



Licensing Committee
4 May 2021

**Report from the Director of Legal
and HR Services**

Licensing Sub-Committee Appointments and Decision-making Arrangements

Wards Affected:	All
Key or Non-Key Decision:	Non-Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers:	None
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1.0 Summary

- 1.1 This report fulfils the Committee's duty to review and determine the representation of political groups on its Regulatory Sub-Committee and to make appointments in accordance with the wishes of the political groups concerned.

2.0 Recommendations

That the Committee:

- 2.1 Agree the allocation of seats to political groups on the Regulatory Sub-Committee, in accordance with political balance rules.
- 2.2 Appoint Members and substitutes to each of its Sub-Committees

3.0 Detail

- 3.1 The Licensing Committee covers all the Council's licensing and registration functions, including being the Council's statutory licensing committee when discharging licensing functions under the Licensing Act 2003 and the Gambling Act 2005.

3.2 In practice, functions under the Licensing Act 2003 and the Gambling Act 2005 are discharged by the Committee's Alcohol & Entertainment Licensing Sub-Committee and officers.

3.3 As it also exercises the Council's other licensing and registration functions, the Committee (to that extent) is also classified as an ordinary committee of the Council.

3.4 **Alcohol, entertainment and gambling licensing**

3.4.1 The Licensing Committee has established and operates a single three Member sub-committee called the Alcohol and Entertainment Licensing Sub-Committee.

3.4.2 The Sub-Committee comprises of the Chair, Vice-Chair of the main Committee along with one other Member appointed from within the main Licensing Committee membership. The remaining other seven Members of the main Committee are then appointed as substitutes for this Sub-Committee, so that any of these can be selected whenever the need arises.

3.4.3 This Sub-Committee is chaired by the Chair or, in his/her absence, the Vice-Chair of the Licensing Committee. In the absence of the Chair or Vice-Chair, one of the three Sub-Committee Members chosen by the Sub-Committee will act as Chair.

3.4.4 In establishing the Sub-Committee, the main Committee approved the following delegations:

'To consider and determine applications and other matters under the Licensing Act 2003 which cannot be determined by officers in accordance with section 10 of the Licensing Act 2003 or any other enactment and any other matter referred to it for determination by the Strategic Director Regeneration and Environment.'

'To consider and determine applications and other matters under the Gambling Act 2005 which cannot be determined by officers in accordance with section 10 of the Licensing Act 2003, as applied by various provisions of the Gambling Act 2005 or any other enactment, and any other matter referred to it for determination by the Strategic Director Regeneration and Environment.'

3.4.5 In addition, the Committee has approved the following delegations to the Strategic Director Regeneration and Environment, which were also extended in May 2019 to the Operational Director Regeneration Growth and Employment:

'To consider and determine applications and other matters under the Licensing Act 2003 which can be determined by officers in accordance with section 10 of the Licensing Act 2003 or any other enactment.'

'To consider and determine applications and other matters under the Gambling Act 2005 which can be determined by officers in accordance with section 10 of the Licensing Act 2003, as applied by various provisions of the Gambling Act 2005 or any other enactment.'

3.4.6 Given the frequency of licensing hearings, appointing substitutes from the full membership of the Committee helps to ensure that, over a period of time, all available Committee Members will have the opportunity to decide contested applications and conduct hearings.

3.5 ***All other (non-executive) licensing and registration functions***

3.5.1 The Licensing Committee has also established a further Sub-Committee known as the Regulatory Sub-Committee. This is comprised of five Members appointed from the membership of the main Licensing Committee, with the remit to exercise all of the Committee's non-Licensing Act and Gambling Act functions.

3.5.2 This Sub-Committee is chaired by the Chair or, in his/her absence, the Vice-Chair of the main Licensing Committee and in the absence of the Chair or Vice-Chair, one of the five Sub-Committee Members acts as Chair.

3.5.3 The other five Members of the main Committee are appointed as substitutes for this Sub-Committee so that any of these can be selected whenever the need arises.

3.5.4 When establishing the Sub-Committee, the main Licensing Committee approved the following delegations:

'To discharge all of the Licensing Committee's licensing and registration functions which do not relate to the Licensing Act 2003 or the Gambling Act 2005.'

3.5.5 Existing officer delegation arrangements, whether based on specific committee delegations or the Council's general scheme of officer delegations (as set out in Part 3 of the Constitution) will continue to apply in respect of these general licensing and registration functions.

Political balance

3.6 There is no legal requirement to apply political balance rules to the Alcohol and Entertainment Licensing Sub-Committee and it would be impractical to do so. The need for Licensing Act hearings is frequent, and sometimes urgent, and securing the availability of Members is not always straightforward. Therefore, maximum flexibility is essential.

3.7 As the main Committee has been constituted as an ordinary committee of the Council so that it can carry out additional functions, statutory political balance rules do apply to the main Licensing Committee.

3.8 Accordingly, the Licensing Committee has been included as part of the review and determination of the representation of political groups on Council committees which was undertaken at the Annual Council meeting on 29 April 2021, with the appointment of Members also to be agreed, in accordance with the wishes of the political groups concerned.

3.9 In terms of the Regulatory Sub-Committee, this means that the Licensing Committee also has a statutory duty to review and determine the representation of political groups on this Sub-Committee as soon as practicable after the Full

Council review. The Committee then has a duty to make appointments to the Sub-Committee giving effect to the wishes of the political group allocated seats.

3.10 The allocation of seats is determined by applying the political balance principles prescribed by the Local Government and Housing Act 1989 and supplemented by the Local Government (Committees and Political Groups) Regulations 1990. These principles are set out below and are designed to ensure that the political composition of committees and sub-committees, as far as reasonably practicable, replicate the political composition of Full Council.

3.11 The political balance principles are:

- (i) That not all the seats on the sub-committee are allocated to the same political group.
- (ii) That the majority of the seats on the sub-committee are allocated to a particular political group if the number of persons belonging to that group is a majority of the Council's Membership.
- (iii) Subject to paragraphs (i) and to (ii) above, that the number of the seats on the sub-committee which are allocated to each political group bears the same proportion to the number of all the seats on that sub-committee as is borne by the number of Members of that group to the Membership of the Council.

3.12 There is a 4th principle which applies to appointment of ordinary committees and which was therefore applied at the recent Annual Council meeting. The legislation does not apply this principle to appointment of sub-committees.

3.13 Given the current vacancy (pending the outcome of the Brondesbury Park by-election on 6 May 21) the Membership of the Council stands at 62 councillors with the composition of political groups as follows:

58 Labour Group councillors (93.54%) and three Conservative Group councillors (4.84%).

According to the political balance rules, a political group for this purpose is a group of two or more members. Whilst the Council's membership also includes one Liberal Democrat councillor, representing 1.62% of the total composition of the Council, under the rules relating to political balance this single member is not treated as having formed a political group for the purposes of the review.

3.14 Based on a Regulatory Sub-Committee with 5 seats, the Labour Group is entitled to an allocation of 4 seats and the Conservative Group is entitled to be allocated the remaining one seat.

3.15 Having regard to the wishes expressed by the political groups, which have been detailed under Agenda Item 5, the Committee is requested to appoint 5 Members to the Regulatory Sub-Committee and three to the Alcohol & Entertainment Licensing Sub Committee.

4.0 Financial Implications

4.1 There are none arising directly from this report.

5.0 Legal Implications

5.1 These are addressed in the body of the report.

6.0 Equality Implications

6.1 None.

Report sign off:

DEBRA NORMAN

Director of Legal, HR, Audit and Investigations