

LICENSING COMMITTEE



Report subject	Administrative Arrangements for Licensing Sub Committees
Meeting date	7 December 2023
Status	Public Report
Executive summary	<p>This report responds to informal feedback from Licensing Committee members around procedural arrangements for Licensing Sub Committees. It sets out the preferred options for attendance at meetings and asks members to consider any changes they may wish to make to the chairing of Sub Committees.</p> <p>In reviewing these procedures, there is also an opportunity to update the existing protocols for public speaking at Licensing Committee and Sub Committees to reflect current arrangements and bring these together into one composite document for ease of reference.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <ul style="list-style-type: none">(a) The Committee confirms arrangements for attendance at Licensing Sub Committees as set out in Paragraphs 4 to 6 of the report.(b) The Committee considers current arrangements for chairing Licensing Sub Committees and agrees any changes it wishes to make to these arrangements as appropriate.(c) The Committee considers, amends as required and agrees the revised Protocol for Public Speaking at Licensing Committee and Sub Committees attached at Appendix 1 of the report.
Reason for recommendations	<p>To ensure that the Licensing Committee has appropriate arrangements in place for the effective operation of Licensing Sub Committees.</p>

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Wards	Council-wide
Classification	For Decision

Background

1. The Council's Constitution makes provision for the appointment of a Licensing Committee consisting of fourteen Councillors, to be responsible for determining those matters relating to Licensing functions which are set out in Part 3.3 of the Constitution. The Constitution allows the Licensing Committee to delegate appropriate matters to Licensing Sub Committees for a decision.
2. In accordance with the Committee's previous decisions, Licensing Sub Committees currently operate on a rota basis with a membership of three councillors, plus two reserves who are available in the event of unavoidable absence or conflict of interest. It is not proposed to change these arrangements at the present time as they are working relatively well, although they can be reviewed by the Committee at any time as required.
3. This report responds to informal feedback from Committee members around procedural arrangements for Sub Committees, including attendance requirements and the chairing of meetings. It also provides an opportunity to update and amalgamate the existing protocols for public speaking at Licensing Committee and Sub Committees to reflect current arrangements.

Attendance at Licensing Sub Committees

4. Temporary Government legislation enabling local authority meetings to be held remotely during the Covid 19 pandemic expired in May 2021. Since that time, the Council has continued to hold Licensing Sub Committee hearings remotely when determining applications under the Licensing Act 2003 and the Gambling Act 2005 and associated Regulations. The Regulations refer to persons attending and appearing at hearings but make no reference to physical location. All other licensing hearings are convened in accordance with the Local Government Act 1972 which requires councillors to meet in person in a specified physical place.
5. While the arrangements for remote hearings have worked relatively well up until now, recent feedback from members of the Licensing Committee has highlighted the benefits of sub committee members attending all hearings in person in a physical location, as an aid to gaining experience and sharing best practice. These benefits are balanced against the acknowledged advantages and disadvantages of meeting remotely. In response to this feedback and following discussion with the Chairman the following arrangements have been operating informally since October 2023:

- For Licensing Act and Gambling Act business, Sub Committee members are requested to attend hearings in person where at all possible unless there is an exceptional reason that would prevent them from doing so. If not possible to attend in person, members are asked to contact the Chairman and the Clerk to advise. For all other business Sub Committee members must attend in person.
 - For Licensing Act and Gambling Act business, reserve members may attend in person or remotely. Reserve members are often only required to be present at the start of the meeting so the option of attending remotely can be more expedient in this case. For all other business Reserve members must attend in person.
 - For all licensing business, other parties attending the hearing may attend in person or remotely, with the exception of hearings in relation to hackney carriage and private hire matters where applicants/licence holders are asked to attend in person.
6. It is recommended that the ability for Sub Committees to meet remotely where the statutory framework allows is retained, so that members may make use of this provision when it is expedient to do so. Examples could include where exceptional circumstances such as extreme weather prevents physical attendance or when a short notice hearing such as an expedited review is required. The decision to convene a hearing remotely will be made in consultation with the Chairman of the Committee.
 7. The Committee is asked to formally ratify the arrangements for attendance at Sub Committees as set out above.

Arrangements for Chairing Licensing Sub Committees

8. At its meeting on 25 September 2019, the Committee agreed the following arrangements with regard to the membership of Sub Committees:
“Membership....comprising wherever possible the Chairman of the Licensing Committee, or in their absence the Vice Chairman, or in the absence of both, an experienced Committee member to chair if required..”
 At the time, Members agreed that this would provide a level of continuity in the consideration and determination of business.
9. The Committee is asked to consider the current arrangements for chairing sub committees and agree any changes it wishes to make as appropriate. One option would be to require all committee members to chair sub committees as and when required. Another option could be to ask committee members with an interest in chairing sub committees to put themselves forward, either now or at a later date. Should more members become involved in chairing sub committees, it is recommended that training be provided to support them in this important role. Members are also asked to note that any change may require some minor adjustments to the current membership rota.

Protocol for Public Speaking at Licensing Committee and Sub Committees

10. The Council's Constitution allows the Licensing Committee to adopt its own protocols regarding arrangements for public speaking at licensing hearings. Currently the Committee has two adopted protocols, one for remote hearings and one for in person hearings. Both protocols follow similar procedures, but there are differences in how and when decisions are conveyed to all parties. These differences are explained in Paragraphs 13 to 15 and relate more directly to the type of licensing business involved rather than whether a hearing is held remotely or in person.
11. It is proposed to bring together one composite protocol to cover all types of licensing business at remote and in person hearings. This provides an opportunity to address any changes in practice since the protocols were adopted and clarify any discrepancies which may have arisen. A draft revised protocol is included at Appendix 1 of the report for consideration.
12. The current protocols set out the principles for conducting licensing hearings. These principles mirror the requirements in the hearing regulations governing Licensing Act and Gambling Act business. Most of these principles can be applied to other licensing hearings, such as sex establishment applications. However, there are certain provisions which do not apply to hackney carriage and private hire hearings, for example the statutory requirements around the submission of representations. Section 2 of the revised protocol has been reworded to make clear which provisions apply to which types of business.
13. The hearing regulations for Licensing Act and Gambling Act business state that determination must be within the period of five working days beginning with the day or the last day on which the hearing was held unless otherwise specified. Exceptions include, for example, the issuing of a counter notice following an objection to a Temporary Event Notice (TEN), in which case the determination must be at the conclusion of the hearing. In relation to most other licensing business, for example sex establishment applications, there are no statutory timescales governing determination and notification of decision. In such cases Sub Committees aim to apply the same timescales as for Licensing Act and Gambling Act business where it is practicable to do so.
14. For hackney carriage and private hire hearings, Sub Committees currently notify all parties of their decisions in person at the end of the hearing after their deliberations. There is no requirement to do so, except where a licence is revoked with immediate effect on grounds of public safety.
15. Section 2.11 of the revised protocol clarifies the statutory timescales and practices currently applied for each type of licensing business.
16. The Committee is asked to consider the revised protocol, amend the contents as required and agree this for inclusion in Part 6 of the Council's Constitution to replace the current remote and in person versions.

Options Appraisal

17. Options available to the Committee are:

- To confirm the arrangements for attendance at Licensing Sub Committees as proposed in the report or to retain existing arrangements or to suggest alternative arrangements. The arrangements proposed in the report are intended to confirm the informal agreement of members to attend meetings in person.
- To retain existing arrangements for chairing sub committees or suggest alternative arrangements.
- To agree a revised protocol, retain the existing protocols or suggest an alternative protocol(s). Adopting the revised protocol brings together all types of hearing in a single document and aims to reflect how Sub Committees are now operating.

Summary of financial implications

18. There are no financial implications arising from this report, other than incidental travelling expenses for members attending in person meetings.

Summary of legal implications

19. Arrangements for the discharge of functions in respect of the Licensing Committee and Licensing Sub Committees must comply with all relevant legislation. Failure to have appropriate arrangements in place could portray a lack of transparency and could result in subsequent challenge to the decision-making process.

Summary of human resources implications

20. There are no human resources implications arising from this report.

Summary of sustainability impact

21. Attending in person meetings could result in additional vehicle journeys undertaken by members.

Summary of public health implications

22. There are no public health implications arising from this report.

Summary of equality implications

23. The Constitution of the BCP Council sets out the rights of public access to the democratic process. Where appropriate the Equality Officer is engaged on relevant issues. The proposed changes contained within this report do not impact directly or indirectly impact upon service users and as a consequence there are no equality implications arising from this report.

Summary of risk assessment

24. There are no risks arising from this report other than those highlighted in Paragraph 19.

Background papers

Published works

Appendices

Appendix 1 – Revised Protocol for Public Speaking at Licensing Committees and
Licensing Sub Committees