

AGENDA ITEM NO.4

REPORT TO: Regulatory Committee
DATE: 24th January 2005
REPORTING OFFICER: Chief Executive
SUBJECT: Licensing Act 2003 Procedural Issues
WARDS: Boroughwide

1. PURPOSE OF REPORT

To recommend the setting-up of sub-committees and hearings procedures for the purposes of the Licensing Act 2003 together with procedures for dealing with matters outside of the Licensing Act 2003.

2. RECOMMENDED: That the Regulatory Committee:

- (1) **establish ad hoc sub-committee(s) in accordance with section 10 Licensing Act 2003 to discharge the functions of the Committee relating to licensing activities under the Committees Scheme of Delegation;**
- (2) **together with any sub-committee(s) of the Committee determine hearings in accordance with procedures which follow good practice as well as the technical requirements of any regulations for the time being in force;**
- (3) **delegate to the Council Solicitor in consultation with the Chairman and Vice Chairman all arrangements for calling extra meetings of the Committee and sub-committee(s) in accordance with the principles set out in this report; and**
- (4) **exercise its non-Licensing Act 2003 functions in accordance with the principles set out in this report.**

3. SUPPORTING INFORMATION

- 3.3 Section 10 to the Licensing Act 2003 enables the Regulatory Committee to arrange for any of its functions under the Act to be discharged by a sub-committee or by an officer of the Council.
- 3.4 A separate Report deals with the detailed Scheme of Delegation which is proposed.

- 3.5 This Report deals with the formal setting-up of sub-committees and also addresses the issue of procedures to be followed in determining hearings under the Licensing Act 2003.
- 3.6 The Council's Constitution contains the Committee structure for all matters outside of the Licensing Act 2003 but it is the responsibility of the Regulatory Committee to set up its sub-committees and procedures.
- 3.7 The full transfer of responsibility to the Committee for licensing functions under the Licensing Act 2003 will not take place until the second appointed day (which may be in November 2005). In the mean time, there is potential for a great many appeals in connection with applications for conversion of existing licences from 7th February 2005.
- 3.8 The function of sub-committees of the Regulatory Committee is to determine various types of application being made to the Council. Because the number of such applications cannot be predicted it would be more appropriate to call meetings of sub-committees on an ad hoc basis.
- 3.9 Sub-committees are required to comprise three members of the Regulatory Committee. The rules relating to political balance will be applied to these sub-committees.
- 3.10 Maintaining political balance implies 2 Labour members plus one opposition member. Membership should be rotated on an alphabetical basis. It should be the responsibility of each designated member to arrange a substitute if he or she is unable to attend.
- 3.11 Due to the potential number of applications under the 2003 Act it is anticipated that the majority of meetings will be held in the daytime rather than in the evenings. A number of hearings may also have to be held at short notice and this may require the venue for hearings to vary.
- 3.12 Certain rules relating to hearings will be set down under the Licensing Hearings Regulations. Other matters will be left to the discretion of the Committee.

4. MATTERS OUTSIDE OF THE AMBIT OF THE LICENSING ACT 2003

- 4.1 Section 7 Licensing Act 2003 gives rise to procedural difficulties when the Committee is dealing with matters outside of the Act.
- 4.2 Specifically, section 7(3) provides that a licensing authority may arrange for the discharge by its licensing committee of any function of the authority which relates to its licensing functions but is not itself a licensing function.

- 4.3 Since a number of matters within the jurisdiction of the Council's Regulatory Committee are completely unrelated to the 2003 Act licensing functions (e.g. taxi licensing), this gives rise to a rather odd requirement for the Regulatory Committee to meet in distinct capacities. When dealing with 2003 Act licensing activities it will meet *qua* licensing committee. When dealing with other matters it will meet *qua* "ordinary" Regulatory Committee.
- 4.4 Committee Agendas and Minutes will be structured to make clear the particular capacity which applies to any particular matter.

5. POLICY IMPLICATIONS

The sub-committee structure and hearings procedures will be central policy concerns for the workings of the Committee with respect to the Licensing Act 2003.

6. OTHER IMPLICATIONS

There are no other implications arising out of this report.

7. LIST OF BACKGROUND PAPERS UNDER SECTION 100D LOCAL GOVERNMENT ACT 1972

This report is based on the Licensing Act 2003 and statutory guidance issued under it. In addition the DCMS and LACORS web-sites have provided background information.