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Report of the Chief Democratic Services Officer

General Purposes Committee

Date: 18th May 2010

Subject: Responding to recommendations of the Independent Remuneration Panel

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose of this report

1.1 This report has been brought forward at the request of the Labour Group. It asks General Purposes Committee to consider recommending to Council that the Constitution be amended with respect to how recommendations of the Council's Independent Remuneration Panel are taken into account when varying the Members' Allowances Scheme.

2.0 Background information

2.1 It is a function of Full Council to make, amend, or revoke a Members' Allowances Scheme.

2.2 Local Authorities are required to establish and maintain an Independent Remuneration Panel.¹ This Panel has the function of providing the Council with advice on its Members' Allowances Scheme, and the nature and level of allowances to be paid to elected members. The Council must have regard to this advice when reviewing and amending its Scheme.

2.3 In establishing these arrangements it was the approach of Government to enable the Council to determine the amounts to be payable to elected members, having regard to local circumstances but sharpening accountability by the appointment of a local Panel whose members are required to be independent of the Council.

2.4 Some local authorities have gone further by entering into a commitment to accept, as a matter of course, all of the recommendations from their respective Independent Remuneration Panels. Others, including Leeds, have retained discretion to accept, amend or reject such recommendations as they consider appropriate.

¹ Regulation 20 of the Local Authorities (Members' Allowances)(England) Regulations 2003 as amended
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2.5 In practice, the Council has only rarely done other than to accept in full the recommendations of its Panel. Most recently, the Council has, in effect, exercised this discretion by setting a budget for 2010/11 which explicitly assumes that the October 2010 inflation award (which is integral to the Scheme) should be foregone.

3.0 Main issues

3.1 The current arrangements comply with all relevant legislative requirements in allowing full Council the final discretion in varying its Members' Allowances Scheme. In practice, this discretion has only rarely been exercised.

3.2 A constitutional change so as bind the Council to an automatic acceptance of the Panel's recommendations may be considered beneficial in terms of demonstrating impartiality although, clearly, it would limit the Council's discretion.

4.0 Implications for Council policy and governance

4.1 There are no implications for Council policy. The implications for governance are as detailed in this report.

5.0 Legal and resource implications

5.1 There are no legal or resource implications.

6.0 Conclusions

6.1 This Committee may like to consider whether it would wish to recommend varying the Council's Constitution by inserting the following footnote to Section 3, Part 2A of the Constitution, pertaining to the function of Full Council with regard to the Members' Allowances Scheme.

"Acting in accordance with the recommendations of the Independent Remuneration Panel save in wholly exceptional circumstances"

7.0 Recommendation

7.1 General Purposes is asked to consider recommending Council to amend the Constitution as detailed in this report.



Report of the: Assistant Chief Executive (Corporate Governance)

General Purposes Committee

Date: 18 May 2010

Subject: Changes to Licensing Arrangements Proposed by the Labour Group

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report details amendments put forward by the Labour Group to the current arrangements for exercising licensing functions within Leeds City Council, whereby functions under the Licensing Act 2003 and the Gambling Act 2005 are exercised by the Licensing Committee (who may delegate the functions to sub committees or officers) whilst functions relating to the licensing of sex establishments and taxi and private hire licensing are delegated to the Licensing and Regulatory Panel. It is suggested that merging these functions will bring benefits to the city by allowing a more strategic approach to licensing the night time economy. It may also assist in implementing new powers relating to the licensing of lap dancing venues including the setting of a policy on the numbers and locations of such venues. The report highlights the legal issues involved and suggests that the objectives can be achieved by identifying functions from the remit of the Licensing and Regulatory panel which can be said to be 'related to' the functions of the existing Licensing Committee and arranging for the discharge of those functions by the Licensing Committee. The remaining functions of the Licensing and Regulatory Panel will continue to be exercised by officers under delegated powers with provision under the existing terms of reference of General Purposes Committee for Members to take any decisions which are particularly significant or contentious. The reports sets out a number of amendments to the constitution including articles 8 and 8A, the Terms of Reference of the Licensing Committee and Council Procedure Rules to enable this approach to be adopted.

1.0 Purpose of this report

- 1.1 This report informs Members of the proposal brought forward by the Labour Group to merge the related licensing functions of the Licensing Committee and the Licensing and Regulatory Panel to create one committee with responsibility for licensing functions on behalf of the Council. It is anticipated that by merging the functions into one committee, Members will be able to gather more information and take a more strategic approach to licensing the evening economy. This will enable them to be appraised of and involved in issues relating to the granting of licences, the review of licences in premises giving rise for concern and the dispersal of customers at the end of the evening. It will also assist in the adoption of the new powers relating to lap dancing establishments, including the setting of a policy which might cover the numbers or locations of such establishments within the city.

2.0 Background information

- 2.1 The Licensing Committee was created under the Licensing Act 2003 ('the 2003 Act'). Its initial terms of reference were to deal with all the different types of licence granted under that Act. Functions under the Gambling Act 2005 ('the 2005 Act') were added to the terms of reference in January 2007. The current Terms of Reference are attached as **Appendix 1**. The statute provides that the Licensing Committee must consist of between ten and fifteen members. The Leeds Licensing Committee currently consists of fifteen members. Under current arrangements the Licensing Committee meets bi-monthly as a full committee and weekly as a sub committee of three Members to deal with individual applications. Licensing Sub Committees deal with all hearings required under the legislation with the exception of the grant of licences for large outdoor events. Decision making in full Licensing Committee is largely restricted to Designated Public Places Orders (DPPOs) with the remaining business being update or position statement reports on licensing matters and forthcoming changes in legislation. On occasion special additional meetings have to be called to deal with DPPOs as the gap to the next scheduled meeting is considered to be too long to ensure the order is in place when required. It is unlikely that the volume of business transacted by the Panel will increase in 2010/11.
- 2.2 The Licensing and Regulatory Panel deals with other licensing matters such as sex establishments and taxi and private hire licensing. It also has a wide range of terms of reference covering miscellaneous licensing functions and permissions which are invariably dealt with by officers under delegated powers. A copy of the current Terms of Reference are attached as **Appendix 2**. The current panel consists of ten Members all of whom are also on the Licensing Committee. It meets bi-monthly on alternate months to the Licensing Committee. The Licensing and Regulatory Panel has no sub-committees and always meets as a full panel. It is extremely rare for anything other than taxi and private hire licensing matters to come on to the agenda of the Licensing and Regulatory Panel and it is common for agendas to consist of a single item. It is unlikely that the volume of business transacted by the Panel will increase in 2010/11 subject to paragraph 2.4 below.
- 2.3 In 2009/10, there were 6 scheduled meetings of the Licensing and Regulatory Panel. Of those meetings, only 2 dealt with a substantive issue, namely the age criteria for vehicles and the unmet demand survey. One meeting received information reports only and one meeting dealt solely with a hypnotism licence. Two meetings were cancelled. There were 5 additional meetings called on an ad hoc basis due to the fact that an urgent item had come up which could not wait for the next scheduled meeting (up to 8 weeks away). Three of those meetings dealt just

with hypnotism. Prior to this municipal year, hypnotism licences were dealt with under delegated powers by officers. However due to an error in drafting, that power was not delegated this year. This will be picked up with the next set of constitution amendments when it will be proposed that these licences will again be granted by officers under delegated powers. Realistically therefore the Panel will not be dealing with hypnotism licences in 2010/11.

- 2.4 During 2010 the council will have new powers to regulate lap dancing and similar venues to be known as sexual entertainment venues. These powers come from amendments in the Policing and Crime Act 2009 to the Local Government (Miscellaneous Provisions) Act 1982 which already deals with sex shops and sex cinemas. Leeds has previously adopted the existing powers and they are currently delegated to the Licensing and Regulatory Panel. Normally officers would suggest that these additional powers (if adopted) be delegated in the same manner to the same Panel. However these venues will require separate licences for the alcohol and entertainment from the element of lap dancing. If the new functions are delegated to the Licensing and Regulatory Panel a venue could potentially require two separate licences from two separate committees. However if the functions are delegated instead to the Licensing Committee then officers would usually propose that the licensing of sex shops and sex cinemas under the same legislation should also transfer, reducing the remit of the Panel still further.
- 2.5 The Licensing Committee was created by the Licensing Act and as such operates outside the normal council committee structure. With a few exceptions set out in the 2003 or 2005 Act (most notably the approval of a licensing policy for Leeds), all the functions are automatically delegated to the Committee by the legislation rather than being delegated by Council. The Committee has the power to regulate its own procedure subject to regulations issued under the 2003 or 2005 Acts as appropriate. It has the power to create its own sub committees and to delegate to those sub committees and to officers. It does not have to be politically balanced, does not need to have agendas with five clear days notice of meetings and operates to slightly different rules on matters such as access to information. However as far as possible officers have sought to operate the Licensing Committee as a normal council committee and therefore the full Committee is politically balanced, the Committee and Sub Committees do have agendas and the minutes are published in the normal way. Members of the Licensing Committee can substitute for other members of the Committee on any sub-committee but no other members of Council are allowed to be substitutes for either the full Licensing Committee or a Licensing Sub-Committee.

3.0 Main issues

- 3.1 It is proposed to change the arrangements set out in the Council's constitution for dealing with licensing matters and to bring (so far as is legally possible) all the related licensing functions together under one Committee. This will allow Members will be able to gather more information and take a more strategic approach to licensing and the evening economy by being appraised of and involved in issues relating to the granting of licences, the review of licences in premises giving rise for concern and the dispersal of customers at the end of the evening. It will also assist in the adoption of the new powers relating to lap dancing establishments, including the setting of a policy which might cover the numbers or locations of such establishments within the city. The merger would allow the smoother transaction of business as items could be scheduled into the monthly timetable without the need for additional meetings of a committee taking place instead of the scheduled meetings.

- 3.2 When the existing arrangements were set up to implement the 2003 Act, advice was obtained about whether it would be possible to transfer the existing licensing functions into the new arrangements. That advice indicated that there was no bar to delegating none licensing powers as s101 of the Local Government Act 1972 allows a council to delegate its functions to committees, sub committees and officers. However given the volume of business in transition to the new licensing regime and the untested nature of the legislation, the advice indicated that it would be safer to operate two separate committees. Now that matters have settled, the volumes of business are much clearer and the benefits of a merged approach can be identified. Members should note that because the 2003 Act created the Licensing Committee and automatically delegated powers to it, it is not possible to transfer the licensing functions to a standard council committee (e.g. the Licensing and Regulatory Panel). Instead it will be necessary to transfer Panel functions into the Licensing Committee terms of reference.
- 3.3 A potential difficulty which occurs in merging the licensing functions arises from the different rules which apply to the delegation of the functions and to the procedures which are followed. Although it is technically possible to delegate none 2003 or 2005 Act functions to the Licensing Committee using s101 of the Local Government Act 1972, that would mean the Licensing Committee would need to operate to different processes dependant upon the function being exercised.
- 3.4 It is proposed that this problem be avoided by transferring to the Licensing Committee only those functions which 'relate to' the licensing functions that are automatically delegated under the 2003 or 2005 Act. This is permissible under s7(3) of the 2003 Act. This power has already been used once to delegate the functions of making a designated public places order to the Committee. The functions of Licensing and Regulatory Panel which may be said to relate to the existing Licensing Committee functions are: sex establishment licensing (lap dancing, sex cinemas and sex shops), hackney carriage and private hire licensing, the licensing of hypnotism and charitable collections.
- 3.5 By designating those functions as being related to the existing licensing functions of the Licensing Committee, Council can arrange for their discharge by the Licensing Committee under s7(3) of the 2003 Act. When exercising those functions the licensing committee will still operate as a committee created by the 2003 Act and to the procedures by which it generally operates. This avoids the need for the Committee to operate to different rules and procedures dependant upon the functions it is exercising.
- 3.6 **Alcohol Disorder Zones.**
- The Violent Crime Reduction Act 2006 introduced Alcohol Disorder Zones (ADZs). These came into force in 2009 when regulations were made. An area can be designated an ADZ where there is a problem with alcohol related nuisance, crime and disorder but there is no clear link between the problem and an individual licensed premises. A problem with an individual licensed premises can be tackled under current licensing legislation. The process for designating an ADZ is set out in the regulations and involves consulting on the proposals obtaining the consent of the police, developing an action plan and operating and administering the ADZ.
- 3.7 It is proposed that the function of making an ADZ is delegated to the Licensing Committee again using the power in Section 7(3) Licensing Act 2003. This is because ADZs could be said to relate to an existing licensing functions, however they are not licensing functions under the 2003 Act. It is therefore proposed that the

function of making an ADZ be added to the Licensing Committee's terms of reference.

- 3.8 Revised Terms of Reference for the Licensing Committee incorporating these additional related functions are attached as **Appendix 3**.
- 3.9 However there are a number of functions such as the licensing of marriage premises, caravan sites, pleasure boats and scrap yards that cannot be said to be 'related to' 2003 or 2005 Act licensing functions. These functions would need to be delegated elsewhere and the references to the licensing and regulatory panel could then be deleted from the constitution. In reality these functions are always exercised by officers and have not come to Members for a decision since at least 2004. However should there be a need for Members to exercise these powers then this could be done through General Purposes Committee which already has delegated power to deal with any council function where a director has decided not to exercise his/her delegated power. As stated it is considered highly unlikely that these kinds of issues will be complex enough to require GPC to take the decisions.
- 3.10 If these changes are agreed then it will also be necessary to amend article 8 and 8A of the constitutions. Article 8 currently deals with regulatory panels. If Licensing and Regulatory Panel is no longer part of the committee structure then Article 8 will need to be amended to delete reference to regulatory panels and instead will only refer to plans panels. Article 8A currently deals with Licensing Arrangements. It is considered that it is still important to keep a separate article relating to licensing arrangements. It provides a useful reference to the statutory origin of the Committee and its general licensing duties as well as its powers to create sub committees and to delegate its powers. Two amendments are proposed to article 8A and those are to reflect the functions to be delegated under s7(3) of the 2003 Act and to require licensing Members to undergo compulsory training as requested by Member Management Committee. A revised Article 8A is attached at **appendix 4** for consideration.
- 3.11 The revised arrangements will also require an amendment to Council Procedure Rule 26 in that 26.1 (a) relating to the substitution of members between plans panels and the regulatory panels will need to be deleted as there can be no substitution between plans panels and the licensing committee.

4.0 Implications for council policy and governance

- 4.1 In the long term merging the two committees will reduce the administration currently involving scheduling two separate meetings. It will also allow the Members of the combined committee to take a more strategic approach in relation to the night time economy by having the ability to consider the links between venue licensing and taxi and private hire vehicles and dispersal issues from licensed premises.

5.0 Legal and resource implications

- 5.1 Section 7(3) of the 2003 Act allows the Council to delegate functions to the Licensing Committee which are not themselves licensing functions (under the Act) but which are related to those functions. The functions identified in paragraph 3.4 above are considered by officers to be functions relating to the Council's licensing functions. If Members agree with this approach then these functions could be delegated to the Licensing Committee under Section 7(3) of the Act. Delegating the functions in this way means that the Licensing Committee will always operate as a committee outside the normal Local Government structure and will always operate to the Licensing Procedure Rules rather than to any other rules. This approach

reduces the possibility of confusion about which powers are being exercised under which set of rules and therefore minimises the risk of error in decision making.

- 5.2 The merger would allow the smoother transaction of business as items could be scheduled into the monthly timetable without the need for additional meetings of one committee taking place immediately before or instead of the scheduled meetings thus reducing the call on officer time.
- 5.3 Subject to the recommendations of the Independent Remuneration Panel, the proposals produce a saving of approximately £7190 in special responsibility allowances as currently the chair of Licensing Committee and Licensing and Regulatory Panel each receive an allowance of £7190. Under the revised proposals there will be one chair who will receive one special responsibility allowance.

6.0 Conclusions

- 6.1 That Council may use the powers set out in s7 (3) of the 2003 Act to arrange for Licensing and Regulatory Panel functions which are related to the licensing functions of the existing Licensing Committee to be discharged by the Licensing Committee under its normal arrangements and procedures.
- 6.2 The remaining functions of the Licensing and Regulatory Panel may continue to be exercised by officers, with provision for the matters to be referred to Members should that be required using the existing Terms of Reference of General Purposes Committee.
- 6.3 That would enable the existing Licensing and Regulatory Panel to be deleted and may allow Members to take a more strategic approach to licensing the evening economy. It will also result in a saving in special responsibility allowances.

7.0 Recommendations

- 7.1 That Members consider this report and determine whether to recommend :
- 7.1.1 That the functions listed in paragraph 3.4 of this report namely sex establishment licensing (lap dancing, sex cinemas and sex shops), hackney carriage and private hire licensing, the licensing of hypnotism and charitable collections and alcohol disorder zones should be agreed as functions which relate to the licensing functions of the Licensing Committee.
- 7.1.2 That Council should arrange for those matters to be referred to the Licensing Committee and for the licensing committee to discharge those functions on behalf of the authority.
- 7.1.3 That Council approve the revised Terms of Reference for the Licensing Committee to implement the decisions in 7.1.1 and 7.1.2 above and to add in the new powers relating to alcohol disorder zones and sexual entertainment venues.
- 7.1.4 That references to the Licensing and Regulatory Panel be removed from the constitution.
- 7.1.5 That a revised article 8 should be considered and that the revised article 8A as set out in the appendices to this report be approved to reflect the new arrangements.

- 7.1.6 That amendments be made to Council Procedure Rules to reflect the fact that there will be no substitution permitted between the plans panels and the licensing committee.
- 7.2 That Members note that the Licensing Committee may then delegate these powers to sub committees or to officers as permitted by the 2003 Act and may regulate its own procedure through the Licensing Procedure Rules.

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The Licensing Committee

With the exception¹ of

- any licensing function under the Licensing Act 2003 (the 2003 Act) or the Gambling Act 2005 (the 2005 Act) reserved to full Council;² or
- any licensing function where full Council has referred a matter to another committee,³

the Licensing Committee is authorised to discharge⁴ the following functions⁵:

1. to discharge the licensing functions of the licensing authority;⁶
2. to discharge any other function of the authority referred to it by full Council;⁷
3. to make recommendations to full Council in connection with the discharge of its functions as licensing authority;⁸ and
4. to receive reports from, and to make recommendations and representations to other committees or bodies as appropriate.⁹

¹ In accordance with Section 7(2) of the 2003 Act or s154 (2) (a) and (c) of the 2005 Act.

² Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as licensing authority under the 2003 Act and under the 2005 Act.

³ Under the provisions of Section 7(5)(a) of the 2003 Act.

⁴ The Committee may arrange for any of its functions to be discharged by one or more sub-committees, or by an officer, subject to the exceptions set out in Section 10(4) of the 2003 Act see also Section 154 of the 2005 Act.

⁵ "Functions" for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

⁶ This includes the power to set fees under Section 212 of the 2005 Act

⁷ Full Council may arrange for the Licensing Committee to discharge any function of the authority which relates to a matter referred to the Committee but is not a licensing function (Section 7(3)). It may also refer a matter to the Committee where a matter relates to a licensing function and to a function of the authority which is not a licensing function, and arrange for the Committee to discharge the other function (Section 7(5)(b) of the 2003 Act). Before exercising this power, the Council must consult with the Committee.

Pursuant to this provision on 11 January 2006 Council delegated to the Licensing Committee the power to make a designated public places order in respect of alcohol consumption under the Criminal Justice and Police Act 2001

⁸ Including recommendations arising from the monitoring of the operation and impact of the licensing or Gambling policy by the Licensing Committee.

⁹ Where the licensing authority exercises its power under Section 7(5)(a) of the 2003 Act the other Committee must consider a report of the Licensing Committee. Where the Council does not make arrangements under Section 7(3), it must (unless the matter is urgent) consider a report of the Licensing Committee with respect to the matter before discharging the function (Section 7(4)).

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*Council Committees' Terms of Reference***REGULATORY PANELS****Licensing and Regulatory Panel**

The Licensing and Regulatory Panel is authorised to discharge¹ the following functions:²

1. To discharge all Council (non-executive)³ functions relating to:
(a) licensing and registration functions⁴ in respect of:

- (i) caravan sites⁵
- (ii) hackney carriages and private hire vehicles⁶
- (iii) sex shops and sex cinemas⁷
- (iv) performances of hypnotism⁸
- (v) acupuncture, ear-piercing and electrolysis⁹
- (vi) pleasure boats and vessels¹⁰
- (vii) market and street trading¹¹
- (viii) scrap yards¹²
- (ix) dog breeding, pet shops, animal breeding, animal trainers and exhibitors, zoos, wild animals¹³
- (x) the employment of children¹⁴
- (xi) premises for the solemnisation of marriage¹⁵
- (xii) charitable collections¹⁶
- (xiii) operation of loudspeakers¹⁷
- (xiv) movement and sale of pigs and cattle¹⁸
- (xv) storage of celluloid¹⁹
- (xvi) meat product premises and dairy establishments²⁰

¹ With the exception of any licensing function under the Licensing Act 2003, the Panel and the Council may arrange for any of these functions to be discharged by an officer – the functions for the time being so delegated are detailed in Section 2 of Part 3 of this Constitution

² “Functions” for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

³ Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended (the 2000 Regulations).

⁴ Para. B of Schedule 1 to the 2000 Regulations

⁵ Items 1 and 2 of Para. B of Schedule 1 to the 2000 Regulations

⁶ Item 3 – 5 of Para. B of Schedule 1 to the 2000 Regulations

⁷ Item 15 of Para. B of Schedule 1 to the 2000 Regulations

⁸ Item 16 of Para. B of Schedule 1 to the 2000 Regulations

⁹ Item 17 of Para. B of Schedule 1 to the 2000 Regulations

¹⁰ Item 18 of Para. B of Schedule 1 to the 2000 Regulations

¹¹ Item 20 of Para. B of Schedule 1 to the 2000 Regulations

¹² Item 25 of Para. B of Schedule 1 to the 2000 Regulations

¹³ Items 29 - 33 of Para. B of Schedule 1 to the 2000 Regulations

¹⁴ Item 35 of Para. B of Schedule 1 to the 2000 Regulations

¹⁵ Item 36 of Para. B of Schedule 1 to the 2000 Regulations

¹⁶ Item 39 of Para. B of Schedule 1 to the 2000 Regulations

¹⁷ Item 40 of Para. B of Schedule 1 to the 2000 Regulations

¹⁸ Items 43 – 46 of Para. B of Schedule 1 to the 2000 Regulations

¹⁹ Item 56 of Para. B of Schedule 1 to the 2000 Regulations

²⁰ Items 57 – 59 of Para. B of Schedule 1 to the 2000 Regulations

(xvii) motor salvage operators²¹

(b) health and safety at work²² to the extent that those functions are discharged otherwise than in the authority's capacity as an employer; and

(c) smoke-free premises under the Health Act 2006 and regulations.²³

2. In respect of any approval, consent, licence, permission, or registration which they may grant,

(a) To impose conditions limitations or restrictions;

(b) To determine any terms;

(c) To determine whether and how to enforce any failure to comply;

(d) To amend, modify, vary or revoke;

(e) To determine whether a charge should be made or the amount of such a charge.

3. To discharge any licensing function²⁴, where full Council has referred a matter to the Panel.²⁵

²¹ Item 71 of Para. B of Schedule 1 to the 2000 Regulations

²² Para. C of Schedule 1 to the 2000 Regulations

²³ Para FA, of Schedule 1 to the 2000 Regulations.

²⁴ Under the Licensing Act 2003

²⁵ (Section 7(5)(a) of the Licensing Act 2003). The matter must relate to

- a licensing function of the licensing authority under the Licensing Act 2003 and
- a function which is not a licensing function.

Unless the matter is urgent, the Panel must consider a report of the Licensing Committee in respect of the matter before discharging the function concerned (Section 7(6)).

The Licensing Committee

With the exception¹ of

- any licensing function under the Licensing Act 2003 (the 2003 Act) or the Gambling Act 2005 (the 2005 Act) reserved to full Council;² or
- any licensing function where full Council has referred a matter to another committee,³

the Licensing Committee is authorised to discharge⁴ the following functions⁵:

1. to discharge the licensing functions of the licensing authority;⁶
- 2.1 to discharge any other function of the authority referred to it by full Council;⁷
- 2.2 pursuant to the provision in section 2.1 above full Council has delegated to the Licensing Committee the following functions in respect of:
 - 2.2.1 the power to make a designated public places order in respect of alcohol consumption under the Criminal Justice and Police Act 2001⁸
 - 2.2.2 hackney carriages and private hire vehicles⁹
 - 2.2.3 sexual entertainment venues, sex shops and sex cinemas¹⁰
 - 2.2.4 performances of hypnotism¹¹
 - 2.2.5 charitable collections¹²
 - 2.2.6 alcohol disorder zones¹³

¹ In accordance with Section 7(2) of the 2003 Act or s154 (2) (a) and (c) of the 2005 Act.

² Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as licensing authority under the 2003 Act and under the 2005 Act.

³ Under the provisions of Section 7(5)(a) of the 2003 Act.

⁴ The Committee may arrange for any of its functions to be discharged by one or more sub-committees, or by an officer, subject to the exceptions set out in Section 10(4) of the 2003 Act see also Section 154 of the 2005 Act.

⁵ "Functions" for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

⁶ This includes the power to set fees under Section 212 of the 2005 Act

⁷ Full Council may arrange for the Licensing Committee to discharge any function of the authority which relates to a matter referred to the Committee but is not a licensing function (Section 7(3)). It may also refer a matter to the Committee where a matter relates to a licensing function and to a function of the authority which is not a licensing function, and arrange for the Committee to discharge the other function (Section 7(5)(b) of the 2003 Act). Before exercising this power, the Council must consult with the Committee.

⁸ Item 49 of Para I of Schedule 1 to the 2000 Regulations

⁹ Item 3 – 5 of Para. B of Schedule 1 to the 2000 Regulations

¹⁰ Item 15 of Para. B of Schedule 1 to the 2000 Regulations ***[(check reference when sex ent. Venues is in regs as well] and Section 27 Policing and Crime Act 2009 and Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

¹¹ Item 16 of Para. B of Schedule 1 to the 2000 Regulations

¹² Item 39 of Para. B of Schedule 1 to the 2000 Regulations

¹³ Item 50 Para I of Schedule 1 to the 2000 Regulations

Deleted: Pursuant to this provision on 11 January 2006 Council delegated to the Licensing Committee the power to make a designated public places order in respect of alcohol consumption under the Criminal Justice and Police Act 2001

2.3 in respect of any approval, consent, licence, permission, or registration which they may grant,

(a) To impose conditions limitations or restrictions;

(b) To determine any terms;

(c) To determine whether and how to enforce any failure to comply;

(d) To amend, modify, vary or revoke;

(e) To determine whether a charge should be made or the amount of such a charge.

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3. to make recommendations to full Council in connection with the discharge of its functions as licensing authority;¹⁴ and

4. to receive reports from, and to make recommendations and representations to other committees or bodies as appropriate.¹⁵

¹⁴ Including recommendations arising from the monitoring of the operation and impact of the licensing or Gambling policy by the Licensing Committee.

¹⁵ Where the licensing authority exercises its power under Section 7(5)(a) of the 2003 Act the other Committee must consider a report of the Licensing Committee. Where the Council does not make arrangements under Section 7(3), it must (unless the matter is urgent) consider a report of the Licensing Committee with respect to the matter before discharging the function (Section 7(4)).

ARTICLE 8A - LICENSING ARRANGEMENTS
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8.1 LICENSING FUNCTIONS

The Council is the licensing authority under the Licensing Act 2003 (the 2003 Act) and the Gambling Act 2005 (the 2005 Act).

8.1.1 General Duties¹

Under the 2003 Act with a view to promoting the licensing objectives.²

The licensing authority must also have regard to:³

- its licensing policy, and
- guidance issued by the Secretary of State under section 182 of the 2003 Act.

Under the 2005 Act in relation to the granting of premises licences the licensing authority, should aim to permit the use of premises for gambling insofar as the Authority thinks it⁴:

- in accordance with the relevant Code of Practice issued under section 24
- in accordance with any relevant guidance issued by the Commission under section 25 of the 2005 Act
- reasonably consistent with the licensing objectives⁵ (subject to the two points above) and
- in accordance with the Statement published by the authority under s349 of the 2005 Act (subject to the three points above)

8.2 THE LICENSING COMMITTEE**8.2.1 Functions**

With the exception⁶ of

- any licensing function⁷ reserved to full Council;⁸ or

¹ These duties also apply to any committee sub-committee or officer exercising delegated authority from the licensing authority.

² The licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

³ Section 4 of the 2003 Act.

⁴ Section 153 of the 2005 Act

⁵ The licensing objectives are preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, ensuring that gambling is conducted in a fair and open way and protecting children and other vulnerable persons from being harmed or exploited by gambling

⁶ In accordance with Section 7(2) of the 2003 Act and Section 154 ((2) (a) and (c) the 2005 Act.

⁷ "Licensing functions" mean functions of the licensing authority under the 2003 Act or the 2005 Act.

Article 8A - Licensing Arrangements

- any licensing function where full Council has referred a matter to another committee;⁹

the Licensing Committee is authorised to discharge¹⁰ the licensing functions¹¹ of the licensing authority under the 2003 Act or the 2005 Act.

The Licensing Committee is also authorised to discharge functions referred to it by full Council under S.7(3) or S.7(5)(b) of the 2003 Act.

The Terms of Reference of the Licensing Committee are set out in Part 3 of the Constitution.

8.2.2 Composition

The Licensing Committee must consist of at least ten but not more than fifteen, Members.¹²

8.2.2.1 Members of the Licensing Committee must complete all compulsory training and shall not sit as a member of the committee or it's sub-committee's unless such training has been undertaken in accordance with the Council's prescribed training programme.

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8.2.3 Sub-committees

The Licensing Committee may appoint one or more sub-committees, which may discharge the same function concurrently.¹³

8.2.4 Delegation to Officers

The Licensing Committee or its sub-committees may arrange for the discharge of their functions by an officer, subject to the exceptions set out in the 2003 Act.¹⁴

8.2.5 Licensing Committee Procedure

The Licensing Committee may regulate its own procedure and that of its sub-committees, subject to any regulations.¹⁵

8.2.6 Conflicts of Interest¹⁶

⁸ Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as licensing authority under the 2003 Act.

⁹ Under the provisions of Section 7(5)(a) of the 2003 Act.

¹⁰ The Committee may arrange for any of its functions to be discharged by one or more sub-committees, or by an officer, subject to the exceptions set out in Section 10(4) of the 2003 Act.

¹¹ "Functions" for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

¹² Section 6 of the 2003 Act.

¹³ Section 9(1) of the 2003 Act.

¹⁴ Section 10 of the 2003 Act (see also s154(4) and s232(3) of the 2005 Act). Delegations to Officers are set out in Part 3 of the Constitution.

¹⁵ Section 9(3) of the 2003 Act.

Part 2 Article 8A

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Article 8A - Licensing Arrangements

Where the Licensing Committee is unable to discharge any function delegated to it, because of the number of its Members who are unable to take part in the consideration of discussion of any matter or vote on any question with respect to it, the Committee must refer the matter back to full Council as licensing authority, and full Council must discharge that function.

¹⁶ Section 7(9) of the 2003 Act.(see also s154(3) and s232(2) of the 2005 Act)
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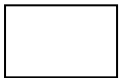
Report of the Chief Democratic Services Officer

General Purposes Committee

Date: 18 May 2010

Subject: Overview and Scrutiny – Proposed Changes to Overview and Scrutiny Arrangements

Electoral Wards Affected:



Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. Since the publication of the agenda for General Purposes Committee, to be held on 18th May 2010, the Labour Group has indicated that it wishes to put before Committee an alternative structure.
2. Whilst agreeing with all the amendments identified in paragraph 2.2 of the original report, the Labour Group propose that the number of Scrutiny Boards be reduced to six. It is proposed that this is achieved by deleting Scrutiny Board (City and Regional Partnerships).
3. The Labour Group is also mindful to recommend to Council that the 'no substitute Member' rule for Scrutiny Board meetings be rescinded.
4. The General Purposes Committee is requested to consider the proposed reduction in the number of Scrutiny Boards and the proposal to allow substitutes at Scrutiny Board meetings and recommend approval to Council.

1.0 Purpose of Report

- 1.1 The purpose of this report is to present the Labour Group's alternative proposals for the arrangement of Overview and Scrutiny.

2.0 Background Information

- 2.1 The published agenda for the meeting of General Purposes Committee on 18th May includes a report detailing changes to Article 6 of the Constitution, the Scrutiny Boards' Terms of Reference and the Scrutiny Board Procedure Rules. These changes are either to ensure consistency in wording, to reflect legislative changes or to provide procedural clarity.
- 2.2 The published report also reflects the Administration's wish to retain the existing seven Scrutiny Boards. Since the publication of the agenda the Labour Group has indicated that it wishes to put before Committee an alternative structure. Whilst agreeing with all the amendments identified in paragraph 2.2 of the original report, the Labour Group propose that the number of Scrutiny Boards be reduced to six. It is proposed that this is achieved by deleting City and Regional Partnerships Scrutiny Board.
- 2.3 Each Scrutiny Board under existing terms of reference have the ability to scrutinise partnerships and also outside bodies.
- 2.4 It is also proposed that the current rule of not allowing substitutes at Scrutiny Board meetings be rescinded.

3.0 Implications for Council Policy and Governance

- 3.1 The Council's Scrutiny arrangements are one of the key parts of the Council's governance arrangements. This review of the Constitution seeks to ensure that the arrangements continue to be efficient and relevant to the work of the Council.

4.0 Legal and Resource Implications

- 4.1 There are no legal implications to the proposed amendments. The reduction of one Scrutiny Board will generate a saving of £20,040.42 in Members' Allowance.

5.0 Recommendation

- 5.1 The General Purposes Committee is requested to recommend to Council that:
- The Council designates the post of Head of Scrutiny and Member Development, as its Scrutiny Officer in accordance with Section 21ZA of the Local Government Act 2000.
 - Six Scrutiny Board are retained
 - The Constitutional amendments as detailed in appendix 1 -3 of the published report on this agenda be approved and that any further consequential amendments to Article Six and the Scrutiny Board Procedure Rules as a result of reducing the number of Scrutiny Boards be made.
 - Substitutes are permitted for all Scrutiny Board meetings

Background Papers - None used.