



## Appointment of Sub-committees & Delegations

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| <b>Chief Officer Responsible:</b>            | <b>Dawn Garton</b> , Director for Corporate Services<br>01664 502444<br>DGarton@melton.gov.uk                                     |
| <b>Lead Member/Relevant Portfolio Holder</b> | Licensing Committee Chairman  |

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|--|--------------------------------|
| <b>Corporate Priority:</b>                       | Engaging and Connected Council |
| <b>Relevant Ward Member(s):</b>                  | Not applicable                 |
| <b>Date of consultation with Ward Member(s):</b> | 2 August 2024                  |
| <b>Exempt Information:</b>                       | No                             |

### 1 Summary

- 1.1 To Ensure arrangements are in place to appoint Sub-committees to hear applications and reviews of licences as required and to review the current delegations to Officers.

### 2 Recommendations

That Committee:

- 2.1 Approves the appointment of all combinations of three member Sub-committees available from the current or future membership of this Committee.
- 2.2 Agrees that, where a hearing is required for any matter, the Chair of the Committee should be consulted to confirm whether that hearing should take place before the whole Committee or a Sub-committee.
- 2.3 Agrees that the Proper Officer may convene a meeting of a Sub-committee comprised of those members who are available to hear the matter concerned or a meeting of the whole Committee.
- 2.4 Delegates authority to the Assistant Director for Governance and Democracy in consultation with the Chair of the Taxi and General Licensing Committee to make the resulting amendments to the Constitution, to the extent that his current delegation would not allow this....

### **3 Reason for Recommendations**

- 3.1 To ensure efficient, effective and lawful decision making in relation to licensing matters within the Committee's functions.

### **4 Background**

- 4.1 At its Annual meeting in May 2024 Council approved the appointment and establishment of two separate Licensing Committees to discharge its various licensing functions in accordance with statute. Appendix D to the report considered by Council also referred to the need to appoint Sub-Committees to hear applications and take other action required in relation to licences.
- 4.2 The Taxi and General Licensing Committee also received a report at its meeting later today recommending that Sub-committees are established to hear applications, reviews and other matters arising relating to its licensing functions.
- 4.3 The Licensing Act 2003 (the 2003 Act) and the Gambling Act 2005 (the 2005 Act) set out how certain decisions regarding licences issued under them must be made, including setting time-limits. The recommendations in this report would allow those time-limits to be met more easily and ensure that decisions are made in the correct way.

### **5 Main Considerations**

- 5.1 The 2003 Act requires local authorities to establish a committee made up of 10 to 15 members and states that all licensing functions under that Act are delegated to it. This means the Council does not have a choice over who deals with those matters. The 2005 Act states that certain functions under it are also delegated to the Committee established under the 2003 Act.
- 5.2 The 2003 Act prescribes certain matters which must be determined by the Committee established under it Act, along with certain functions which have to be reserved to Full Council, such as approving the statement of licensing policy. The 2005 Act also requires certain matters to be dealt with by the Committee and reserves approval of the statement of gambling licensing policy to be approved by Full Council. The 2003 Act also stipulates that the Committee may not exercise any functions which are not specified by that Act or the 2005 Act.
- 5.3 Appendix A to this report sets out the functions which must by law be discharged by the Alcohol and Gambling Committee and may not be delegated to Officers. Each of those functions may be delegated to a Sub-committee to determine. The Act states that Sub-committees must have 3 members.
- 5.4 Although certain meetings such as tonight's are arranged in advance to consider programmed business, it is often necessary to hold hearings at short notice to deal with individual licences or applications. Since it can be difficult to find a time when all Committee members are available at short notice, it is considered sensible to appoint Sub-committees to hear such matters were necessary.
- 5.5 Since the size of the Committee would allow several hundred combinations of members to be appointed to separate Sub-committees those combinations are not set out in this report. Instead, it is suggested that Committee simply approves the appointment of every permutation of Sub-committee to allow as much flexibility as possible.
- 5.6 It is not intended that by agreeing to appoint Sub-committees there will never be occasions when the full Committee should consider individual licences or applications.

Accordingly, it is also recommended that the Chair of the Committee is consulted at any time when a hearing is required so that he or she may give their view on whether the matter should be considered by a Sub-committee. Where that is considered appropriate it is also recommended that the Proper Officer (currently the Chief Executive, via Democratic Services) should be able to arrange the meeting concerned.

- 5.7 Additionally, legislation states that when functions have been delegated to a Committee that Committee can further delegate them to Officers. The powers currently delegated to Officers are set out in Part 8 of Chapter 2 of the Constitution (see Appendix B). Since there are now two Committees which are responsible for licensing matters, it is recommended that the Licensing Committee Functions and Procedure Rules are separated into two parts, with one part applying to each Committee.
- 5.8 The Committee is asked to consider paragraphs 1.6 and 1.7 of the Functions and Procedure Rules in Appendix B and whether any changes should be made in relation to those functions which are not reserved to Committee. It is generally more efficient for Officers to consider deal with applications where no representations are received since the 2003 and 2005 Act state that the Council must grant the licence in such cases.

## **6 Options Considered**

- 6.1 Requiring the Full Committee to consider every application which requires a hearing however, for the reasons set out above, this was not considered practical.

## **7 Consultation**

- 7.1 The Chair of the Alcohol and Gambling Committee has been consulted on the recommendations in this report.

## **8 Next Steps – Implementation and Communication**

- 8.1 It is suggested that, if Committee agrees the recommendations in this report these should take immediate effect so that appropriate arrangements can be made to deal with any future applications.

## **9 Financial Implications**

- 9.1 There are no financial implications arising from this report other than the potential for nominal savings in members' mileage claims for attending meetings.

**Financial Implications reviewed by: Director for Corporate Services**

## **10 Legal and Governance Implications**

- 10.1 Following the decision of Council in May, all licensing functions under the Licensing Act 2003 and Gambling Act 2005 are delegated to this Committee, other than approval of the Statements of Licensing Policy for each, which must be set by Full Council. The law states that these are non-executive functions and as such may not be discharged by the Cabinet. In turn, the 2003 Act expressly requires the establishment of a licensing committee to determine matters arising under the Act, and allows that committee to delegate its functions to Sub-committees and/or Officers, subject to certain limitations set out in Appendix B. The recommendations will ensure applications are dealt with in a timely manner and ensure compliance with the regulations which apply to hearings.
- 10.2 Accordingly, it is open to Committee to decide whether functions are discharged by the whole Committee or Sub-committees and, subject to the limitations in the Act, to Officers.

- 10.3 If the Committee does not make the recommended arrangements, there is some risk that the Council could be challenged on any appeal against a licensing decision which could in turn result in the Council losing the appeals and paying the appellant's costs since it is not able to show that the correct process was in place.

**Legal Implications reviewed by: Monitoring Officer.**

## 11 Equality and Safeguarding Implications

- 11.1 There are no equalities implications arising directly from this report since the recommendations relate solely to ensuring that the correct decision-making mechanisms are in place. Advice on equalities issues arising in relation to any case will be given to the Committee or Sub-committee as appropriate.

## 12 Data Protection Implications (Mandatory)

A Data Protection Impact Assessments (DPIA) has not been completed because there are no risks/issues to the rights and freedoms of natural persons arising directly from this report.

## 13 Community Safety Implications

- 13.1 There are no direct Community Safety Implications arising from this report. Advice on Community Safety issues will be given to the Committee or Sub-committee relating to any particular case.

## 14 Environmental and Climate Change Implications

- 14.1 None.

## 15 Other Implications (where significant)

- 15.1 None.

## 16 Risk & Mitigation

| Risk No | Risk Description   | Likelihood | Impact     | Risk |
|---------|--|------------|------------|------|
| 1       | Having incorrect governance arrangements in place to make decisions in relation to licences. | Very Low   | Negligible |      |
| 2       | Being liable to pay costs of any decision which has not been made by the correct body.       | Very Low   | Negligible |      |

|            |                   | Impact / Consequences |          |          |              |
|------------|-------------------|-----------------------|----------|----------|--------------|
|            |                   | Negligible            | Marginal | Critical | Catastrophic |
| Likelihood | Score/ definition | 1                     | 2        | 3        | 4            |
|            | 6 Very High       |                       |          |          |              |
|            | 5 High            |                       |          |          |              |

|                     |   |  |  |  |
|---------------------|---|--|--|--|
| 4 Significant       |   |  |  |  |
| 3 Low               |   |  |  |  |
| 2 Very Low          | 2 |  |  |  |
| 1 Almost impossible |   |  |  |  |

| Risk No | Mitigation  |
|---------|---|
| 1, 2,   | The recommendations in this report will ensure that the correct governance arrangements are in place. |

## 17 Background Papers

17.1 None.

## 18 Appendices

18.1 A. Matters under the Licensing Act 2003 which may not be delegated to an officer.

18.2 B. Chapter 2 Part 8 of the Constitution – Licensing Committee Procedure Rules.



**Type of application**

- Determination of application for premises licence where representations have been made.
- Determination of application for a provisional statement where representations have been made
- Determination of application to vary premises licence where representations have been made.
- Determination of application to vary premises licence to specify individual as premises supervisor where police objections have been received.
- Determination of application for transfer of premises licence following an objection.
- Cancellation of interim authority notice following police objection.
- Determination of application for review of premises licence.
- Determination of summary review of premises licence (including determination of interim steps).
- Determination of application for club premises certificate where representations have been made.
- Determination of application to vary club premises certificate where representations have been made.
- Determination of application for review of club premises certificate where representations have been made.
- Counter notice following police objection to temporary event notice.
- Determination of application for grant of personal licence.
- Determination of application for the renewal of personal licence.
- Consider convictions coming to light after grant or renewal of personal licence.
- Review of premises licence following closure order where representations have been made.
- Any function relating to off sales reviews following a review application (including determination of interim steps).

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## CHAPTER 2 – 8 - LICENSING COMMITTEE

### Functions and Procedure Rules

The Licensing Act 2003 requires the Council to establish a Licensing Committee. Licensing is not a Cabinet function and cannot be discharged by the Cabinet.

These Rules detail what powers the Licensing Committee has and how Licensing Committee meetings and Sub Committees are conducted. In general, Licensing Committee deals with functions relating to licensing registration, enforcement and duties and powers contained within relevant legislation shown below.

The Council has delegated certain functions to the Committee and to certain Officers. The Licensing Committee, Sub Committee and relevant Officers have the powers shown below in Functions of the Licensing Committee

#### 1.0 Functions of the Licensing Committee

|     | <b>Function</b>   | <b>Delegation (who function can be carried out by instead of Licensing and Regulatory Committee)</b> | <b>Exceptions to Delegation (must be carried out by Licensing Committee)</b> |
|-----|---|--|--|
| 1.1 | Determine any matter relating to street trading licences and markets.   | Director for Growth and Regeneration   | None   |
| 1.2 | Determine the licensing of all animal establishments and all animal welfare issues under the relevant legislation and their enforcement.  | Director for Growth and Regeneration   | None   |
| 1.3 | Determine any matter relating to the licensing of sex establishments pursuant to the passing of a resolution under section 2 of the Local Government (Miscellaneous Provisions) Act 1982. | Director for Growth and Regeneration   | Where relevant representations/objections have been received                 |
| 1.4 | Determine matters relating to motor salvage operators' licences.  | Director for Growth and Regeneration   | None   |

|     |   |   |   |
|-----|---|---|---|
| 1.5 | Determine licences of houses in multiple occupation and their enforcement.  | Director for Growth and Regeneration  | None  |
| 1.6 | Determine any matter relating to the functions of the Council required by the Licensing Act 2003 or consequent secondary legislation.<br><br>Except;<br><br>Approve the Statement of Licensing Policy which must be referred to Council by way of a recommendation by the Licensing Committee | Licensing Sub Committee; and<br><br>Determining reviews of premises licences or club premises certificate must be referred to Licensing Sub Committee<br><br>Determining applications for the grant, renewal or transfer of licences, designations or certificates where objections have been received and not withdrawn must be referred to Licensing Sub Committee.<br><br>Director for Growth and Regeneration | None  |
| 1.7 | Determine any matter relating to the functions of the Council required by the Gambling Act 2005<br><br>Except;<br><br>Approval of Statement Of Principles which must be referred to Council for approval by way of a recommendation from Licensing Sub Committee                              | Licensing Sub Committee<br><br>Director for Growth and Regeneration   | Determining applications for a club gaming/club machine permits where relevant objections from consultees have been received and have not been withdrawn<br><br>Determining applications for a transfer of a licence where relevant representations have been received and not withdrawn from the Gambling Commission |
| 1.8 | Determine any matter relating to the functions of private hire and hackney carriage   | Licensing Sub-Committee   | None  |

|      |  |                                      |  |
|------|--|--------------------------------------|--|
|      | <p>licensing functions under the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and any secondary or subsequent legislation</p> <p>Except</p> <p>Determining the provision, siting, designation and establishment of Hackney Carriage Stands which must be recommended to Council for approval</p> <p>Determining Hackney Carriage bylaws which must be referred to Council for approval on recommendation of the Licensing Committee</p> | Director for Growth and Regeneration | Revoking licences (unless in the interests of urgent public safety) for Hackney Carriages and private hire vehicle drivers and operators which must be referred to the Licensing Sub Committee |
| 1.9  | Determining Council Policies for the licensing of private hire and Hackney Carriage vehicles and drivers and private hire operators including standard conditions and the fixing of hackney carriage vehicle fare scales   | Director for Growth and Regeneration | None   |
| 1.10 | All licensing functions other than those specifically addressed above  | Director for Growth and Regeneration | Where relevant representations/objections have been received   |

## 2.0 Licensing Committee Procedure Rules

### 2.1 Application of the Meetings Procedure Rules

These Rules should be read in conjunction with The Meetings General Procedure Rules which detail the rules of debate and apply to all meetings of Council except as varied below.

## 2.2 Composition of the Committee

The Committee shall comprise ten Councillors all of whom shall have undertaken mandatory training contained within the Members' Development Programme. Attendance must be for the duration of each training session, at least every other year as well as any ad hoc training considered mandatory by the relevant Chief Officer due to legislative changes throughout the year. The Committee is not politically balanced.

2.3 A record of attendance at training sessions will be maintained by Democratic Services.

2.4 Substitution shall apply in accordance with the Substitution Procedure.

## 2.5 Quorum

The quorum for the Committee shall be five members which must be maintained for the duration of the meeting.

## 2.6 Who shall Chair the Meeting

The Chair of Licensing as determined by Council at the Annual Council Meeting shall preside and in their absence the Vice Chair of Licensing shall preside. If neither are in attendance, the Chair shall be elected by attending Members by a majority of votes.

## 3.0 Licensing Sub Committee Procedure Rules

### 3.1 Application of the Meetings Procedure Rules

These Rules should be read in conjunction with The Meetings' General Procedure Rules which detail the rules of debate and apply to all meetings of Council except as varied below.

### 3.2 Composition of the Sub Committee

Sub Committees shall comprise of three Members of whom are members of the Licensing Committee

The Licensing Sub Committee shall not be politically balanced.

### 3.3 Quorum

The quorum for the Sub Committee shall be three Members which must be maintained for the duration of the meeting.

### 3.4 Who shall Chair the Meeting

Members shall decide by consensus who shall chair the meeting.

### 3.5 Order of proceedings for Sub-Committee hearings

In the case of a new licence the Applicant is the person applying for the licence; in the case of a review the Applicant is the Responsible Authority applying for the review. Enforcement proceedings shall be against the licence holder in question.

The parties to the hearing shall provide any written representations to the Council in writing to the Council offices or by emailing [democracy@melton.gov.uk](mailto:democracy@melton.gov.uk), 7 (seven) clear days before the date of the hearing. Written representations shall be provided to the other parties in the interests of Natural Justice. No written material shall be considered at the hearing unless it has been submitted in accordance with this rule.

The hearings will be held in accordance with the Access to Information Procedure Rules.

The Chair of the Sub-Committee will welcome and introduce the parties present.

- 3.6 The Sub-Committee will decide whether part or all of the hearing should be held in private because the public interest in doing so outweighs the public interest in holding the meeting or that part of the meeting in public in accordance with the Access to Information Procedure Rules.
- 3.7 The Chair will confirm that the Licensee has received the paperwork and outline the procedure to be followed.
- 3.8 The Sub-Committee will consider requests from any of the parties for permission for another person to appear at the hearing as a witness.
- 3.9 The Sub-committee will decide what action to take if a party does not attend the hearing.
- 3.10 The Licensing Officer/Responsible Authority will make an opening address and present the report and outline relevant information such as representations, information that has been requested from the parties, legislation, the Council's Licensing Policy and any relevant Government guidance.
- 3.11 The parties participating in the hearing and members of the Sub-committee may ask questions of the Licensing Officer in the following order:
- Applicant/Licensee/Interested Party/Other;
  - Sub-Committee Members;
  - Legal Adviser
- 3.12 Where applicable, the Applicant/Licensee/Interested Party/Other shall be given the opportunity to present their case.

The parties participating in the hearing and members of the Sub-Committee may ask questions of the applicant in the following order:

- Licensing Officer/Responsible Authority;
- Sub-Committee Members;
- Legal Adviser

- 3.13 If a party is not present any information that has been provided as part of the report will be considered by the Sub-Committee. All other information will only be considered at the discretion of the Chair in accordance with the rules of Natural Justice and the Human Rights Act 1998.

The Licensing Officer / Responsible Authority will be given the opportunity to make a closing statement.

- 3.14 The Applicant/Licensee/Interested Party/Other will be given the opportunity to make a closing statement.
- 3.15 The Sub-Committee shall retire with their legal advisor to consider the contents of the report, any representations, legislation and guidance before making a decision.
- 3.16 A summary of the decision will be communicated at the hearing along with notification that any appeal must be submitted within 21 days at the local Magistrates Court.
- 3.17 The Chair will advise that detailed decision notice will be issued within 5 working days or as soon as possible thereafter.
- 3.18 The Chair will thank everyone for attending and close the meeting.
- 3.19 The minutes of the meeting will be published and (except where the hearing has been held in private) the notice of the Sub-Committee's decision shall be published along with the minutes for the meeting.