

<b>Subject:</b>	<b>Future Arrangements for Licensing Panel Hearings</b>		
<b>Date of Meeting:</b>	<b>Licensing Committee (Licensing Act 2003 Functions)</b>		
<b>Report of:</b>	<b>Executive Lead Strategy Governance and Law</b>		
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The report sets out the position in relation to the powers of the Licensing Committee to make its own arrangements in relation to the conduct of Licensing Panels convened under the Licensing Act 2003 (Licensing Panels).
- 1.2 The report proposes that members delegate authority to senior officers after consultation with lead members to determine the future conduct of Licensing Panels after the end of July 2021 until review at the next committee in October 2021. The intention is to build flexibility into the arrangements and be able to respond to the latest public health and government advice.

**2. RECOMMENDATIONS:**

- 2.1 That the Committee delegate authority to the Executive lead for Strategy Governance and Law after consultation with the Chair and group spokespersons to determine arrangements for Licensing Panel hearings from the 1<sup>st</sup> August 2021 until the next Licensing Committee in October 2021.
- 2.2 That the Committee recommends that in exercising this authority the above officer takes into account all relevant factors including latest public health and government guidance and the need to ensure fair and transparent procedures in accordance with the Hearings Regulations 2005.

**3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 Following the outbreak of the Covid-19 pandemic the Government enabled local authorities to hold 'virtual' meetings under the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Amendment) Regulations 2020 ('the Regulations'). These Regulations expired on the 7<sup>th</sup> May 2021 and a recent Court decision confirmed that the Council must run those of its meetings which are governed by the Local Government Act 1972 with members and the public in attendance at a physical meeting.

- 3.2 However, Licensing Panels are established under different legislation (the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005.) This means that Licensing Committees are empowered to regulate their own procedures and those of its sub-committees (the Licensing Panels).
- 3.3 An urgency sub-committee of the Licensing (Licensing Act 2003 functions) Committee decided on the 7<sup>th</sup> May 2021 that Licensing Panels should continue to meet remotely until the end of July 2021.
- 3.4 In terms of future procedure for the Licensing Panels after the end of July, it may be considered more appropriate to move away from a fully remote procedure to a more hybrid one where the panel members and key officers for example are in physical attendance at the hearing but parties may still be given the option to attend remotely. A similar procedure is currently in place for planning meetings. There may be some types of panels, for example reviews, where it is considered preferable for all the parties to be physically present in the room and that in such cases remote attendance should be limited to exceptional circumstances only. In an application where there are many representations it may be preferable for parties to attend remotely especially if there are still concerns about face to face meetings and social distancing. The views of the Committee are sought in relation to all such scenarios.
- 3.5 Before the end of July 2021 the Council as a whole will have reviewed the options for conduct of meetings in light of the latest public health advice and the national picture. It is proposed that members give authority to senior officers to make appropriate procedural adjustments for licensing panels in the light of national developments, and in response to appropriate advice, the views expressed by members and the Council's meeting preferences as a whole.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 Delegation to officers avoids the need to convene further urgent committee meetings and enables a flexible response to changing national or local conditions.
- 4.2 The delegation is only temporary and will be reviewed at the next full licensing committee in October 2021.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 These are regulatory hearings and the proceedings must give all parties the ability to participate as appropriate and enable the press and public to see and hear them.

#### **6. CONCLUSION**

- 6.1 The Licensing Committee is empowered to determine procedures for its sub-committees (licensing panels) and is able to delegate this function, after appropriate consultation, to senior officers for a temporary period in the interests of effective and flexible decision making.

## 7. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications: there

- 7.1 There are no additional financial implications arising from this report

Finance Officer Consulted: Jeff Coates

Date: 05/05/21

### Legal Implications:

- 7.1 The Licensing Committee can determine its own procedures for its sub-committees (hearing panels) pursuant to s 9 Licensing Act 2003. There is no reason under the Licensing Act (see Section 10) why such determination cannot be delegated to officers in an appropriate manner as outlined in the report. Arguably each licensing panel could determine its own procedure at the outset but this is not practical given the need for advance notifications under the Hearings Regulations.

*Lawyer Consulted: Elizabeth Culbert*

*Date: 020621*

### Equalities Implications:

- 7.2 The Council has a public sector equality duty under s149 of the Equality Act 2010. In the exercise of its functions the Council must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those that do not. Decisions as to procedures will always take this into account.

### Sustainability Implications:

- 7.3 No direct sustainability implications.

### Public Health Implications:

- 7.4 Any decision to move to more face to face meetings will be informed by the latest public health guidance.

