

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 19 December 2008
Report of: Kate Khan
Title: Committee Procedure

1.0 Purpose of Report

- 1.1 The purpose of the report is to request approval for the procedure to be adopted at hearings of the Licensing Committee and Sub-Committees.

2.0 Decision Required

- 2.1 The Licensing Committee is requested to approve and adopt the procedure to be followed at hearings under the Licensing Act 2003, the Gambling Act 2005 and in relation to 'general' licensing functions as set out at Appendices 1, 2 and 3 respectively.

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 subject to the provisions of secondary legislation each licensing committee may regulate its own procedure and that of its sub-committees. The Gambling Act 2005 prescribes that licensing functions in Part 8 of the Act to the Committee established under the Licensing Act 2003.
- 5.2 The Licensing Act 2003 (Hearings) Regulations 2005 set out certain requirements in relation to the procedure for hearings under the 2003 Act. Similarly the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 make provision for hearings procedure when dealing with matters under the 2005 Act.

6.0 Risk Assessment

- 6.1 There is a risk of legal challenge to decisions taken by the licensing authority if the procedure for hearings is not in accordance both with the relevant legislation and the principles of natural justice.

7.0 Background and Options

Background

- 7.1 As set out above under paragraph 5 (Legal Implications) the procedure in relation to hearings under the Licensing Act 2003 and the Gambling Act 2005 is to a degree regulated by secondary legislation. In addition to these statutory requirements, as the Committee is acting in a quasi-judicial manner, it is important to ensure that the procedure adopted by the Committee is in accordance with the rules of natural justice.
- 7.2 The draft procedures set out at Appendices 1, 2 and 3 have been drafted to comply with the relevant legislative requirements and are based on the current procedures in operation within the existing district Councils.

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

- 8.1 The requirement to have hearing procedures in place in relation to Licensing Committees and Sub-Committees is a Day One requirement.

9.0 Reasons for Recommendation

- 9.1 The recommendations are made to ensure that the procedure in relation hearings of the Licensing Committee and its Sub-Committees from 1 April 2009 is clear and in accordance with the law.

For further information:

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Background Documents:

None