
Licensing & Safety Committee – 25th May 2006

Report of the Director of Law and Property

Appointment of Sub-Committees

Purpose of Report

- 1 To consider the appointment of five Licensing Sub-Committees for the municipal year 2006/07.

Background

- 2 In accordance with the Licensing Act 2003, the Council is required to make provision for the appointment of a Licensing Committee to undertake functions relating to liquor licensing. During 2004/2005, the Council operated interim arrangements and on the 19th May 2004 the Council resolved for practical purposes and to simplify administrative arrangements that the 15 members appointed to the Licensing & Safety Committee should undertake, in addition to its existing functions, the statutory functions of the Committee under the 2003 Act, with the exception of the approval of the Licensing Policy and any other specific functions that may be reserved to full Council. In practice, the majority of all licensing applications, whether arising from the Licensing Act, 2003 or the other legislation referred to in paragraph 5.1 of this report, will be dealt with by the five Licensing Sub-Committees. The terms of reference for the Licensing and Safety Committee is attached as Appendix 1 to this report. It is recommended that the Sub-Committees be given delegated powers to consider all licensing functions requiring Member determination in accordance with these terms of reference.
- 3 On the 19th May 2005, the Council also resolved that the proportionality requirement in respect of the five Sub-Committees should be waived and that the following wording be added to Council Procedure Rule 5.2 and the Constitution be amended accordingly:-

"The appointment of a substitute member is permitted for every member on any body exercising functions of a quasi-judicial nature where it is necessary for that body to be of a prescribed size or there is a need to comply with the requirements of any statutory requirement or Government guidance. A substitute member shall only be appointed if he/she is otherwise eligible to serve on the body concerned. Any substitute nominated to serve on a quasi-judicial body should be notified to the Director of Law & Property prior to the commencement of the meeting in question.

A substitute member shall serve only for the duration of the meeting to which they are appointed as a substitute except in the case of a quasi-judicial body:-

- (a) Where a member is required to withdraw from, or cannot attend to hear a particular case, where substitution will be permitted for that particular case.
 - (b) Where an adjourned meeting is reconvened and it is essential for the substitute member to consider a case to comply with the rules of natural justice. In these circumstances, the substantive member may not attend other than as an observer.
- 4 Details of the proposed Membership of the five Sub-Committees will be circulated at the meeting.

Proposal

- 5 That five Licensing Sub-Committees be established to deal with all licensing applications requiring member determination in accordance with the functions allocated to the Licensing and Safety Committee set out in Appendix 1.
- 6 That consideration be given to the membership of the Sub-Committees for 2006/07.
- 7 That the substitution arrangements set out in the Council's procedure rules be noted and applied to the Licensing Sub-Committees subject to an eligibility requirement that any named substitute must be:-
- a) appointed to the Licensing and Safety Committee;
 - b) otherwise eligible to serve on any given occasion;
 - c) notified to the Director of Law and Property prior to the commencement of the meeting in question.

Finance

- 8 There are no financial implications.

Law

- 9 Liquor Licensing is governed by the Licensing Act 2003.

Gambling Act 2005

Street and Door to Door Collecting is governed by Police, Factories, etc (Miscellaneous Provisions) Act 1916 and House to House Collections Act 1939.

Street Trading is governed by Local Government (Miscellaneous Provisions) Act 1982 Part III.

Scrap Yards is governed by Scrap Metal Dealers Act 1964.

Sex Shops is governed by Local Government (Miscellaneous Provisions) Act 1982 Part II.

Performance Hypnotism is governed by Hypnotism Act 1952.

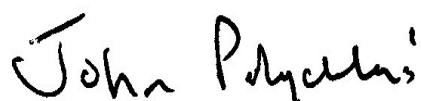
Motor Salvage Operators is governed by Vehicles Crime Act 2001.

Equality Impact

- 10 This report takes into account the Council's policy on equal opportunities.
- 11 The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
- 12 There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

- 13 That approval be given to the proposals set out in paragraph 5 above.



.....
DIRECTOR OF LAW AND PROPERTY

Contact Officer: Mrs. J. Elliott 5377
Telephone: 01384 815377
Email: janetelliott@dudley.gov.uk

List of Background Papers

- 13. The Council's Constitution
Licensing Act 2003

APPENDIX 1

Committee	Membership	Functions	Onward Delegation of Functions				
<u>Licensing and Safety</u>	Members of the Authority	<ol style="list-style-type: none"> 1. Gaming, entertainment, food and miscellaneous licensing. 2. Functions relating to licensing (other than hackney carriage and private hire licensing) as set out in Schedule 1 to the Functions Regulations. 3. Licensing functions in respect of the registration service for births, deaths and marriages. 4. Designation Orders under Section 13 of the Criminal Justice and Police Act, 2001 regarding alcohol consumption in public places. 	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">Director of Law and Property</td> </tr> <tr> <td style="vertical-align: top;"> <ol style="list-style-type: none"> (1) Determination of applications where no objection has been received for licences or consents for:- <ol style="list-style-type: none"> (a) gaming and lotteries (b) street and door to door collecting (c) street trading (d) scrap yards (e) sex shops (f) performances of hypnotism (g) licensing functions under the Licensing Act, 2003 (2) Suspension of licences; (3) Consultation with licence holders or their authorised representatives and the Police; (4) the determination, in consultation with the Chairman, of requests for the relief from payment of fees for street trading consents or for the waiver of fees in respect of public entertainments licences; (5) the determination, in consultation with the Chairman, of the fee to be charged to applicants so as to cover all administrative costs of the door supervisors registration and training scheme; (6) the approval, in consultation with the Chairman, of one or more suitable training schemes in respect of door supervisors; </td> <td></td> </tr> </table>	Director of Law and Property		<ol style="list-style-type: none"> (1) Determination of applications where no objection has been received for licences or consents for:- <ol style="list-style-type: none"> (a) gaming and lotteries (b) street and door to door collecting (c) street trading (d) scrap yards (e) sex shops (f) performances of hypnotism (g) licensing functions under the Licensing Act, 2003 (2) Suspension of licences; (3) Consultation with licence holders or their authorised representatives and the Police; (4) the determination, in consultation with the Chairman, of requests for the relief from payment of fees for street trading consents or for the waiver of fees in respect of public entertainments licences; (5) the determination, in consultation with the Chairman, of the fee to be charged to applicants so as to cover all administrative costs of the door supervisors registration and training scheme; (6) the approval, in consultation with the Chairman, of one or more suitable training schemes in respect of door supervisors; 	
Director of Law and Property							
<ol style="list-style-type: none"> (1) Determination of applications where no objection has been received for licences or consents for:- <ol style="list-style-type: none"> (a) gaming and lotteries (b) street and door to door collecting (c) street trading (d) scrap yards (e) sex shops (f) performances of hypnotism (g) licensing functions under the Licensing Act, 2003 (2) Suspension of licences; (3) Consultation with licence holders or their authorised representatives and the Police; (4) the determination, in consultation with the Chairman, of requests for the relief from payment of fees for street trading consents or for the waiver of fees in respect of public entertainments licences; (5) the determination, in consultation with the Chairman, of the fee to be charged to applicants so as to cover all administrative costs of the door supervisors registration and training scheme; (6) the approval, in consultation with the Chairman, of one or more suitable training schemes in respect of door supervisors; 							

Committee Membership	Functions	Onward Delegation of Functions
<u>Licensing and Safety</u>	<p>5. Functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act, 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer.</p> <p>6. The consideration of reports by the Ombudsman into complaints of maladministration; and the local settlement of complaints to the Ombudsman for sums above £2000.</p> <p>7. Functions under the Vehicles (Crime) Act, 2001.</p> <p>8. Licensing functions under the Licensing Act, 2003.</p>	<p><u>Director of Law and Property</u></p> <p>(7) The determination of appeals against a refusal to approve a building, or against a condition imposed as part of an approval, as a venue for a civil marriage;</p> <p>(8) Approval of premises for the solemnisation of marriages.</p> <p>(9) The local settlement of complaints to the Ombudsman up to a maximum of £2000.</p> <p>(10) The determination of applications for the registration of Motor Salvage Operators under the Vehicles (Crime) Act, 2001, where no objections are received.</p> <p>(11) Decisions under Contract Standing Orders 5.2, 15.3, 22.4 and 22.5</p>