

## Committee: Licensing Committee

Date: 23 February 2016

Wards: All

### Subject: Quorum for Licensing Sub-Committee

Lead/ Contact officer: Guy Bishop, Senior Lawyer Litigation and Planning Team the South London Legal Partnership.

Lead member: Councillor Nick Draper

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#### Recommendations:

- A. That the Licensing Committee notes the information on the quorum required for a licensing Sub-Committee and decides if any further action required
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## 1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. At the Meeting of the Licensing Committee 22 October 2015, the Committee asked the Legal Advisor about the legal requirements for a quorum at Licensing Sub-Committee. Currently Merton operates its Licensing Sub-Committee with a quorum of 3 as set by the Constitution of the Council, and so the Sub-Committee cannot meet if one member does not arrive.

1.2. Section 2 provides the information requested by the Committee

## 2 DETAILS

### 2.1. The Licensing Act 2003

Section 9 of the Licensing Act 2003 seems clear that the Licensing Committee delegates to Licensing Sub-Committees containing 3 members.

#### ***9 Proceedings of licensing committee***

*(1) A licensing committee may establish one or more sub-committees consisting of three members of the committee.*

*(2) Regulations may make provision about—*

*(a) the proceedings of licensing committees and their sub-committees (including provision about the validity of proceedings and the quorum for meetings),*

*(3) Subject to any such regulations, each licensing committee may regulate its own procedure and that of its sub-committees.*

In the absence of guidance or caselaw, then section 10 of the Licensing Act 2003 may assist to allow the Licensing Committee to say that the Licensing Sub-Committee can still be quorate.

#### ***10 Sub-delegation of functions by licensing committee etc.***

*(5) The power exercisable under subsection (2) by a sub-committee established by a licensing committee is also subject to any direction given by that committee to the sub-committee.*

There is no explanation in the Licensing Act 2003 or its Regulations as to whether the Committee is quorate if one of the 3 members is still not in attendance.

## 2.2. **LB Merton Constitution**

The Constitution does not address a Licensing Sub-Committee quorum in the “Constitution part 3F - Delegation by full council” at paragraph 8, but quorum is addressed in the “Part 4A - Council procedure rules” as follows:

### 5.4 Quorum

(a) The quorum of a meeting of the Council or of any non-executive committee will be one quarter of the whole number of Members or a minimum of three Members. The quorum for a meeting of the Cabinet, Cabinet committee or Cabinet sub-committee is governed by the Cabinet Procedure Rules.

(b) Except where authorised by statute, business shall not be transacted in the absence of a quorum. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will stand adjourned for 10 minutes. If after recommencing there is still no quorum, then the meeting will end immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

In those circumstances, the quorum must remain 3 members of the Committee, unless this part of the constitution is changed to permit a Licensing sub-Committee to be quorate with 2 members with a deciding vote by the chairman.

## 2.3. Table to show approach of other Councils

<b>examples</b>	<b>quorum</b>	<b>Relevant contents of reports / source</b>
Havering LBC	2	The Sub-Committee comprises three members of the Licensing Committee, with a quorum of two members. <b>Unless there are objections, in the absence of three members, the hearing shall proceed with the quorum of two.</b>
LB Hammersmith & Fulham	2	The quorum of the Sub-Committee shall be 2 Councillors
Malvern Hills DC	3	The quorum of the Licensing and Appeals Committee and its sub-committees will be 3 members.
Tower Hamlets	3	The Licensing Sub Committee will consist of 3 Members of the Licensing Committee and the quorum of the Sub Committee shall be 3 Members.
Sevenoaks DC	2	That the quorum of the Licensing Sub-Committee be amended to two.

Sutton LBC		The Committee considered altering from three to two the quorum of Licensing Sub Committee meetings where an application or review was being considered relative to licences under the Licensing Act 2003 or the Gambling Act 2005, so that the hearings could still proceed if one of the three Members was unable to attend. He stressed that the Sub Committee would always be expected to have three Members present, but the reduced quorum would allow a hearing to proceed on the rare occasions when one of the Members was unexpectedly unable to attend.
Croydon LBC	3	The quorum of the Licensing Sub-Committee is three Members and all three Members must be present throughout the hearing.
Tewkesbury DC	3	The <b>quorum</b> of the <b>Sub-Committee</b> will be 3
Waltham Forest LB	3	For <b>sub-committees</b> of 3 members, the <b>quorum</b> will be 3 members.
Richmond LBC	3 or 1/3 of number of voting members	The quorum for an Overview and Scrutiny Committee shall be three or one-third of the number of voting Committee Members, whichever is the greater (as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution).
Dartford LBC	3	The quorum shall be three (3) for the duration of the meeting.

### **3 ALTERNATIVE OPTIONS**

3.1. N/A

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

4.1. N/A

### **5 TIMETABLE**

5.1. N/A

### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

6.1. N/A

### **7 LEGAL AND STATUTORY IMPLICATIONS**

7.1. As detailed in section 2

### **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1. N/A

### **9 CRIME AND DISORDER IMPLICATIONS**

9.1. N/A

### **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. N/A

### **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

11.1. None

**12 BACKGROUND PAPERS**

12.1. Licensing Act 2003

12.2. LB Merton Constitution