
Meeting: Licensing Committee

Date: 14 October 2009

Subject: Licensing Sub Committees

Report of: Head of Public Protection

Summary: The report sets out information to allow the Committee to take a decision on the number and composition of Licensing Sub Committees for Central Bedfordshire and as to decisions being taken by ward members in relation to premises within their wards.

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Public/Exempt: Public

Wards Affected: All

Function of: Council

Reason for urgency
(if appropriate)

RECOMMENDATIONS:

1. that the Licensing Committee support the retention of the current provision within part E2.3 of the Constitution, namely:-
 - (a) the appointment of one licensing sub committee for Central Bedfordshire, comprising 3 named members
 - (b) The appointment of all 9 remaining members of the Licensing Committee as substitutes for the three standing members of the Licensing Sub Committee
2. that having regard to the legal advice now submitted, a ward member who is also a member of the licensing committee be permitted to participate in a meeting of the sub committee which is determining a licensing application relating to their ward.

Background

1. In the Shadow Council, the member led constitutional working group considered the types and numbers of committees which would be required by Central Bedfordshire in order to allow it to fulfil its duties and obligations. The recommendations of the working group were incorporated into the constitution for Central Bedfordshire which was approved by full Council in February 2009. Part E2 of the Constitution, paragraph 3 presently provides for one Licensing Sub – Committee to be appointed, comprising 3 members, to discharge the relevant functions of the Council under the Licensing Act 2003 and the Gambling Act 2005.
2. Part E3 of the Constitution, Committee Procedure Rules, paragraph 7.1 states that ‘the Licensing Committee may appoint one or more sub - committees to discharge its functions by virtue of section 9 (1) of the Licensing Act 2003.’
3. There is no limitation to the number of members who may sit as substitutes on the committee, therefore, to maximise flexibility, at the Committee’s meeting following the Annual Council meeting held on 18 June 2009, it was agreed that any member of the Licensing Committee (ie all 9 remaining members) should be authorised to act as a substitute at meetings of the Licensing Sub Committee.
4. In the previous legacy authorities’ more than one licensing sub committee was established. This was due to the anticipated volume of work that would be associated with the introduction of the Licensing Act 2003.
5. The legacy authorities had a different view on members taking a decision in relation to premises within their own ward areas. Legacy Mid Beds DC allowed this legacy South Beds DC did not.
6. Legal opinion in relation to points 3 to 6 is attached at Appendix A.

Considerations

7. As indicated in paragraph 1 above, presently the constitution only makes provision for one Licensing Sub Committee; members will therefore need to have regard to what value will be added to the democratic process by introducing more than one sub committee.
8. When considering membership of the Licensing Sub Committee there would appear to be two other options available.
9. Firstly twelve members of the Licensing Committee to provide a pool from which a sub committee is drawn.
10. Secondly four sub committees are set up each comprising of three standing members drawn from the Licensing Committee.

11. In the interest of impartiality the committee may wish to take a decision on ward members being involved in the decision making process relating to a premises in their area. Due to the quasi-judicial business of the sub committee it is also recommended that non-members are not invited to contribute to the debate, unless invited to do so by an objector.

Conclusion and Next Steps

12. The appointment of any Member of the Licensing Committee to act as a substitute on the sub committee (ie: the remaining 9 members of Licensing Committee) provides flexibility to ensure that there are three members available for each sub committee meeting, if the named members appointed to the sub committee are unable to attend.
13. To ensure decisions are clear consistent and transparent officers would recommend that only one Licensing Sub – Committee is required. Members who regularly sit on the sub committee will have a level of knowledge, expertise and skill to ensure that all decisions taken are consistent across the process, and where a substitute is required this level of knowledge and skill will be retained. By calling on a pool of members there may not be the same level of knowledge and skill available across the membership of the sub committee to ensure this consistent approach to the decision making process. If four sub committees were in place it can be seen by the volume of work being achieved that these would sit infrequently and again the skills and expertise would not be developed across the membership to ensure a consistency of approach and decision making
14. There is not the volume of requests to drive a need for more than one committee In the municipal year 2009/10 there has been one meeting of the sub committee sitting on the 27th July to consider a variation in relation to one licensed premises. In the interim year April 09 to June 09 there were three sub committees 14th April 2009 application to vary a premises licence, 5th May 2009 application to grant a premises licence and 15th May 2009 application to vary a premises licence. Information available for the municipal year 2008/09 does not support the need for more than one sub committee.
15. Regulations require that the sub committee must consist of 3 members. Remaining members of the Licensing Committee have been appointed as substitutes for the Licensing Sub Committee, thereby providing the flexibility of membership to ensure that the meeting is always quorate.
16. Based on the legal opinion provided, the Committee is requested to consider whether to permit members to determine applications which relate to premises within their own wards.

CORPORATE IMPLICATIONS

Council Priorities:

Creating Safer Communities is supported by the 4 licensing objectives

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Financial:

None

Legal:

None

Risk Management:

None

Staffing (including Trades Unions):

None

Equalities/Human Rights:

None

Community Development/Safety:

the 4 licensing objectives as set out below support community safety

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Sustainability:

None

Appendices:

Appendix A – Legal Opinion

Background Papers (open to public inspection):

Central Bedfordshire Constitution
Licensing Act 2003

Location of papers: Priory House, Chicksands