

Licensing Committee – Annual Governance Arrangements

Date: 27 May 2022

Report of: City Solicitor

Report to: Licensing Committee

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

This report deals with the appointment of licensing sub-committees, approval of their terms of reference and approval of the delegation of functions to officers. No changes are proposed to the current terms of reference or to the officer delegations.

Including how it contributes to the city's and council's ambitions

The licensing functions falling within the Licensing Committee and licensing sub-committee's respective terms of reference and those licensing functions exercised by officers under the Director of Communities, Housing and Environment's Officer Delegation Scheme contribute to:

- Inclusive growth in the city's economy by supporting business and employment.
- Safe, strong communities, culture and a child-friendly city by promoting the statutory objectives, including the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

Recommendations

- a) That members of the Licensing Committee note its own terms of reference.
- b) That the Licensing Committee appoints licensing sub-committees for the 2022/2023 municipal year.
- c) That the Licensing Committee approves the licensing sub-committee's terms of reference.
- d) That the Licensing Committee approves the delegation of specified licensing functions to officers in accordance with the Officer Delegation Scheme (Council (Non-Executive) Functions) of the Director of Communities, Housing and Environment.

Why are the proposals being put forward?

- 1 The Council is the Licensing Authority under the Licensing Act 2003 (“the 2003 Act”) and the Gambling Act 2005 (“the 2005 Act”).
- 2 In accordance with both the 2003 Act and the 2005 Act, with the exception of specified functions (which largely relate to the Authority’s statement of licensing policy), all matters relating to the discharge by the Authority of its licensing functions are automatically referred to the Licensing Committee. This discretion does not extend to any licensing function reserved to full Council or a licensing function where full Council has referred the matter to another committee.
- 3 The Licensing Committee is also authorised to create sub-committees and to delegate functions of the Licensing Authority to sub-committees (to be specified in the terms of reference of those sub-committees) and, subject to a number of statutorily excepted matters, to Officers.
- 4 Because the membership of the Licensing Committee is determined annually by full Council, it is necessary for the new Licensing Committee’s terms of reference to be noted by its members and for annual approval of the licensing sub-committees’ membership and its terms of reference and for the Officer Delegation Scheme (Council (Non-Executive) Functions) of the Director of Communities, Housing and Environment to be approved annually.

What impact will this proposal have?

Wards affected: All

Have ward members been consulted?

Yes

No

- 5 The appointment of sub-committees to carry out the licensing functions and delegations to Officers as appropriate is consistent with good corporate governance arrangements.
- 6 Making members aware of the Licensing Committee’s terms of reference will help ensure that the Committee does not exceed its remit.
- 7 Approval of the licensing sub-committee’s terms of reference and the Director of Communities, Housing and Environment’s Officer Delegation Scheme clarifies responsibility for decision-making, reducing the risk of a successful legal challenge to a decision.

What consultation and engagement has taken place?

- 8 This report and its appendices have been published on the Council’s website. No changes to the current governance arrangements are being proposed. The licensing functions are statutory and no public consultation has been conducted.

What are the resource implications?

- 9 Adopting the recommendations of this report will ensure efficient decision making and reduce the risk of successful legal challenges. The 2003 Act requires licensing authorities to establish a Licensing Committee consisting of at least 10 but no more than 15 members. It is more cost

effective for the Licensing Committee to delegate the exercise of some functions to licensing sub-committees and, where appropriate and where permitted by legislation, to officers, rather than exercising all of its licensing functions itself.

What are the legal implications?

10 A clear delegation framework should minimise the risk of a successful legal challenge to a licensing decision.

What are the key risks and how are they being managed?

11 There are no risks associated with this report.

Does this proposal support the council's three Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

12 Efficient and effective licensing governance supports business and therefore employment.

13 Clarity and consistency in decision-making helps promote the licensing objectives, including the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

Options, timescales and measuring success

What other options were considered?

14 None. The Council's Constitution requires the licensing governance arrangements to be approved annually.

How will success be measured?

15 By the approval of the licensing sub-committee's terms of reference and the Officer Delegation Scheme (Council (Non-Executive) Functions) of the Director of Communities, Housing and Environment.

What is the timetable for implementation?

16 This report's recommendations are to be considered by the Licensing Committee at the meeting on 27 May 2022.

Appendices

17 Appendix 1 – Licensing Committee Terms of Reference

Appendix 2 – Licensing Sub-Committee Memberships

Appendix 3 – Licensing Sub-Committee Terms of Reference

Appendix 4 – Officer Delegation Scheme for the Director of Communities, Housing and Environment

Background papers

18 None