

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 19 December 2008

Report of: Kate Khan

Title: Creation of Licensing Sub-Committees

1.0 Purpose of Report

- 1.1 The purpose of the report is to formally create the Sub-Committees of the Licensing Committee and to establish the protocol for arranging meetings of the Sub-Committees.

2.0 Decision Required

- 2.1 The Licensing Committee is requested to confirm the creation of:
 - 2.1.1 Sub-Committees of three Members drawn from the full Committee to deal with matters under the Licensing Act 2003 and the Gambling Act 2003; and
 - 2.1.2 Sub-Committees of five Members (with a quorum of three) drawn from the full Committee (of which at least one shall, subject to availability, be the Chairman or Vice Chairman of the full Committee) are established on an ad hoc basis to deal with 'general' licensing matters.
- 2.2 The Licensing Committee is requested to determine a protocol for arranging meetings of the Sub-Committees which deals with the manner of selection of Members to sit on the Sub-Committee.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 None

5.0 Legal Implications

- 5.1 Section 9 of the Licensing Act 2003 prescribes that a licensing committee may establish one or more sub-committees consisting of three members of the Committee. Section 10 of the Act allows the Licensing Committee to delegate functions to the Sub-Committee (or officers).

6.0 Risk Assessment

- 6.1 There is a risk of legal challenge to decisions taken by the licensing authority if the Sub-Committees are not established in accordance with the relevant legislation.

7.0 Background and Options

Background

- 7.1 At its meeting on 9 December full Council resolved to create a Licensing Committee and that the Licensing Committee would then establish:
- 7.1.1 Sub-Committees of three members drawn from the full Committee to deal with Matters under the Licensing Act 2003 and the Gambling Act 2003; and
 - 7.1.2 Sub-Committees of five Members (with a quorum of three) drawn from the full Committee (of which at least one shall, subject to availability, be the Chairman or Vice Chairman of the full Committee) be established on an ad hoc basis to deal with 'general' licensing matters.
- 7.2 As set out above the Licensing Act 2003 provides that the Licensing Committee may establish one or more sub-committees consisting of three members of the full Committee. In addition, the Gambling Act 2005 specifically delegates the licensing functions in Part 8 of the Act to the Committee established under the Licensing Act 2003.
- 7.3 At its meeting on 9 December Council resolved to waive the requirement of political proportionality in relation to the sub-committee of five dealing with 'general' licensing matters such as the licensing of hackney carriage and private hire vehicles and drivers.
- 7.4 It is proposed, in accordance with the resolution of Council, that the membership of both the sub-committees referred to in 7.1 above be selected on an ad hoc basis. Due to the nature of work to be dealt with by the Sub-Committees and in light of the statutory timeframe for dealing with applications under the Licensing Act 2003, this arrangement is suggested in order to ensure flexibility and efficiency.
- 7.5 In order to assist with the practical operation of the sub-committees post 1 April 2009, the Committee is requested to consider the manner in which membership of the sub-committees is selected.
- 7.6 It is clear that in devolving the licensing of alcohol sales to local authorities from the Magistrates Court through the Licensing Act 2003, central government were keen to preserve the 'local knowledge' element of decision making, i.e. those individuals who form part of the decision making body have knowledge of the

area to which applications relate. Whilst no doubt all Members on the Licensing Committee have some knowledge of the whole of Cheshire East's area, it is suggested that 'specialist' knowledge exists in relation to the 'district' areas which Members currently represent. It is therefore suggested that in relation to a Premises Licence application, wherever possible one of the members of the Sub-Committee should be a Member who represents an area previously covered by the relevant preceding district council.

7.7 Subject to the above, it is suggested that membership of the Licensing Act sub-committee of three should be drawn on a rotational basis, subject to the availability of Members.

7.8 In relation to the 'general' sub-committee, Council have resolved that, subject to availability, at least one of the five members shall be the Chairman or Vice-Chairman of the full Committee. It is again suggested that it may be appropriate to apply the principle set out above in relation to local knowledge. Subject to these two points, it is suggested that the membership of the 'general' sub-committee be drawn on a rotational basis, subject to the availability of Members.

8.0 Overview of Day One, Year One and Term One Issues

8.1 The requirement to have licensing sub-committees in place is a Day One requirement.

9.0 Reasons for Recommendation

9.1 The recommendations are made to ensure that there are licensing sub-committees in place to ensure the provision of an efficient licensing service.

For further information:

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Background Documents:

None