promotion of licensing objectives and determine whether to withdraw or modify the steps taken.

6. A second Licensing Sub-Committee meeting is required for the purpose of considering any interim measures which are necessary before a full review hearing on a date to be set within a few weeks. This second Sub-Committee meeting requires that a different group of 3 Councillors are involved in the decision.

7. A third Sub-Committee meeting is required in order to carry out a full review of the licensing position. At this meeting the options available include modifying the conditions of the premises licence or add new conditions, exclude from the licence a licensable activity, suspend licences for a period of not exceeding 3 months, revoke a licence or make no change to a licence. This third hearing requires a further 3 members of the Licensing Committee to meet in order to adjudicate on the application.

8. This process operates along side all the other activities which are conducted by the Licensing Committee and Licensing Sub-Committees. As can be imaged the summary review procedure is a demanding process and the procedures adopted must be robust enough to withstand any challenge on procedural grounds to the decisions reached.

9. This procedure is not currently covered in the Constitution rules regarding the conduct of business by the Licensing Committee and its Sub-Committees. It is recommended that the importance of discrete memberships should also be set out in Appendix 4 (Annex 3) for Part 3 of the Constitution (attached) and a new paragraph (to be numbered 3.4) added as set out in recommendation (2) at the commencement of this report.

10. On the question of the number of Licensing Committee members, it had been thought necessary to increase the number so as to make it easier to form the three Sub Committees comprising three different sets of members plus the usual reserve. However since this option was first considered, the Council has filled one vacancy and a second new member has been appointed. We have been advised that this helped the situation and the overall increase in numbers is not necessary at present. We have some reservations about the principle of such an increase in any event because this may not assist the process of increasing the expertise of the members in the licensing field.

11. We recommend that no charge be made at this stage.