



Licensing Committee

5 June 2024

Report from the Corporate Director Law & Governance

Licensing Sub-Committee Appointments and Decision-making Arrangements

Wards Affected:	All
Key or Non-Key Decision:	N/A
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 under Item 5 of the agenda giving effect to the wishes of the political group(s) allocated the seats.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

3.1.1 The allocation of seats on each of the Council's committees and sub-committees to which the political balance rules apply supports delivery of the borough plan by enabling the Council's decision-making bodies to operate transparently and effectively whilst also supporting and promoting confidence in the good governance of the council.

3.2 Background

3.2.1 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.

3.2.2 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.

3.2.3 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.

3.3 Alcohol, entertainment and gambling licensing

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

3.3.2 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 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.

3.3.3 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 appointed to serve on that meeting will act as Chair (appointed by that specific Sub Committee).

3.3.4 In establishing the Sub-Committee, the main Licensing Committee approved (as updated) 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 Corporate Director Resident Services (subsequently amended to Corporate Director Neighbourhoods & Regeneration).'

'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 Corporate Director Resident Services (subsequently amended to Corporate Director Neighbourhoods & Regeneration).'

- 3.3.5 In addition, the Committee has approved the following delegations to the Corporate Director Resident Services (subsequently amended to Corporate Director Neighbourhoods and Regeneration):

'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.'

- 3.3.6 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.

3.4 All other (non-executive) licensing and registration functions

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

- 3.4.2 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.

- 3.4.3 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.'

- 3.4.4 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.

3.5 Political balance

- 3.5.1 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.
- 3.5.2 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 apply to the main Licensing Committee.
- 3.5.3 Accordingly, the Licensing Committee has been included as part of the review and determination of the representation of political groups on Council committees undertaken at the Annual Council meeting on 22 May 2024, with the one available opposition seat being allocated to the Liberal Democrats Group and the appointment of Members agreed, in accordance with the wishes of the political groups concerned.
- 3.5.4 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.
- 3.5.5 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.
- 3.5.6 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.
- 3.5.7 There is a 4th principle (that each political group is allocated the same proportion of the total seats across all the ordinary committees of the Council (38 in total) as the proportion of the members of the Council that belong to that group). This covers the appointment of ordinary committees and has been

applied to those bodies at the Annual Council meeting. The legislation does not apply this principle to the appointment of sub-committees.

3.5.8 On the basis that the overall membership of the Council stands at 57, the composition of political groups as a percentage of overall membership is as follows:

- 49 Labour Group councillors – representing 85.97% of the total council membership;
- 5 Conservative Group councillors – representing 8.77% of the total council membership;
- 3 Liberal Democrat councillors – representing 5.26% of the total council membership.

3.5.9 According to the political balance rules, a political group for this purpose is a group of two or more members.

3.5.10 As the main Licensing Committee has been constituted as an ordinary committee of the Council, the additional political balance principle set out in 3.5.7 above was applied to the allocation of seats on that body. This has resulted in the Opposition seat on the main Committee being allocated to the Liberal Democrats Group. However, the political balance rules applying to the appointment of the Regulatory Sub Committee requires this calculation to be based only on the size of the individual sub-committee. As a result, the available opposition seat is required to be allocated to the Conservative Group, based on the size of the group as a percentage of the Council's overall membership.

3.5.11 Based on a Regulatory Sub-Committee with five seats, that means the allocation of seats would be as follows:

- Labour Group - 4 seats; and
- Conservative Group – 1 seat.

3.5.12 Subsequent to confirming the allocation of these seats, the Licensing Committee has a duty to make appointments to their specified sub committees giving effect to the wishes of the political group(s) allocated the seats. The appointments to each committee being made by the respective political groups will be set out within the paper listed as Item 5 on the agenda, which will be circulated in advance of the meeting.

4.0 Stakeholder and ward member consultation and engagement

4.1 The proposed allocation of seats has been subject to consultation with each political group.

5.0 Financial Considerations

5.1 There are no financial considerations arising directly from this report.

6.0 Legal Considerations

6.1 These are addressed in the main body of the report.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

7.1 Under Section 149 of the Equality Act 2010, the Council has a duty when exercising their functions to have 'due regard' to the need:

- a) To eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under the Act;
- b) Advance equality of opportunity; and
- c) Foster good relations between those who share a "protected characteristic" and those who do not.

7.2 This is the Public Sector Equality Duty (PSED). The 'protected characteristics' are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation.

7.3 The purpose of the duty is to enquire into whether a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision. Due regard is the regard that is appropriate in all the circumstances.

7.4 There are no direct equalities implications arising from this report at this stage.

8.0 Climate Change and Environmental Considerations

8.1 None directly arising from this report.

9.0 Human Resources/Property Considerations (if appropriate)

9.1 None directly arising from this report.

10.0 Communication Considerations

10.1 None directly arising from this report.

Report sign off:

Debra Norman

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