

## AGENDA ITEM NO. 3

**REPORT TO:** Regulatory Committee

**DATE:** 4<sup>th</sup> April 2005

**REPORTING OFFICER:** Council Solicitor

**SUBJECT:** Licensing Act 2003 Sub-committee(s)  
quorum

**WARDS:** Boroughwide

### 1. PURPOSE OF REPORT

To report on the issue of quorums for sub-committees of the Regulatory Committee.

### 2. RECOMMENDED: That the quorum for sub-committees of the Regulatory Committee be 2 members

### 3. SUPPORTING INFORMATION

- 3.1 At the last meeting of the Regulatory Committee the issue of whether it was possible for sub-committees to have a quorum was raised. At that time the regulations issued under the Licensing Act 2003 were still in the process of being issued and assessed. The question was therefore deferred to this meeting.
- 3.2 Section 9(2) Licensing Act 2003 states that in respect of licensing committees and their sub-committees regulations may make provision about:-
- (a) proceedings (including provision about the validity of proceedings and the quorum for meetings);
  - (b) public access to the meetings;
  - (c) publicity to be given to those meetings;
  - (d) agendas and records;
  - (e) public access to agendas and records and other information about meetings.
- 3.3 Section 9(3) states that subject to any such regulations, each licensing committee may regulate its own procedure and that of its sub-committees.

- 3.4 However, as of March 2005 the only procedural regulations to have been made relate to the conduct of hearings. This means that the Committee is free to deal with quorums for the reasons set out below.
- 3.5 Section 6 of the 2003 Act states that each licensing authority must establish a licensing committee consisting of at **least 10** but **not more than 15** members. Section 9(1) of the 2003 Act states that a licensing committee may establish one or more sub-committees **consisting of 3** members of the committee.
- 3.6 At common law if no quorum is fixed, all acts of a committee must be done in the presence of all members of the committee (Re The Liverpool Household Stores Association Ltd (1890)). But in local government the statutory provision that all questions coming before the local authority must be decided by a majority of those present and voting at a properly constituted meeting (Local Government Act 1972 Schedule 12 paragraph 39, as applied to committees by section 99) overrides the common law rule. Schedule 12 paragraph 6 states that no business shall be transacted at a meeting of a [committee or sub-committee] unless at least one quarter of the whole number of members are present.
- 3.7 It follows that under section 9(3) of the 2003 Act a licensing committee can set a quorum for itself and its sub-committees. Because the Council's Regulatory Committee has dual functions it must in any event follow Local Government Act rules for its quorum (which it does). However, the sub-committees are not subject to the Local Government Act and any quorum can be chosen. But even under the Local Government Act the minimum quorum for a committee of 3 members is 1. Assuming that it is desirable to have a quorum the only question is whether it should be 1 or 2.
- 3.8 It is considered that a proper quorum would be 2.

#### **4. POLICY IMPLICATIONS**

There are no other policy considerations.

#### **5. OTHER IMPLICATIONS**

There are no other implications arising out of this report.

#### **6. LIST OF BACKGROUND PAPERS UNDER SECTION 100D LOCAL GOVERNMENT ACT 1972**

This report is based on the Licensing Act 2003 and statutory registers held by the Council. In addition the DCMS and LACORS web-sites have provided background information.