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**Report of the Assistant Chief Executive (Corporate Governance)**

**Report to the Licensing Committee**

**Date: 2<sup>nd</sup> June 2009**

**Subject: CREATION OF THE LICENSING SUB COMMITTEES AND TERMS OF REFERENCE**

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**Electoral Wards Affected:**

All

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

**Executive Summary**

The Licensing Committee is, with specified exceptions, authorised to discharge licensing functions. On 21<sup>st</sup> May 2009 Annual Council approved Terms of Reference for the Licensing sub committees which are appended for Members information. Members are asked to appoint the sub committees for the 2009/10 Municipal Year.

**1.0 Purpose Of This Report**

- 1.1 To note the Terms of Reference of the Licensing sub committees
- 1.2 To appoint Licensing sub-committees for the 2009/10 Municipal Year

**2.0 Background Information**

- 2.1 Members will note the Terms of Reference for the Licensing Committee as set out in the report of the Assistant Chief Executive (Corporate Governance) earlier on this agenda.

In accordance with both the Licensing Act 2003 (the "2003 Act") and the Gambling Act 2005 (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 referred to its Licensing Committee.

## 2.2 Legislation.

Section 101 of the Local Government Act 1972 sets out the arrangements for the discharge of functions by local authorities. Section 101 is, however, amended by the 2003 Act, to dis-apply these provisions in respect of any functions of the Licensing Authority.

Instead, the 2003 Act specifically provides that a Licensing Committee may establish one or more sub-committees consisting of 3 Members of the Committee (section 9). It also provides that regulations may make provisions about the proceedings of Licensing Committees, and their sub-committees (including the validity of proceedings and the quorum for meetings).

Subject to any such regulations the Licensing Committee may regulate its own procedure and that of its sub committees (section 9 (3) of the 2003 Act).

The 2003 Act also provides that the Licensing Committee may arrange for the discharge exercisable by it –

- (a) by a sub- committee established by it, or
- (b) an officer of the licensing authority

Where arrangements are made for a sub committee to discharge functions, that sub-committee may in turn arrange for the discharge of the function by an officer of the licensing authority.

The power of the sub-committee to delegate to officers are subject to any direction given by the Licensing Committee to the sub- committee (section 10 (5) of the 2003 Act).

The arrangements may provider for more than one sub-committee or officer to discharge the same function concurrently (Section 10(3)).

There are limitations to the power to delegate in relation to a number of different functions. Generally where representation or objections have been made in respect of particular applications decisions cannot be delegated to an officer. These limitations are set out in Section 10(4) of the 2003 Act.

## 3.0 **Main Issues**

### 3.1 Sub committee Terms of Reference

- 3.2 In April 2007 the Licensing Committee considered the impact of the implementation of the Gambling Act 2005 on the work of the Authority. It was agreed that the implementation of the 2005 Act would be dealt with through the Licensing Committee and its sub committees in a similar fashion to the 2003 Act.
- 3.3 The Licensing Authority has approved Terms of Reference as set out at **Appendix 1** to this report. Essentially this has enables the sub committees to conduct the bulk of the hearings required under both the 2003 and 2005 Acts.
- 3.4 Members will recall that sub committees do not deal with large scale or outdoor events like the Leeds Festival. Such events raise serious issues of public safety,

crowd control and public nuisance. As such it was felt they should be the subject of Consideration by the full Licensing Committee.

3.5 Sub committees will still deal with smaller outdoor events such as the Garforth Arts Festival. The sub committees will also deal with all outdoor events applications such as those made by Parks and Countryside to licence Council Parks. These applications do not raise the same issues as large scale outdoors events.

3.6 Sub committees are also empowered to deal with Reviews of Premises Licences.

#### **4.0 Sub Committees**

##### **4.1 Appointment of sub-committees.**

As referred to above, the Licensing Committee may establish one or more sub-committees consisting of 3 Members of the committee. Previously 5 sub-committees were established, each with three Members. It is again proposed that 5 sub-committees are established. Due to changes in the Membership of the Licensing Committee it is now necessary to re-appoint the sub committees.

##### **4.2 Membership**

The membership of the full Licensing Committee is not yet known. As such the memberships of each sub-committee as set out in **Appendix 2** to this report is purely a proposal.

It is hoped that by the time of the Committee meeting on 2<sup>nd</sup> June 2009 all nominees will be known and the memberships of the sub-committees can be completed. Previously, membership has been allocated to each sub-committee alphabetically by surname given that the rules on political balance do not apply, however it should be noted that during 2006/07, 2007/08 and 2008/09 the three Members for Killingbeck and Seacroft were split amongst the sub committees.

##### **4.3 Substitutes.**

The approved Licensing Procedure Rules provide that the 15 Members of the Licensing Committee form a pool for the purposes of substitutions to the sub-committees. Therefore any Member of the Licensing Committee may substitute for any other Member of the Licensing Committee at any meeting of a sub-committee.

##### **4.4 Appointment of Chairs**

Chairs are not appointed to each sub-committee, but instead, the Members present at each meeting of a sub-committee appoint the Chair from their numbers.

##### **4.5 Quorum**

The quorum for meetings of the Licensing Committee is five, and for the sub-committees, three.

However, on the 5<sup>th</sup> June 2007 Licensing Committee did approve that, in exceptional circumstances on the day of a sub committee hearing and after all avenues to seek a third member have been exhausted, a quorum of 2 will be permissible.

## **5.0 Implications for Council Policy and Governance**

The appointment of sub committees to carry out the licensing functions within their terms of reference is consistent with good corporate governance.

## **6.0 Legal and Resource Implications**

6.1 This report raises no legal or resource implications.

## **7.0 RECOMMENDATIONS**

Members are asked to note the contents of this report and:

(a) establish 5 Licensing Sub-Committees; noting the arrangements for the membership as set out in Para.4 above

(b) note the terms of reference for the sub-committees set out as Appendix 1 to this report;

(c) approve the membership of each sub-committee as set out in Appendix 2 to this report