

REPORT OF ACTING DIRECTOR OF CORPORATE SERVICES

MEMBERSHIP AND SCHEDULING OF LICENSING PANELS IN 2007/08

1 SUMMARY

This report requests the determination of membership and appointment of Chairs of Licensing Panels for the municipal year 2007/08.

2 RECOMMENDATIONS

It is recommended that the Committee:-

- (1) agree one of the two options for the membership of sub-committees ("Panels") detailed in Appendix 1, to consist of no more or less than three members with the ability for substitutes to be drawn from any other members of this Committee;
- (2) resolve that the Special Licensing Panel shall:-
 - (i) comprise of any three Chairs of Licensing Panels, with the ability to use one non-chair substitute to be drawn from the membership of the full Committee;
 - (ii) meet as required to determine complex or contentious licensing applications and to determine reviews of licences in accordance with the allocation procedure detailed in Appendix 2 ;
- (3) note the following:-
 - (a) that Licensing Committee meetings will be notified as and when required;
 - (b) the table of delegated functions set out in Appendix 3;
 - (c) the Customer Services Manager (Food and Licensing) is responsible for the referral of applications and reviews to Special Panel following consultation with the Chair or Vice-Chair of the Licensing Committee.

3 BACKGROUND

- 3.1 This Committee is established under Section 6 of the Licensing Act 2003. By virtue of the Act all the functions of the Licensing Authority under the Licensing Act 2003, (other than matters relating to the Statement of Licensing Policy and matters referred to another committee) are required by statute to be carried out by this Committee. In addition, various functions under the Gambling Act 2005 are also required to be exercised by this Committee. The Committee may appoint one or more sub-committees (Panels) consisting of three members of the Committee and,

in so doing, may arrange for some or all of the functions of the Committee to be exercised by a sub-committee or, in appropriate cases, by officers of the Authority.

- 3.2 Further to the meeting of this Committee on 18 May when the minority party members indicated that they intended to take no further part in the membership of the licensing panels, there is an urgent need to review the membership of the panels and the arrangements for the Special Panel to ensure that the Authority performs its obligations in an effective manner. Whilst this Authority has tried in the past to ensure political balance in the constitution of the Committee and its Panels there is no necessity to do so. Since the last meeting there has been contact with the political groups and the options set out in this report are the outcome.

4 FINANCIAL IMPLICATIONS

None

5 LEGAL IMPLICATIONS

The Authority is required to hold hearings within prescribed time limits and the current uncertainty over the constitution and working arrangements for the panels is leading to delay.

6 EQUALITY AND DIVERSITY IMPLICATIONS

None

7 RISK MANAGEMENT ISSUES

None

8 STRATEGIC AIMS

- 8.1 The licensing and gambling regimes may promote regeneration in deprived areas by generating employment, quality of life opportunities and by supporting local communities.
- 8.2 If properly channelled the creation and operation of leisure opportunities make local communities more attractive areas in which to live and work. If not adequately controlled it may result in the Authority failing in its duty to promote the licensing objectives. Compliance will be ensured by regular inspections of licensed premises and by responding to complaints.
- 8.3 By working with local communities and partners to reduce crime and fear of crime the Authority will promote and contribute to its community safety programme.
- 8.4 Supporting cultural diversity and providing leisure and community facilities is a strategic aim of the Authority.

9 BEST VALUE

The Authority is required to operate the licensing and gambling regimes as a no cost service. A majority of fees are set centrally, but where the authority does have

a power to set its own fees it is under a duty to aim to ensure that this is being achieved. Indications are that the costs of administering the Licensing Act functions in particular will outweigh the income derived and action is being taken to lobby Government to address the shortfall in costs.

10 CRIME AND DISORDER IMPLICATIONS

Licensing is an opportunity for the City Council to work in partnership with the Police to reduce the risk of crime and disorder associated with licensable activities occurring.

11 List of background papers other than published works or those disclosing confidential or exempt information

None

12 Published documents referred to in compiling this report

The Licensing Act 2003
Guidance issued under s182 of the Licensing Act 2003
The Gambling Act 2005
Guidance issued under s25 of the Gambling Act 2005

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18 April 2007

LICENSING PANEL MEMBERSHIP 2007/08

Option One

PANEL A (10.00 am Monday)

Councillor Cresswell (Chair)
Councillor Smith
Councillor Malcolm

PANEL B (10.30 am Tuesday)

Councillor Grocock (Chair)
Councillor Wildgust
Councillor Heppell

PANEL C (10.00 am Tuesday)

Councillor Packer (Chair)
Councillor G Khan
Councillor Malcolm

PANEL D (9.30 am Friday)

Councillor James (Chair)
Councillor Ibrahim
Councillor Cresswell

PANEL E (2.00 pm Monday)

Councillor Heppell (Chair)
Councillor A Khan
Councillor Wildgust

Option Two

PANEL A (10.00 am Monday)

Councillor Cresswell (Chair)
Councillor A Khan
Councillor Wildgust

PANEL B (10.30 am Tuesday)

Councillor Grocock (Chair)
Councillor James
Councillor Malcolm

PANEL C (9.30 am Friday)

Councillor Heppell (Chair)
Councillor Ibrahim
Councillor Smith

NB Councillor G Khan and Councillor Packer have not specifically been allocated to a panel under this option in view of their Civic commitments. They would however be able to act as substitutes for any panel as would other members of the Committee.

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**PROCEDURE FOR THE
SPECIAL LICENSING PANEL**

Committee membership and procedure

1. The Special Panel is required to comprise of 3 Chairs of Licensing Panels, with the ability to use one non-chair substitute to be drawn from the membership of the full Committee.
2. Upon notification that a meeting of the Special Panel is required Committee Services will seek to call the meeting within 7 working days of the deadline imposed by the Licensing Act 2003 (Hearings) Regulations 2005 (as amended) for the commencement of the hearing. The Special Panel meeting will be called on a day and at a time normally allocated for one of the Licensing Panels
3. Committee Services will initially canvass the availability of all chairs for all Panels which do not currently have work allocated to them within this 7 day time scale.
4. The Special Panel shall be convened on a date within this time scale where:-
 - a. 3 chairs are available, or failing this;
 - b. 2 chairs and a non chair substitute from the full committee are available.
5. On those occasions where, due to the amount of work before the Special Panel or lack of available members, it is not possible to convene a meeting of the Special Panel within the required timescales then the Licensing Officer shall be asked to consider using her delegated power to extend the time limits for the commencement of hearings to the next available day and date allocated for a licensing panel upon which sufficient members of the Special Panel would be available.
6. No Chair has been appointed for the Special Panel. It will therefore be necessary to consider the appointment of the Chair as the first item at the meeting. Where they are in attendance at a meeting of the Special Panel the first preference to Chair the meeting would be the Chair of the Licensing Committee, followed by the Vice Chair, then any other Chair.

**PROCESS OF LICENCE DECISION MAKING –
TABLE OF DELEGATED FUNCTIONS**

The Authority has, in the majority of cases, followed the table of delegated functions set out below. However, in circumstances where it seems appropriate to the Authority, any particular matter may be dealt with otherwise than is indicated in this table whilst having due regard to statutory requirements. For example, an Officer may choose not to exercise their delegated power and refer the matter to the Panel or the Panel itself may choose to refer the matter to the Full Committee.

Matter to be dealt with	Full Licensing Committee	Licensing Panel	Officer Decision*
<u>Licensing Act 2003</u>			
Application for personal licence with unspent convictions		All cases where there is a police objection	No objection made
Application for premises licence/club premises certificate	Representation relating to Cumulative Impact other than in a designated saturation zone	Representation made	No representation made
Application for provisional statement	Representation relating to Cumulative Impact other than in a designated saturation zone	Representation made	No representation made
Application to vary premises licence/club premises certificate	Representation relating to Cumulative Impact other than in a designated saturation zone	Representation made	No representation made
Application to vary designated premises supervisor		Police representation made	All other cases
Request to be			All cases

removed as designated premises supervisor			
Application for transfer of premises licence		Police representation made	All other cases
Application for interim authority		Police representation made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint or objection is irrelevant, repetitious, frivolous, vexatious, etc			All cases
Decision to object where Local Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police representation to a temporary event notice		All cases	
Various Gaming functions relating to alcohol licensed premises (these functions relate to applications received on or before 31 August 2007, thereafter they are repealed)			

by the Gambling Act 2005)			
Grant, renew and refuse amusement with prize permits for up to two machines in accordance with the Gaming Act 1968, section 34 and Schedule 9 and the Lotteries and Amusements Act 1976, section 16 for premises licensed for the sale of alcohol			All cases
To make, revoke, and vary orders in accordance with section 6 of the Gaming Act 1968 for premises licensed for the sale of alcohol authorising games of equal chance gaming (e.g. bingo, bridge) where no levy for taking part or on stakes or winnings is made other than where it is requested that conditions or restrictions be imposed in relation to high stake gaming			All cases
Grant, renew and refuse amusement with prize permits for more than two machines in accordance with the Gaming Act 1968, section 34 and Schedule and the Lotteries and Amusements Act		All cases	

1976, section 16 for premises licensed for the sale of alcohol			
Any applications for gaming in premises licensed for alcohol which fall to be determined which are outside of the delegations granted above		All cases	
<u>Gambling Act 2005</u>			
Application for premises licence including applications for reinstatement under S195 Gambling Act		<ol style="list-style-type: none"> 1. Representation made and not withdrawn (S154 (4)(a)) and/or 2. Where the Licensing Authority considers that a condition should be added to the licence under S169 (1)(a) or a default condition should be excluded under S169(1)(b) unless the applicant and any persons making representation agree to this course of action and that a hearing is unnecessary 	No representation made or representations have been withdrawn
Application to vary premises licence		<ol style="list-style-type: none"> 1. Representation made and not withdrawn (S154 (4)(b)) and/or 2. Where the Licensing Authority considers that a condition should 	No representation made or representations have been withdrawn

		<p>be added to the licence under S169 (1)(a) or a default condition should be excluded under S169(1)(b) unless the applicant and any persons making representation agree to this course of action and that a hearing is unnecessary (S187(3))</p>	
Application for transfer of premises licence		Representation made and not withdrawn (S154(4)(c))	All other cases
Application for provisional statement		<ol style="list-style-type: none"> 1. Representation made and not withdrawn (S154 (4)(d)) and/or 2. Where the Licensing Authority considers that a condition should be added to the licence under S169 (1)(a) or a default condition should be excluded under S169(1)(b) unless the applicant and any persons making representation agree to this course of action and that a hearing is 	No representation made or representations have been withdrawn

		unnecessary	
Review of a premises licence		All cases	
Consideration of Temporary Use Notices (including notices modified under section 223)		<ol style="list-style-type: none"> 1. All cases where an objection notice has been received unless each person who would be entitled to make representation agrees that a hearing is unnecessary and the Head of Food and Licensing or the Services Director, Environment and Public Protection is satisfied that a counter notice is not required (S222 and 232) 2. All cases where a counter notice may be required 	All other cases
Application for Club Gaming/Club Machine Permits, renewals and variations (including those leading to cancellation of permit) under Sch12 para 15		<ol style="list-style-type: none"> 1. Objection made and not withdrawn (Sch12 para 28 (2)) 2. Refusal of a permit proposed on the grounds listed in Sch 12 para 6(1)(a)-(d), or para 10(3) as applicable unless Authority and all relevant parties agree that a hearing is unnecessary (Sch 12 para 7) 	All other cases
Cancellation of		All cases	

Club Gaming/Club Machine Permits under Sch 12 para 21 and 22 (non payment of annual fee)			
Applications for other permits registrations and notifications			All cases
Cancellation (under Sch 13 para 16 and 17 (non payment of annual fee)) and variation of Licensed Premises Gaming Machine permits under Sch 13 para 16		Where permit holder requests a hearing under para 16 (2) or makes representations	All other cases

* These powers are delegated to the Team Leader (General Licensing), the Senior Assistant Licensing Officer (General Licensing), the Service Manager (Food and Licensing) and the Assistant Director (Environment and Public Protection).

