

Licensing Committee – Licensing Procedure Rules, the Code of Practice for Determining Licensing Matters and Prescribed Licensing Training

Date: 26 May 2023

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 concerns the proposed Rules of Procedure to be followed by the Licensing Committee and the licensing sub-committees in respect of all meetings and hearings including those held under the provisions of both the Licensing Act 2003 (“the 2003 Act”) and the Gambling Act 2005 (“the 2005 Act”). It is necessary for the Licensing Committee to re-affirm the Rules of Procedure each time the Committee is appointed.

This report also highlights the Code of Practice for the Determination of Licensing Matters for Members’ information.

Finally, the report sets out the arrangements for the prescribed Member Training on licensing under the provisions of Article 8A of the Constitution and the Code of Practice.

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 remit 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.
- The Procedure Rules, and the licensing regime generally, contribute to ongoing engagement with communities and individuals and to the best use of the Council’s resources.

Recommendations

- a) That Members approve the Licensing Procedure Rules as set out at **Appendix 1** to this report.

- b) That Members approve and resolve to follow the contents of the Code of Practice for the Determination of Licensing Matters as attached at **Appendix 2**.
- c) That Members note the arrangements for the prescribed training programme.
- d) That Members note that, once approved, the Code of Practice for the Determination of Licensing Matters will be brought to the attention of all elected Members.

Why are the proposals being put forward?

- 1 The Committee has previously approved one set of Licensing Committee and Sub-Committee Procedure Rules, which apply to proceedings under both the 2003 Act and the 2005 Act and which cross-refer to the relevant regulations. The Rules proposed for adoption by the Licensing Committee are at **Appendix 1**.
- 2 In relation to hearings held under the 2003 or 2005 Acts before a licensing sub-committee, these must comply with the Licensing Act 2003 (Hearings) Regulations 2005 (“the 2005 Regulations”). A legal adviser is present at all hearings of the sub-committee and will provide advice as required.
- 3 The Code of Practice provides clarity for Members and, where applicable, to officers, to ensure that in the licensing process there are no grounds for suggesting that a decision has been predetermined, biased, partial or not well founded in any way.
- 4 Members will note from paragraph 8 of the Code of Practice at **Appendix 2** that Members on the Licensing Committee are required to attend a Licensing Update training session to receive guidance in relation to regulations and procedures in each municipal year.
- 5 In addition, Article 8A of the constitution provides that Members of the Licensing Committee must complete all compulsory training and shall not sit as a member of the committee or its sub-committees unless such training has been undertaken in accordance with the Council’s prescribed training programme.
- 6 Members are asked to note that the prescribed training programme consists of a training session for new members appointed to the Licensing Committee. There will be a licensing update session each year for all members, usually at the November committee meeting.

What impact will this proposal have?

Wards affected: All

Have ward members been consulted? Yes No

- 7 Following the Licensing Committee and Sub Committee Procedure Rules and the Code of Practice for the Determination of Licensing Matters will assist in preventing claims that decisions have been predetermined, biased, partial or not well founded, 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 Procedure Rules, the Code of Practice or training requirements are being proposed and no public consultation has been conducted.

What are the resource implications?

- 9 Adopting the recommendations of this report will ensure procedurally robust, efficient and sound decision making and reduce the risk of successful legal challenges.

What are the legal implications?

- 10 A clear procedure and decision-making 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 decision making supports business and therefore employment.
- 13 Clarity, procedural fairness 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 mandates a training programme for members of the Licensing Committee and the licensing authority is obliged to comply with the 2005 Regulations and to have a procedure for hearings.

How will success be measured?

- 15 By the outcome of any challenges to licensing decisions.

What is the timetable for implementation?

- 16 This report's recommendations are to be considered by the Licensing Committee at the meeting on 26 May 2023.

Appendices

- 17 Appendix 1 – Licensing Committee and Sub-Committee Procedure Rules
Appendix 2 – Code of Practice for the Determination of Licensing Matters

Background papers

- 18 None