

Agenda Item No: 4

Report To: Selection and Constitutional Review Committee

Date of Meeting: 19 November 2020

Report Title: Constitutional Amendments – Licensing arrangements

Report Author & Job Title: Trevor Ford
Environmental Protection & Licensing Team Leader

Portfolio Holder: Cllr. Peter Feacey
Portfolio Holder for: Portfolio Holder for Community Safety and Wellbeing



Summary:	The report recommends an amendment to the Responsibility for Functions in the Constitution to create a second licensing committee as a result of the Statutory Standards for Taxi Licensing, and in light of legal advice on ensuring that the responsibilities for functions remain legally robust.
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Key Decision: NO

Significantly Affected Wards: Not applicable

Recommendations: **The Committee is asked to recommend to Full Council that the changes in the Constitution as set out in Appendix 2A and 2B of this report be made.**

Policy Overview: There is a duty to review the Constitution and keep it up to date.

Financial Implications: None

Legal Implications The proposed changes would future strengthen the constitution and licensing arrangements and thus further reduce the risk that decision are quashed under appeal.

Equalities Impact Assessment Not applicable

Other Material Implications: None

Exempt from Publication: NO

**Background
Papers:
Contact:**

None

trevor.ford@ashford.gov.uk – Tel: (01233) 330397

Constitutional Amendments - Licensing arrangements

Introduction and Background

1. In July 2020, the Department for Transport published the *Statutory Taxi and Private Hire Vehicle Standards*, which required that the council have regard to amending the delegations with respect to taxi and private hire vehicle licensing.
2. The principle change was that all taxi and private hire licensing decisions should be referred to a sub-committee hearing in order to determine applications with the exception of:
 - Applications where there is no prior history to be considered, and
 - Urgent decisions to be taken in the immediate interest of protecting public safety.
3. All decisions are currently delegated to an authorised officer of the council, whereas after these amendments, only those two exceptions above will remain as delegated decisions.
4. As such there is now a need to delegate these powers to a committee, and sub-committee.
5. However, due to legal limitations placed upon the constitutional setup of licensing committees, under the Licensing Act 2003 and Local Government Act 1972, it is necessary to assign this responsibility to a committee constituted separately to the main Licensing and Health & Safety Committee.
6. As it is also the purpose of the Council's constitution to enable decisions to be taken efficiently and effectively and to ensure that those responsible for decision-making are clearly identifiable to local people, it appears a sensible time to amend the existing delegations to ensure that the constitutional arrangements are clear and legally robust.
7. Additional to the issue of the responsibility of these functions, the statutory standards also require that members of the council responsible for making such decisions should be trained in matters pertaining to taxi and private hire licensing, and as such it appears prudent to include this requirement into the amendments.

Proposal

8. In order to address the matters raised above, it is proposed to create a second committee (and sub-committee) in order to consider taxi and private hire licensing matters. This will include the responsibility for functions including the grant, suspension, and revocation of licences, and also the requirement for members of the committee to be trained in matters pertaining to the licensing regime. For ease of reference it is suggested this new committee is named the 'Regulatory Committee'.

9. In line with current good practice and legal requirements, is also proposed that the new Regulatory Committee take responsibility for all matters held by the current Licensing and Health & Safety Committee, except for those falling under the remit of the Licensing Act 2003 and Gambling Act 2005.
10. This will then result in two committees that consider licensing and other regulatory matters, namely the 'Licensing Committee' as constituted under the Licensing Act 2003, and the 'Regulatory Committee' as constituted under the Local Government Act 1972.
11. The Regulatory Committee must be politically balanced in accordance with s.15 of the Local Government and Housing Act 1989, whereas there is no formal requirement for the Licensing Committee to be politically balanced under the requirements of the Licensing Act. It is, however, a recommendation of this report that for efficiency the two committees have the same members and a similar structure with regard to their sub-committees. As such both committees should be politically balanced, therefore allowing the same membership.
12. *Appendix 1* contains the current constitutional arrangements for the Licensing Health & Safety Committee. Whilst *Appendix 2A and 2B* contains the proposed updated scheme of responsibilities taking on board the above recommendations.
13. It may therefore be of interest to note, that despite the set-up of a second committee, and need to refer taxi-licensing matters to a sub-committee hearing, the overall workload of members in this area is not expected to increase significantly.

Conclusion

14. I recommend that changes to the Constitution as set out in this report be agreed. This will ensure that the Council's arrangements are understandable and are legally robust.

Portfolio Holder's Views

15. The changes proposed will strengthen our decisions as a licensing authority and further reduce the risk of legal challenge. It is through our licensing work that we ensure the necessary checks and controls are in place to help ensure the safety and wellbeing of our communities. I support the changes as recommended.

Cllr Peter Feacey
Portfolio Holder for Community Safety and Wellbeing

Contact and Email

16. Trevor Ford (01233) 330397 – trevor.ford@ashford.gov.uk

Licensing and Health and Safety Committee

Membership 13 Members

Terms of Reference

To consider and advise the Council upon:-

1. The setting of fees and charges in relation to the licensing and registration functions as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the Local Authorities (Functions and Responsibilities) (England) (Amendments) Regulations 2001 as listed in Part B of Appendix 3 to Part 3 of the Council's Constitution and the setting of application fees under paragraph 6 (1) of schedule 1 to the Scrap Metal Dealers Act 2013
2. The setting of fees for applications under the Gambling Act 2005.
3. Issues arising from functions relating to Health and Safety under any "relevant statutory provisions" within the meaning of Part 1 of the Health and Safety at Work Act 1974 to the extent that those functions are not discharged otherwise than in the Council's capacity as an employer.
4. A statement of principles in relation to Family Entertainment Centre Gaming Machine Permits or Prize Gaming Permits.
5. Issues arising from the functions relating to the Health Act 2006 and Smoke-Free Regulations.
(Minute No. 111/7/07 refers).
6. Applications under the provisions of the Licensing Act 2003 as set out in the terms of reference of the Licensing Sub-Committee.

Delegations

7. The determination of applications for licences, consents, permits etc under legislation within the remit of the Committee and which are referred to the Committee by the Community Safety and Wellbeing Manager.
8. Applications under the following provisions of the Gambling Act 2005:

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	Matter to be dealt with and relevant provision	Circumstances under which a hearing is held
a.	Application for Premises Licence (Section 162)	If representations made and not withdrawn
b.	Application for variation to a Premises Licence (Section 187)	If representations made and not withdrawn
c.	Application for transfer of a Premises Licence (Section 188)	If representations received from the Commission
d.	Application for a provisional statement (Section 204)	If representations made and not withdrawn
e.	Review of a Premises Licence (Section 201)	All cases
f.	Application for Club Gaming Permit or Club Machine Permit (Sections 271 – 274 and Schedule 12)	If objections have been made and not withdrawn; or if intention to refuse the application
g.	Cancellation of Club Gaming Permit or Club Machine Permit (Sections 271 – 274) and Schedule 12)	All cases
h.	Decision to give a counter notice to a Temporary Use Notice (Section 224)	All cases
i.	Application for licensed premises Gaming Machine Permit (Section 283)	If intention to refuse the application, either wholly or in part
j.	Cancellation or variation of a licensed premises Gaming Machine Permit (Section 284)	All cases
k.	Application for a Family Entertainment Centre Gaming Machine Permit (Section 247)	If intention to refuse the application
l.	Application for a Prize Gaming Permit (Section 289)	If intention to refuse the application
m.	Consideration of objections to a Temporary Use Notice and decision whether to give a counter-notice (Section 224)	If notices of objection have been given and not withdrawn (unless all parties agree that a hearing is unnecessary)

Notes

1. The attendance at a relevant Licensing Training session is a prerequisite to membership of the Committee, including substitute Members. Members should undertake training/refresher training at least once every four years to remain 'eligible' to sit on this Committee.

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Quorum:

One quarter of the total membership.

Licensing Sub Committee

Membership **3 Members***

Terms of Reference

To consider and determine:

1. Applications under the following provisions of the Licensing Act 2003:

	Provision under which a hearing is held	Circumstances under which a hearing is held
a.	Section 18(3)(a) (determination of application for premises licence)	If representations made
b.	Section 20 (mandatory conditions: exhibition of films) If referred by officer for determination	
c.	Section 31(3)(a) (determination of application for a provisional statement)	If representations made
d.	Section 35(3)(a) (determination of application to vary premises licence)	If representations made
e.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor)	If police representation made
f.	Section 44(5)(a) (determination of application for transfer of premises licences)	If police representation made
g.	Section 48(3)(a) (cancellation of interim authority notice following police objection)	All cases
h.	Section 52(2) (determination of application for review of premises licence)	All cases
i.	Section 72(3)(a) (determination of application for club premises certificate)	If representations made
j.	Section 85(3) (determination of application to vary club premises certificate)	If representations made

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	Provision under which a hearing is held	Circumstances under which a hearing is held
k.	Section 88(2) (determination of application for review of club premises certificate)	All cases
l.	Section 105(2)(a) (counter notice following police objection to temporary event notice)	All cases
m.	Section 120(7)(a) (determination of application for grant of personal licence)	If police representation made
n.	Section 121(6)(a) (determination of application for the renewal of personal licence)	If police representation made
o.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence)	All cases
p.	Section 167(5)(a) (review of premises licence following closure order)	All cases
q.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)	If police representation made
r.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)	If police representation made
s.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)	If police representation made
t.	Section 25A (Determination of application for the alternative licence condition to be included in the licence instead of the conditions in Section 19(2) and (3))	If police representation made

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	Provision under which a hearing is held	Circumstances under which a hearing is held
u.	Section 41D (Determination of application by community premises to disapply the mandatory conditions for alcohol on a premises)	If police representation made
v.	Section 52A (Determination of application for a review: supply of alcohol from community premises)	If police representation made
w.	Section 53A (Determination of application for expedited reviews)	If police representation made
x.	Section 53B (Determination of application for interim steps)	If police representation made
y.	Section 53C (Determination of application for a review of premises licence following review notice)	If police representation made

Note: (t) to (y) added by virtue of Minute No. 407/2/10.

2. Applications under the following provisions of the Gambling Act 2005:

	Matter to be dealt with and relevant provision	Circumstances under which a hearing is held
a.	Application for Premises Licence (Section 162)	If representations made and not withdrawn
b.	Application for variation to a Premises Licence (Section 187)	If representations made and not withdrawn
c.	Application for transfer of a Premises Licence (Section 188)	If representations received from the Commission
d.	Application for a provisional statement (Section 204)	If representations made and not withdrawn
e.	Review of a Premises Licence (Section 201)	All cases
f.	Application for Club Gaming Permit or Club Machine Permit (Sections 271 – 274 and Schedule 12)	If objections have been made and not withdrawn; or if intention to refuse the application

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	Matter to be dealt with and relevant provision	Circumstances under which a hearing is held
g.	Cancellation of Club Gaming Permit or Club Machine Permit (Sections 271 – 274) and Schedule 12)	All cases
h.	Decision to give a counter notice to a Temporary Use Notice (Section 224)	All cases
i.	Application for licensed premises Gaming Machine Permit (Section 283)	If intention to refuse the application, either wholly or in part
j.	Cancellation or variation of a licensed premises Gaming Machine Permit (Section 284)	All cases
k.	Application for a Family Entertainment Centre Gaming Machine Permit (Section 247)	If intention to refuse the application
l.	Application for a Prize Gaming Permit (Section 289)	If intention to refuse the application
m.	Consideration of objections to a Temporary Use Notice and decision whether to give a counter-notice (Section 224)	If notices of objection have been given and not withdrawn (unless all parties agree that a hearing is unnecessary)

3. Requests by officers for the determination of all other licencing matters (including but not limited to applications, suspensions, revocations and other enforcement options) except those matters listed under other relevant committees (Minute No 172/10/19 refers).

Notes:

- * 1. Three Members per meeting shall be drawn on an ad-hoc basis from the membership of the Licensing and Health and Safety Committee. The meeting will still be quorate in the event of one Member having to leave the meeting.
2. In determining applications under the above provisions the Sub-Committee shall have regard to any guidance given by the Licensing and Health and Safety Committee in relation thereto.
3. Provisions under which hearings under the Licensing Act 2003 may be heard and the period of time within which hearings must be commenced is set out at Appendix A.
4. A Procedure Note for the conduct of meetings of the Sub-Committee for hearings under the Licensing Act 2003 is set out in Appendix B.

Appendix A

Provisions under which hearings may be heard and the period of time within which hearings must be commenced

	Provision under which hearing is held.	Period of time within which hearing must be commenced.
1.	Section 18(3)(a) (determination of application for premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c).
2.	Section 31(3)(a) (determination of application for a provisional statement).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 30.
3.	Section 35(3)(a) (determination of application to vary premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under Section 17(5)(c) by virtue of section 34(5).
4.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 37(5).
5.	Section 44(5)(a) (determination of application for transfer of premises licence).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 42(6).
6.	Section 48(3)(a) (cancellation of interim authority notice following police objection).	5 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 48(2).
7.	Section 52(2) (determination of application for review of premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 51(3)(c).
8.	Section 72(3)(a) (determination of application for club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c).

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	Provision under which hearing is held.	Period of time within which hearing must be commenced.
9.	Section 85(3) (determination of application to vary club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c) by virtue of section 84(4).
10.	Section 88(2) (determination of application for review of club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 87(3)(c).
11.	Section 105(2)(a) (counter notice following police objection to temporary event notice).	7 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 104(2).
12.	Section 120(7)(a) (determination of application for grant of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 120(5).
13.	Section 121(6)(a) (determination of application for the renewal of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 121(3).
14.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 124(3).
15.	Section 167(5)(a) (review of premises licence following closure order).	10 working days beginning with the day after the day the relevant licensing authority receives the notice given under section 165(4).
16.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 3(2) or (3) of Schedule 8.
17.	Paragraph 16(3)(a) of Schedule 8 (determination of application of conversion of existing club certificate).	10 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under paragraph 15(2) or (3) of Schedule 8.

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	Provision under which hearing is held.	Period of time within which hearing must be commenced.
18.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence).	10 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under paragraph 25(2) of Schedule 8.
19.	Section 25A (Application for the alternative licence condition to be included in the licence instead of the conditions in Section 19(2) and (3))	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under Section 51(3)(c).
20.	Section 41D (Application by community premises to disapply the mandatory conditions for alcohol on a premises)	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under Section 51(3)(c).
21.	Section 52A (Review: supply of alcohol from community premises)	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under Section 51(3)(c).
22.*	Section 53A (Determination of application for expedited reviews)	48 hours from the time of the receipt of the application.
23.*	Section 53B (Determination of application for interim steps)	48 hours from the time of the receipt of the application.
24.	Section 53C (Determination of application for a review of premises licence following review notice)	28 days beginning with the day after the end of the period during which an application for review is received.

Note: 19-24 added by virtue of Minute No. 407/2/10

* In cases Nos. 22 and 23 above the procedure note will be as Appendix C.

Appendix B

Procedure Note for Licensing Hearings

1. Prior to the meeting of the Committee¹, the Committee will have read and familiarised themselves with the Officer's report and documents referred to in it.
2. The hearing will take place in public, subject to a discretion to exclude the public and/or parties where the public interest in doing so outweighs the public interest in the hearing taking place in public². The Committee may also exclude anyone behaving disruptively.³
3. The parties⁴ are entitled to be assisted or represented by any person, whether or not legally qualified. A party is entitled to withdraw any of their representations orally at the hearing or at least 24 hours before the day or the first day of the hearing.⁵
4. The Committee may extend any time limit in the Regulations for a specified period where it considers this to be necessary in the public interest, but must state the period of the extension and the reason for it.⁶ For example, the Committee may extend the time for making a request to call a witness (see paragraph 16 below).
5. Where a party has notified the authority that he does not intend to attend, the Committee will proceed with the hearing in his absence. Where he has not so notified the authority but does not attend, the Committee may adjourn the hearing to a specified date where it considers it necessary in the public interest to do so. Otherwise, it will proceed with the hearing.⁷

¹ In this Note the expression "the Committee" includes a sub Committee

² Reg 14 Licensing Act 2003 (Hearings) Regulations 2005

³ Reg 25

⁴ Reg 2(1) "a person to whom notice of the hearing is to be given under Reg 6(1)" – includes objectors and responsible authorities, such as the Police

⁵ Reg 10

⁶ Reg 11

⁷ Reg 20

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6. Before proceeding in the absence of a party who has not indicated that they do not wish to attend, the Licensing Officer should attempt to ascertain the reason for that party's non-attendance.
7. The Committee may adjourn the hearing to a specified, or extra, date where it considers this to be necessary for the determination of the case.⁸ There are limitations on the ability of the Committee to adjourn the case beyond the time limits for determination during the transitional period and on reviews following closure orders by the police.⁹
8. At the outset of the meeting, a Chair will be elected and any personal and/or prejudicial interests declared.¹⁰
9. Except where the Regulations make specific requirements, the procedure will be in the discretion of the Committee.¹¹
10. At the beginning of the hearing, the Committee will explain to the parties the procedure it proposes to follow.¹²
11. The Chairman will indicate that all the papers before the Committee have been read and that the Committee is familiar with the issues. He will ask the parties to avoid repetition.
12. The Chairman will indicate the order of presentation.
13. If there are a number of objectors present, the Chairman may request that a spokesperson be appointed. He will make it clear that any party¹³ who wishes to speak will be able to do so, and that the appointment of a spokesperson does not mean that the objections of any interested party will be given less weight.
14. The Chairman may also indicate how the Committee intends to deal with conditions proposed by the parties or by the Committee itself. He may ask the parties to attempt to agree a schedule of conditions for use if the Committee is minded to grant the application. This will not mean that the Committee has formed any view of the merits. It will only come to its decision at the end.

⁸ Reg 12

⁹ Reg 13

¹⁰ Model Code of Conduct

¹¹ Reg 21

¹² Reg 22

¹³ see footnote 4

15. A party is entitled to be represented or assisted by another person, whether or not that person is legally qualified. ¹⁴
16. If a party wishes a person (other than himself or his representative) to appear at the hearing he must have made a request to do so prior to the hearing within the times prescribed in Reg. 8. The request must name the person and give a brief description of the point(s) on which that person may be able to assist. In such a case, the Committee will determine the application for permission at the outset of the hearing.¹⁵ In determining that request, the authority will consider the representations of all parties upon the matter and may consider the relevance of the proposed evidence, the assistance it will in fact offer to the Committee and the prejudice to the parties, if the evidence is admitted or excluded.¹⁶
17. Each of the parties has a right to:
- (a) address the Committee;
 - (b) give clarification of any point, where such clarification has been sought by the Council in its notice of hearing;
 - (c) question any other party, but only where this is expressly permitted by the Committee (see para 21 below).¹⁷
18. The Committee must allow an equal maximum time for the parties to exercise their rights as set out in para 17 above.¹⁸
19. The Committee will set the time of the hearing at the outset, having regard to its view of the length reasonably required for the hearing. It may hear the parties briefly before setting the maximum time. It may extend the time where circumstances require.¹⁹
20. The hearing is to take the form of a discussion led by the Committee.²⁰ The Chairman will ensure that within the discussions, all parties are given an opportunity to state their case as set out in their written application/ representations and to meet the case of opposing parties.

¹⁴ Reg 15
¹⁵ Reg 22
¹⁶ Reg 22
¹⁷ Reg 16
¹⁸ Reg 24
¹⁹ Reg 11
²⁰ Reg 23

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21. Cross-examination will not be permitted unless the Committee considers that it is required for it to give proper consideration to the case.²¹ Any application to cross-examine will be heard and dealt with at the hearing.
22. The Committee may consider cross-examination to be required, for example, where there is a genuine issue of fact, which can only be resolved fairly through cross-examination.
23. The Committee may question any party or other person(s) appearing.²²
24. The Committee may take into account documentary or other information provided by a party before the hearing. Information produced at the hearing may only be taken into account with the consent of all other parties.²³ The parties are therefore strongly recommended to exchange documentary evidence and brief summaries of any proposed witness evidence at least 5 days before the hearing, otherwise they may be restricted in the information they can put before the committee. Any material exchanged should also be given to the licensing authority at the same time.
25. The Committee must disregard any information given which is not relevant to the application, representations or notice of the party giving the information. The Committee must also disregard any information which is not relevant to the promotion of the licensing objectives.²⁴
26. In certain circumstances, the Committee is required by law to make its determination at the conclusion of the hearing. This includes certain applications made during the transitional period, counter-notices following police objections to temporary events notices, and reviews of premises licences following closure orders. Otherwise the Committee is required to determine the application within five working days of the day or the last day on which the hearing was held.²⁵
27. The Committee will give reasons for its decision and will confirm the decision in writing to the parties.

²¹ Reg 23

²² Reg 17

²³ Reg 18

²⁴ Reg 19

²⁵ Reg 26

Appendix C

Summary Review Procedures

On receipt of an application from the Police for a summary review of the premises licence the Licensing Authority must:

- i. within 48 hours of the time of its receipt, consider whether it is necessary to take interim steps pending the determination of a review of the premises licence; and
- ii. within 28 days after the day of its receipt, review that licence.

In calculating the 48 hours any time that is not on a working day is to be disregarded.

The Interim Steps Pending Review

The interim steps that the licensing authority must consider taking are as follows:

- i. The modification of the conditions of the premises licence (i.e. the alteration, omission or addition of or to the conditions);
- ii. The exclusion of the sale of alcohol by retail from the scope of the licence;
- iii. The removal of the Designated Premises Supervisor (DPS);
- iv. The suspension of the licence.

Where the licensing authority takes one or more of the steps above that decision takes effect immediately or as soon after as the licensing authority directs. Notice must be given immediately to the Premises licence holder and the Chief Officer of Police.

The Premises licence holder may make representations about the interim steps and should this occur a hearing must be held within 48 hours of receipt to consider those representations. Once again the 48 hours are determined by working days only.

Advance notice of the hearing must be given to the Premises Licence holder and the Chief Officer of Police.

At the hearing the licensing authority must have regard to the certificate from the Police that accompanied the application, any representations by the Police and the representations of the Premises Licence holder.

The subsequent full review hearing is to be conducted in accordance with the review provisions specified in section 51 of the Licensing Act 2003.

Procedure for the Licensing Sub Committee.

- The Licensing Manager or their representative will advise legal services and democratic services of the receipt of the application. The Chair of the Licensing and Health & Safety Committee or deputy will then be informed and arrangements made for 3 Members to be available within 48 hours to sit as a Sub Committee.
- If Members are unable to meet in person then a conference call will be arranged for the purposes of holding the Interim Hearing.
- At the hearing a report will be given to Members by the Licensing Manager or their representative advising them of the application and the interim steps will be considered. The meeting shall be attended by the 3 members of the Sub Committee, legal services, democratic services and the Licensing Manager or representative. Any decision made shall be relayed to the Premises Licence holder and the Chief Officer of Police, both verbally and in writing by the Licensing section that same day.
- A full review hearing shall be arranged which must be held no later than 28 days after the receipt of the certificate from the Police.
- If representations are received from the Premises Licence holder as a result of the interim steps the Sub Committee will be reconvened within 48 hours of receipt to deal with these representations. The Premises Licence holder and Chief Officer of Police will be notified of the hearing and invited to attend. A verbal report will again be given by the Licensing Manager or their representative. Members must then consider whether the interim steps are necessary for the promotion of the licensing objectives and determine whether to withdraw or modify the interim steps.
- Members must have regard to the certificate submitted by the Police, any representations made by the Police and the representations made by the Premises Licence holder. Any decision shall be relayed to the Premises Licence holder and the Chief Officer of Police, both verbally and in writing by the Licensing section that same day.
- At the full review hearing the normal procedure for dealing with reviews shall be followed.

Appendix 2A

Licensing Committee

Membership **13 Members**
(Reflecting the political proportionality of the council)

Terms of Reference

1. To advise and recommend the Council upon on the setting of fees for applications under the Gambling Act 2005.
2. To advise and recommend the Council upon on adoption of a statement of principles under the Gambling Act 2005, and a statement of policy under the Licensing Act 2003
3. To determine applications under the provisions of the Licensing Act 2003 and Gambling Act 2005.

Delegations

4. To delegate the decision making for applications under the Licensing Act 2003 and Gambling Act 2005 to the Licensing Sub-Committee as set out in the terms of reference of the Licensing Sub-Committee

Notes

1. The attendance at a relevant Licensing Act training session is a prerequisite to membership of the Committee, including substitute Members.
2. Members should undertake training/refresher training at least once every four years to remain 'eligible' to sit on this committee.

Quorum:

One quarter of the total membership.

Licensing Sub Committee

Membership **3 Members***

Terms of Reference

To consider and determine:

1. Applications under the following provisions of the Licensing Act 2003:

	Provision under which a hearing is held	Circumstances under which a hearing is held
a.	Section 18(3)(a) (determination of application for premises licence)	If representations made
b.	Section 20 (mandatory conditions: exhibition of films) If referred by officer for determination	
c.	Section 31(3)(a) (determination of application for a provisional statement)	If representations made
d.	Section 35(3)(a) (determination of application to vary premises licence)	If representations made
e.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor)	If police representation made
f.	Section 44(5)(a) (determination of application for transfer of premises licences)	If police representation made
g.	Section 48(3)(a) (cancellation of interim authority notice following police objection)	All cases
h.	Section 52(2) (determination of application for review of premises licence)	All cases
i.	Section 72(3)(a) (determination of application for club premises certificate)	If representations made
j.	Section 85(3) (determination of application to vary club premises certificate)	If representations made

Part 3
Responsibility for Functions
Appendix 4

Terms of Reference of Council Committees and Delegations –
Licensing Sub-Committee

	Provision under which a hearing is held	Circumstances under which a hearing is held
k.	Section 88(2) (determination of application for review of club premises certificate)	All cases
l.	Section 105(2)(a) (counter notice following police objection to temporary event notice)	All cases
m.	Section 120(7)(a) (determination of application for grant of personal licence)	If police representation made
n.	Section 121(6)(a) (determination of application for the renewal of personal licence)	If police representation made
o.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence)	All cases
p.	Section 167(5)(a) (review of premises licence following closure order)	All cases
q.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)	If police representation made
r.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)	If police representation made
s.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)	If police representation made
t.	Section 25A (Determination of application for the alternative licence condition to be included in the licence instead of the conditions in Section 19(2) and (3))	If police representation made

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 Terms of Reference of Council Committees and Delegations –
 Licensing Sub-Committee

	Provision under which a hearing is held	Circumstances under which a hearing is held
u.	Section 41D (Determination of application by community premises to disapply the mandatory conditions for alcohol on a premises)	If police representation made
v.	Section 52A (Determination of application for a review: supply of alcohol from community premises)	If police representation made
w.	Section 53A (Determination of application for expedited reviews)	If police representation made
x.	Section 53B (Determination of application for interim steps)	If police representation made
y.	Section 53C (Determination of application for a review of premises licence following review notice)	If police representation made

2. Applications under the following provisions of the Gambling Act 2005:

	Matter to be dealt with and relevant provision	Circumstances under which a hearing is held
a.	Application for Premises Licence (Section 162)	If representations made and not withdrawn
b.	Application for variation to a Premises Licence (Section 187)	If representations made and not withdrawn
c.	Application for transfer of a Premises Licence (Section 188)	If representations received from the Commission
d.	Application for a provisional statement (Section 204)	If representations made and not withdrawn
e.	Review of a Premises Licence (Section 201)	All cases
f.	Application for Club Gaming Permit or Club Machine Permit (Sections 271 274 and Schedule 12)	If objections have been made and not withdrawn; or if intention to refuse the application

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Appendix 4

Terms of Reference of Council Committees and Delegations –
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	Matter to be dealt with and relevant provision	Circumstances under which a hearing is held
g.	Cancellation of Club Gaming Permit or Club Machine Permit (Sections 271 – 274) and Schedule 12)	All cases
h.	Decision to give a counter notice to a Temporary Use Notice (Section 224)	All cases
i.	Application for licensed premises Gaming Machine Permit (Section 283)	If intention to refuse the application, either wholly or in part
j.	Cancellation or variation of a licensed premises Gaming Machine Permit (Section 284)	All cases
k.	Application for a Family Entertainment Centre Gaming Machine Permit (Section 247)	If intention to refuse the application
l.	Application for a Prize Gaming Permit (Section 289)	If intention to refuse the application
m.	Consideration of objections to a Temporary Use Notice and decision whether to give a counter-notice (Section 224)	If notices of objection have been given and not withdrawn (unless all parties agree that a hearing is unnecessary)

Notes:

- * 1. Three Members per meeting shall be drawn on an ad-hoc basis from the membership of the Licensing Committee. The meeting will still be quorate in the event of one Member having to leave the meeting.
2. In determining applications under the above provisions the Sub-Committee shall have regard to any guidance given by the Licensing Committee in relation thereto.
3. Provisions under which hearings under the Licensing Act 2003 may be heard and the period of time within which hearings must be commenced are set out in the relevant regulations.

Appendix 2B

Regulatory Committee

Membership

13 Members

(Reflecting the political proportionality of the council)

Terms of Reference

1. Except in the case of the Licensing Act 2003 and Gambling Act 2005 functions assigned to the Licensing Committee, to discharge all of the functions of the council as licensing/regulatory authority as prescribed by relevant acts which include;
 - a) The issue, renewal, transfer, suspension, and revocation of hackney carriage, private hire vehicle, driver and operator licenses;
 - b) The discharge of relevant functions relating to the licensing of sex establishments; and
 - c) The discharge of all other functions relating to licensing and regulation in so far as they are the responsibility of the borough council.
2. To advise and recommend the Council upon the setting of fees and charges in relation to the licensing and registration functions as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the Local Authorities (Functions and Responsibilities) (England) (Amendments) Regulations 2001 as listed in Part B of Appendix 3 to Part 3 of the Council's Constitution and the setting of application fees under paragraph 6 (1) of schedule 1 to the Scrap Metal Dealers Act 2013
3. To advise and recommend the Council upon the setting of Licensing Policies, with the exception of those made under the Licensing Act 2003 and the Gambling Act 2005.
4. Issues arising from functions relating to Health and Safety under any "relevant statutory provisions" within the meaning of Part 1 of the Health and Safety at Work Act 1974 to the extent that those functions are not discharged otherwise than in the Council's capacity as an employer.

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Terms of Reference of Council Committees and Delegations –
Regulatory Sub-Committee

5. Issues arising from the functions relating to the Health Act 2006 and Smoke-Free Regulations.

Delegations

6. To delegate the decision making for applications and functions within the remit of the Regulatory Committee to the Regulatory Sub-Committee

Notes

1. The attendance at a relevant 'taxi and private hire licensing' training session is a prerequisite to membership of the Committee, including substitute Members.
2. Members should undertake training/refresher training at least once every four years to remain 'eligible' to sit on this Committee.

Quorum:

One quarter of the total membership.

Regulatory Sub Committee

Membership **3 Members***

Terms of Reference

1. To consider and determine applications and the pursuit of functions in relation to those referred to the Sub-Committee under the delegations made by the Regulatory Committee. This includes, but is not limited to the following matters;
 - a) Local Government (Miscellaneous Provisions) Act 1982 - Determination of application for the grant/renewal/transfer/variation or revocation of a sex shop, sex cinema or sexual entertainment venue licence
 - b) Town Police Clauses Act 1847, Public Health Act 1875 and Local Government (Miscellaneous Provisions) Act 1976 - to exercise the Council's powers and duties in relation to the licensing of hackney carriages and private hire vehicles, including the licensing of vehicles, drivers and operators, the control of numbers of hackney carriages, and the licensing of private hire operators where the matter has been referred by the delegated officer.

Notes:

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1. Three Members per meeting shall be drawn on an ad-hoc basis from the membership of the Regulatory Committee. The meeting will still be quorate in the event of one Member having to leave the meeting.
 2. In determining applications under the above provisions the Sub-Committee shall have regard to any guidance given by the Regulatory Committee in relation thereto.