

**WALSALL COUNCIL**

**REPORT OF ASSISTANT DIRECTOR,  
LEGAL AND CONSTITUTIONAL SERVICES TO  
LICENSING AND SAFETY COMMITTEE**

**27 MAY, 2009**

**THE LICENSING ACT, 2003 - LICENSING SUB-COMMITTEES**

1.0 **Purpose of Report**

1.1 The purpose of the report is to update the Committee on applications processed under the legislation and to seek the Committee's approval to the re-establishment for the 2009/10 Municipal Year, of the Licensing Sub-Committees.

2.0 **Recommendations**

2.1 The Committee is asked to:-

- (a) Note the report;
- (b) To re-establish Sub-Committees in accordance with Section 9 of the Licensing Act, 2003, solely to determine applications under that legislation. The Sub-Committees to comprise three Members of the Licensing and Safety Committee on a rota basis, subject to availability.

3.0 **Legal Implications**

3.1 The 2003 Act provides that decisions and functions may be taken and carried out by Licensing Committees, Licensing Sub-Committees, or in appropriate cases, by officers supporting the Licensing Authority, under a scheme of delegations. The Licensing Authority will follow the scheme of delegations outlined in Paragraph 3.63 of the guidance issued under Section 182 of the Licensing Act, 2003. The purpose of the scheme of delegations is to assist with the speedy determination of applications in a cost effective and efficient manner. Section 9 of the Licensing Act, 2003 provides that the powers that have been delegated to the Licensing Committee may, in turn, be delegated to Sub-Committees of three Members from the Licensing Committee all of its functions. The Sub-Committees of three need not be politically balanced under the legislation as long as the Licensing Committee itself is politically balanced.

#### 4.0 Financial Implications

4.1 The Secretary of State at the time, gave an assurance that the fees proposed would fully cover all the costs of the Local Authority in implementing the new licensing regime. The calculations included the cost of start up, consultation and establishing the statement of licensing policy. However, it was agreed that after the regime had become fully operational, there will be an independent review of the costs of the regime and fee levels, by the Audit Commission.

#### 5.0 Equal Opportunities Implications

5.1 None.

#### 6.0 Environmental Impact

6.1 None.

#### 7.0. Other Policy Implications

7.1 None.

#### 8.0 Background

8.1 The Licensing Act, 2003 introduced a completely new licensing regime in England and Wales. In particular, it transferred authority to issue licences to sell or supply alcohol from the Magistrates Court to the Council. The Council is known under the new regime as the Licensing Authority.

8.2 The Act places a duty on the Licensing Authority to determine its policy with respect to the exercise of its licensing functions and publish that policy before it starts the exercise of those functions.

8.3 The Licensing Authority must consult various statutory bodies and representatives of local businesses and residents before determining its policy. This process was duly undertaken by officers and the Council's first statement of licensing policy was published by 7<sup>th</sup> January, 2005, as required by the Secretary of State.

#### 9.0 Current Position

9.1 The Licensing Act also places a duty on the Licensing Authority to establish a Licensing Committee of between 10 and 15 Members and delegate the exercise of the licensing functions to that Committee. On 8<sup>th</sup> November, 2004, Council formally delegated the licensing functions to the Licensing and Safety Committee.

- 9.2 In order to carry out proceedings under the Act, the Licensing Committee may arrange for the discharge of any functions exercisable by it
- by one or more Sub-Committee, established by it, consisting of three Members of the Committee, or
  - to an officer of the Licensing Authority (except where representations or objections have been made)
- 9.3 The Sub-Committee (once established by the Licensing Committee) may, in turn, arrange for the discharge of the licensing functions by an officer of the Licensing Authority (except where representations or objections have been made). Arrangements, as above, may provide for more than one Sub-Committee or officer to discharge the same function at the same time.
- 9.4 Committee, at its meeting on 2<sup>nd</sup> December, 2004, approved the establishment of the Sub-Committees for the 2005/06 Municipal Year, the Sub-Committees to comprise three Members of the Licensing and Safety Committee on a rota basis, subject to availability, and agreed a scheme of delegations. Those delegations are reproduced, for Committee's information, at Appendix 1 attached.
- 9.5 Since the implementation of the legislation, 4,520 applications have been processed by the Council, 103 having been referred to a Licensing Sub-Committee for determination.
- 10.0 Conclusion
- 10.1 Members are asked to note the current position and to approve the re-establishment of Licensing Sub-Committees for the 2009/10 Municipal Year, solely to determine applications under the Licensing Act, 2003, on the same basis as the previous Municipal Year.

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Background papers                      All published

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## Appendix 1

Delegation of powers to the Licensing Committee, Sub-Committees and officers of Walsall Council to determine licensing applications under the Licensing Act, 2003 and supporting legislation:-

Matter to be dealt with	Full Committee	Sub-Committee (3 Elected Members of Licensing Committee)	Head of Public Protection
		Power to determine any application under the Licensing Act, 2003	
Application for personal licence		If a Police objection	If no Police objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a Police objection	All other cases
Application for interim authorities		If a Police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant Authority considering the application		All cases	
Determination of a Police objection to a temporary event notice		All cases	

