

**REPORT OF DEPUTY CHIEF EXECUTIVE/ CORPORATE DIRECTOR OF RESOURCES**

**MEMBERSHIP AND SCHEDULING OF LICENSING PANELS IN 2009-2010**

**1 SUMMARY**

This report requests the determination of membership and appointment of Chairs of four Licensing Panels for the municipal year 2009/2010.

**2 RECOMMENDATIONS**

It is recommended that the Committee:-

- (1) agree the membership of four sub-committees (to be known as Licensing Panels A to D), consisting of no more or less than three members (detailed in Appendix 1) with substitutes to be drawn from the 15 members of this Committee;
- (2) agree the table of delegated functions set out in Appendix 2.
- (3) note the following:-
  - (a) that Licensing Committee meetings will be notified as and when required;
  - (b) that Panel meetings have been arranged as set out in Appendix 3;
  - (c) that Special Licensing Panels will be arranged:-
    - (i) comprising of any three Chairs of Licensing Panels with the ability to use a non-chair substitute to be drawn from the membership of the Panels;
    - (ii) to meet as required to determine complex or contentious licensing applications and to determine reviews of licences;
    - (iii) the Head of Public Protection is responsible for the referral of applications and reviews to the Special Licensing Panel, following consultation with the Chair or Vice-Chair of the Licensing Committee;
    - (iv) the allocation procedure used for arranging Special Licensing Panel meetings as detailed in Appendix 4 to the report.

### **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, 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 Licensing Panel memberships and the appointment of Panel Chairs for the municipal year 2009/2010 now need to be determined. Whilst this authority has tried to ensure political balance in the constitution of the Committee and its Panels there is no necessity to do so.
- 3.3 The table of delegations previously approved by committee has been noted to be slightly out of date and not wholly in accordance with the way in which certain parts of the legislation operate. A small number of amendments are therefore proposed and these are indicated within Appendix 2.

### **4 FINANCIAL IMPLICATIONS**

None

### **5 LEGAL IMPLICATIONS**

None other than those referred to in section 3 (Background) above.

### **6 EQUALITY AND DIVERSITY IMPLICATIONS**

None

### **7 RISK MANAGEMENT ISSUES**

None

### **8 STRATEGIC AIMS**

The licensing and gambling regimes may promote regeneration in deprived areas by generating employment, quality of life opportunities and by supporting local communities.

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.

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.

Supporting cultural diversity and providing leisure and community facilities are 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. The 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. Appropriate delegations to officers and subcommittees ensure that the service is delivered in a cost effective and efficient manner.

**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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**MEMBERSHIP OF LICENSING PANELS 2009/2010**

**Note:** A revised copy of this appendix showing the nominations will be circulated to members prior to the meeting.

**PANEL A**

**PANEL B**

**PANEL C**

**PANEL D**

**SPECIAL LICENSING PANEL**

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

The Authority, in the majority of cases, follows 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.

<b>Matter to be dealt with</b>	<b>Full Licensing Committee</b>	<b>Licensing Panel</b>	<b>Officer Decision*</b>
<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 removed as designated premises supervisor			All cases
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 (including summary reviews)		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	
<u>Gambling Act 2005</u>			
Application for premises licence including applications for reinstatement under S195 Gambling Act		<ol style="list-style-type: none"> <li>1. Representation made and not withdrawn (S154 (4)(a)) and/or</li> <li>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</li> </ol>	<p>All other cases</p> <p>[This is an amendment and used to read –“No representation made or representations have been withdrawn”]</p>

		representation agree to this course of action and that a hearing is unnecessary	
Application to vary premises licence		<ol style="list-style-type: none"> <li>1. Representation made and not withdrawn (S154 (4)(b)) and/or</li> <li>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 (S187(3))</li> </ol>	<p>All other cases</p> <p>[This is an amendment and used to read –“No representation made or representations have been withdrawn”]</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"> <li>1. Representation made and not withdrawn (S154 (4)(d)) and/or</li> <li>2. Where the Licensing Authority considers that a condition should be added to the</li> </ol>	<p>All other cases</p> <p>[This is an amendment and used to read –“No representation made or representations have been withdrawn”]</p>

		<p>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</p>	
Review of a premises licence		All cases	
Consideration of Temporary Use Notices (including notices modified under section 223)		<p>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 Public Protection or the Director of Customer Services is satisfied that a counter notice is not required (S222 and 232)</p> <p>2. All cases where a counter notice may be required</p> <p>[this section has been amended to reflect the titles of the current posts exercising these functions]</p>	All other cases



<p>Application for Club Gaming/Club Machine Permits, renewals and variations (including those leading to cancellation of permit) under Sch12 para 15</p>		<ol style="list-style-type: none"> <li>1. Objection made and not withdrawn (Sch12 para 28 (2))</li> <li>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)</li> </ol>	<p>All other cases</p>
<p>Cancellation of Club Gaming/Club Machine Permits under Sch 12 para 21</p>		<p>Where a permit holder requests a hearing under para 21(2) or makes representations</p> <p>[this is an amendment and used to require all cases to be determined by the Panel]</p>	<p>All other cases</p>
<p>Cancellation of Club Gaming/Club Machine Permits under Sch 12 para 22 (non payment of annual fee)</p>			<p>All Cases</p> <p>[This is an amendment, the delegation used to require these cases to be determined by panel but there is no legal requirement or need for them to be referred]</p>
<p>Applications for other permits registrations and notifications</p>			<p>All cases</p>
<p>Cancellation and variation of Licensed Premises Gaming Machine permits under Sch 13 para 16</p>		<p>Where permit holder requests a hearing under para 16 (2) or makes representations</p>	<p>All other cases</p>
<p>Cancellation of Licensed Premises Gaming Machine permits under Sch</p>			<p>All Cases</p> <p>[This is an amendment, the delegation used to require these cases to</p>

13 para 17 (non payment of annual fee)			be determined by panel but there is no legal requirement or need for them to be referred]
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\*These powers are delegated to the Team Leader (General Licensing), the Senior Assistant Licensing Officer (General Licensing), the Head of Public Protection and the Director of Customer Services.

[this section has been amended to reflect the titles of the current posts exercising these functions]

**DATES OF PANEL MEETINGS 2009/2010****PANEL A – MONDAY AT 10.00 AM**

<b>MONTH</b>	<b>DATE</b>	<b>MONTH</b>	<b>DATE</b>
May 2009	18	December 2009	7 21
June 2009	1 15 22 29	January 2010	4 11 18 25
July 2009	6 20 27	February 2010	1 15 22
August 2009	3 10 17 24	March 2010	1 15 22 29
September 2009	7  21 28	April 2010	19 26
October 2009	5 19 26	May 2010	17 24
November 2009	2  9 16 23 30		

**PANEL B – TUESDAY 10.00 AM (or Special Licensing Panel at 10.00 am)**

<b>MONTH</b>	<b>DATE</b>	<b>MONTH</b>	<b>DATE</b>
May 2009	12	December 2009	1
	19		8
June 2009	2		15
	9	22	
	16	29	
	23	January 2010	5
	30		12
July 2009	7	19	
	14	26	
	21	February 2010	2
	28		9
August 2009	4	16	
	11	23	
	18	March 2010	2
	25		9
September 2009	8	16	
	15	23	
	22	30	
	29	April 2010	13
October 2009	6		20
	13	27	
	20	May 2010	11
27	18		
November 2009	3	25	
	10		
	17		
	24		

**PANEL C – THURSDAY 10.00 AM**

<b>MONTH</b>	<b>DATE</b>	<b>MONTH</b>	<b>DATE</b>
May 2009	14 21 28	November 2009	5 12 19 26
June 2009	4 11 18 25	December 2009	3 10 17 31
July 2009	2 9 16 23 30	January 2010	7 14 21 28
August 2009	6 13 20 27	February 2010	4 11 18 25
September 2009	3 10 17 24	March 2010	4 11 18 25
October 2009	1 8 15 22 29	April 2010	1 8 15 22 29
		May 2010	13 20 27

**PANEL D – MONDAY 2.00 PM**

<b>MONTH</b>	<b>DATE</b>	<b>MONTH</b>	<b>DATE</b>
May 2009	18	December 2009	7 21
June 2009	1 15 22 29	January 2010	4 11 18 25
July 2009	6 20 27	February 2010	1 15 22
August 2009	3 10 17 24	March 2010	1 15 22 29
September 2009	7  21 28	April 2010	19 26
October 2009	5 19 26	May 2010	17 24
November 2009	2  9 16 23 30		

**PROCEDURE FOR THE  
SPECIAL LICENSING PANEL**

**Committee membership and procedure**

1. The Special Panel is required to comprise of any 3 Chairs of Licensing Panels, with the ability to use a non-chair substitute to be drawn from the membership of the Licensing Panels.
2. Upon notification that a meeting of the Special Panel is required the Committee Section 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 arranged for 10.00 am on a Tuesday (Panel B is arranged for 10.30 am every Tuesday and this slot should be used for Special Panel as it would be impossible to have both panels on the same day).
3. The Committee section 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 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.
7. Whilst under these arrangements, the consideration of interim steps and any representations made against in them in Summary Reviews would fall to be determined by the Special Licensing Panel, given the urgency and timescales imposed in determining such matters that these steps may be considered by an ordinary Licensing Panel if it is not possible to convene a meeting of the Special Licensing Panel within the prescribed time scales, it being noted that the full review will still be placed before the Special Licensing Panel.