

Agenda Item:

Report to: LICENSING COMMITTEE

Date: 8 March 2007

Report from: BOROUGH SOLICITOR and SCRUTINY AND
DEMOCRATIC SERVICES MANAGER

Title of report: REVIEW OF THE OPERATION OF LICENSING
COMMITTEE AND ITS SUB-COMMITTEES

Purpose of report: To report to Licensing Committee the success of the
operation of its sub-committees.

Recommendations: To note the report.

INTRODUCTION

1. The new Chair of Licensing Committee has requested a report from officers as a part of a review of how the Committee and its sub-committees have been functioning since the implementation of the Licensing Act 2003

ADMINISTRATION OF LICENSING FUNCTION

2. The first Licensing Sub Committee was held on 9 August 2005 and there have been a further 16 Licensing Sub Committees dealing with 36 applications. 18 members have served on sub committees and the requirement for the reserve member to be used has been necessary on 6 occasions.
3. Hastings Borough Council is one of the top performing councils in the country in dealing with licensing applications and is the only council in the South East of England, including London, not to have received any valid appeals against decisions taken.
4. As part of our joint working with other East Sussex Local Authorities, details of our licensing procedures and protocols have been copied to colleagues.
5. Our success is down to five key reasons;
 - Flexibility

Licensing Sub Committees meet at 10am, 3pm or 6pm. This ensures that we meet the promise made to potential applicants when the Act was introduced that the Council would be as flexible as possible to ensure there was minimum disruption to their business hours. It also reflects that Licensing Committee members have a variety of council, employment and domestic responsibilities and ensures that the committee administrator has a range of times and members to draw upon for each Sub- Committee.

This has equally ensured that we have met all legal deadlines and dealt with all applications without delay, which has been appreciated by applicants and the public making representations.

Overall our flexible approach has worked extremely well and we have received very favourable feedback from applicants, councillors and the public.

- Size of Licensing Committee

The full Licensing Committee of 15 members is a number that has served the Council very well by giving the committee administrator a range of members to call upon when setting up each 3 member Sub Committee plus a reserve member for attendance at each.

Having 15 members also ensures that where members have ward or prejudicial interests excluding them from considering applications, then we have a range of other committee members to turn to. Council's decision to admit more Planning Committee members to the membership of Licensing Committee adds to the possibility of conflict.

If the committee were smaller then that smaller number of members would have to take on that additional workload. This would also present real problems for the committee administrator in finding three members plus a reserve member for each Sub Committee, particularly if members on the committee had ward or other interests or other commitments.

While political balance is not required for Licensing Sub Committees, the Full Licensing Committee previously agreed that the committee administrator should strive to achieve political balance where possible. A smaller Full Licensing Committee would make this very difficult to achieve.

From a legal perspective, if we start to encounter difficulties in finding members to serve on Sub Committees then we are in real danger of missing the very tight legal deadlines we are required to meet to consider applications. This would leave us open to challenge in the courts and significant legal costs that would have to be met from Council finances.

We can only see detriment by reducing the number of members serving on the Full Licensing Committee.

- Consistency of Legal Advice

The legal advice given to Sub Committee members when they recess to consider their decision is a matter relates to the application/review before the Sub-committee. Only the solicitor and the three members are able to be present and all other officers including the Licensing Manager and committee administrator must not interfere or be privy to those confidential discussions.

It is the duty of the solicitor to note down and agree the precise wording on the decision notice with the three Sub Committee members.

The fact that Hastings has the unique 100% record of no appeals being received against decisions taken by members of Sub Committees is testament to the consistency of the legal advice provided. Moreover it suggests that advice has been provided in a way that enables members to understand at times complex legal matters and come to decisions that fully satisfy the law, regulations and due process.

- Administrative Processes

When licensing powers were delegated to local authorities, Council officers introduced a set of administrative processes and protocols and increased the resources allocated to the Democratic Services Team. This planning and

focus on processes and resources has played a key role in Hastings successful record.

While decisions on setting and managing the administrative processes and resources are the responsibility of the Democratic Services and Licensing Managers, we are happy to receive any suggestions from members.

A suggestion received was that the committee administrator type up the decision notice produced by the solicitor as a Sub Committee Chair preferred a typed notice to read out. It was also thought that this would potentially speed up the announcement of the decision.

After discussion, it emerged that as the committee administrator cannot be present when members retire to discuss applications and the solicitor drafts the notice as they take their decisions, the administrator would have to wait until this process was completed before being given the notice to type up.

Rather than add in additional time at each Sub Committee, a way of dealing with this is for each Sub Committee Chair to advise if they need the decision typed up or not in order to read it out. If it is required then the committee administrator will be provided with the decision notice by the solicitor.

- Training

Before Licensing responsibilities were formally given to local authorities, the Council appointed a Full Licensing Committee and organised a joint training event with Rother District Council members based on what the likely powers would be, with training provided by Licensing specialists and the costs shared.

Once the detailed regulations were released, we organised further training for the Full Licensing Committee. As membership of the committee has changed the Licensing Manager has provided training to new committee members and new chairs of the committee.

All officers involved in the Licensing process have received a range of training in order to provide the expert advice and service to Sub Committees.

The value of the focus we have given to training members and officers has played a key role in Hastings unique 100% record of receiving no appeals against Licensing Sub Committee decisions.

REMUNERATION FOR LICENSING COMMITTEE MEMBERS

6. As required by law, an Independent Remuneration Panel recommends to Full Council the appropriate level and range of allowances for members serving on Licensing Committees as it does for all committees of council.
7. The panel last met following the 2006 Borough Elections and Full Council discussed their report on 26 July 2006. The Panel

recommended an attendance allowance of £100 per member per Licensing Sub Committee capped at a maximum of £500 per member each municipal year.

8. Full Council accepted the recommendation on an attendance allowance of £100 and amended the recommendation on capping to £1000 a year.

The resolve of Full Council, Minute 24 records in (4);

“The panel’s recommendation on introducing an attendance allowance for members of the licensing committee be amended and that a maximum sum payable to members be capped at £1,000 in each municipal year. This to be a temporary measure and the panel are asked to consider an appropriate level of Special Responsibility Allowance at the next review. “

9. In part (5) of the resolve it is recorded;

“An independent remuneration panel be re-convened again to consider the scheme of allowances

either in 2010

or before if there is a significant change (a) from the council’s current political composition, and/or (b) to the current structure of councillor’s responsibilities.”

There has been no significant change to the political composition or to the current structure of councillor’s responsibilities since the panel met. By Full Council decision therefore, the next scheduled review of allowances for the Licensing Committee is 2010.

CONCLUSION

10. As highlighted earlier in this report, this Council is one of the top performing councils in the country for dealing with licensing applications and the only local authority in the South East of England, including London, not to have received any appeals against decisions made by Licensing Sub Committees.
11. The reasons for this are the attention given to our successful administrative processes including the very necessary flexibility in different Sub Committee start times, the size of the Full Licensing Committee, the training provided to members and officers and the consistency of the legal advice provided.
12. Hastings 100% record has been reported to Overview and Scrutiny as part of quarterly performance reviews and to staff. Other local

authorities have requested details of our processes and procedures. It is a record we are very proud of and aim to maintain.

Equalities & Community Cohesiveness	<input type="checkbox"/>
Crime and Fear of Crime (Section 17)	<input type="checkbox"/>
Risk Management	<input type="checkbox"/>
Environmental issues	<input type="checkbox"/>
Economic / Financial implications	<input type="checkbox"/>
Human Rights Act	<input checked="" type="checkbox"/>
Organisational Consequences	<input checked="" type="checkbox"/>

Report written by: Graham Belchamber, Scrutiny and Democratic Services Manager, tel. 01424 451718; e-mail gbelchamber@hastings.gov.uk

And Jayne Butters, Borough Solicitor, tel. 01424 451733; e-mail jbutters@hastings.gov.uk