

LICENSING COMMITTEE 15 MARCH 2006	Agenda Item 5 Public Session Ward: All Wards
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SUBJECT: Licensing sub-committee schedule of meetings

LEAD OFFICER: Head of Civic and Legal Services

LEAD MEMBER: Chair of Licensing Committee

KEY DECISION REFERENCE NUMBER: N/A

RECOMMENDATIONS:

- 1) That the Licensing Committee recommends to Council that the Chief Executive be given a delegated authority to establish, in consultation with post-election group leaders, a Licensing Committee for the period 8 to 23 May 2006 for the purpose of allowing licensing sub-committees to meet and discharge the Licensing Authority's duties under the Licensing Act 2003 (The Act).
- 2) That the Licensing Committee finalises any hearing arrangements for the remainder of the current municipal year.
- 3) That the Licensing Committee agrees arrangements for the scheduling of Licensing Sub-committees for the municipal year 2006/07

1. EXECUTIVE SUMMARY AND PURPOSE OF REPORT

- 1.1 This report seeks to put in place an arrangement to allow the Licensing Authority to discharge its duty to hold hearings into licensing applications during the immediate post-election period.
- 1.2 The report also asks members to finalise arrangements for hearings in the current municipal year and asks for committee's views on the scheduling of hearings for the forthcoming municipal year.

2. DETAILS

- 2.1 Hearings in the immediate post-election period
 - 2.1.1. The Licensing Act 2003 places time limited obligations on the Licensing Authority to hold hearings into applications, notices and representations which it may receive. The authority does have a power under regulation 11 of the Licensing Act 2003 (Hearings Regulations) Order 2005 to extend these time limits for a public interest reason but that power is not practicably exercisable in all cases and is specifically not exercisable (under Regulation 13b) in the case of the procedure for reviewing a licence following a closure order if the effect of exercising that power would be that the authority would fail to reach a determination within 28 days of being notified of the decision of the magistrates' court . Also, the Temporary Event Notice procedure has the potential to require a determination within ten working days of an application being made. Finally, deferring items would simply create a backlog of hearings which would increase the number of sub-committees required immediately following the Annual Meeting.
 - 2.1.2. The Licensing Act 2003 at s6(1) requires each Licensing authority to establish a Licensing Committee. The Council is the authority for the purposes of this section.
 - 2.1.3. The Licensing Act at s9(1) allows the Licensing Committee to establish sub-committees and the Licensing Committee agreed to do so at its meeting of 16

November 2004. The scheme agreed by Licensing Committee provides that any three members of the Committee constitute a sub-committee (subject to provisions on proportionality).

- 2.1.4. It follows that there must be a Licensing Committee in order for there to be a pool of members to appoint as sub-committees. Committee is asked to recommend to Council that it puts in place the necessary delegated authority to ensure that licensing sub-committees can continue to meet.
- 2.2 Hearings in the immediate pre-election period
 - 2.2.1. Since October licensing hearings have been called at a frequency of approximately 3 per month and there is no reason to anticipate any immediate fall-off in that level of demand. Democratic Services Officers will continue to schedule dates as applications come in and by the date of this Licensing Committee meeting the number and type of applications due to be heard during early May should be clearer and Committee is asked to finalise arrangements for hearings in the current municipal year.
 - 2.3 Scheduling of hearings for the municipal year 2006/07
 - 2.3.1. Members are asked to consider whether to continue with the current scheduling arrangements or to move to a more regular pattern. If a regular pattern is to be introduced it would best to have something in place before the start of the municipal year rather than wait until the next meeting of the Licensing Committee in June.
 - 2.3.2. Issue which would need to be addressed are:
 - Evening or daytime meetings – Some members of the public have expressed concern at daytime meetings as they have difficulty in attending due to work commitments. Evening meetings cannot carry the same workload and would be more difficult to slot in with other committee commitments in terms of the availability of members, officers and accommodation.
 - Frequency of meetings - Evening meetings would probably have to be scheduled once a week to deal with the potential workload but there would be problems with integrating this as mentioned above. Daytime meetings could probably be reduced to once a fortnight.
 - Conflicts of Interest - If regular meetings are scheduled and members allocated in advance there may be occasions where a conflict arises which would mean it is inadvisable for a member to hear a particular application. One possible solution would be to allocate more than three members for any particular scheduled date.

3. ALTERNATIVE OPTIONS

- 3.1 Hearings in the immediate post-election period
 - 3.1.1. If no arrangements are made to enable sub-committees to meet the authority will be unable to discharge certain of its duties under the Licensing Act 2003. The consequences may vary depending on the particular duty which the authority has failed to exercise. The Act does not lay down specific actions which may result from such failures. Failure to determine a police objection to a temporary event notice may result in the event going ahead despite the unresolved police objection. Failure to determine a review of a premises licence following a closure order may result in commercial loss to the premises licence holder. The authority's reputation would suffer from any failure to discharge a statutory obligation.

3.2 Hearings in the immediate pre-election period and scheduling of hearings for the municipal year 2006/07

3.2.1. Members are able to make any arrangements they think suitable to discharge the duties of the Licensing Committee in respect of scheduling hearings

4. FINANCIAL IMPLICATIONS

4.1 Hearings in the immediate post-election period

4.1.1. There are no additional costs associated with the appointment of an interim Licensing Committee. Failure to comply with statutory obligations may result in challenges to the authority with associated legal costs.

4.2 Hearings in the immediate pre-election period and scheduling of hearings for the municipal year 2006/07

4.2.1. There are no immediate additional costs arising from any particular method of allocating members to hearings or scheduling hearings. Evening meetings would be likely to require a higher frequency of meetings and additional officer overtime costs. Members of Licensing Committee are not currently in receipt of any responsibility allowance for Licensing hearing duties but this matter is due to be discussed at the next meeting of the General Purposes Committee and should any attendance dependent allowance be introduced the frequency of meetings would have some financial implications.

OFFICER CONTACT: Colin Millar, Democratic Services Officer

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