

**HUNTINGDONSHIRE DISTRICT COUNCIL**

**Title/Subject Matter:** Licensing Committee: Review of effectiveness  
**Meeting/Date:** Corporate Governance Panel – 23 July 2014  
**Executive Portfolio:** Cllr T D Sanderson  
**Report by:** Internal Audit & Risk Manager  
**Ward(s) affected:** All

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**Executive Summary:**

The Corporate Governance Panel requested that a review of the effectiveness of the Licensing Committee be undertaken; the results of which would be used in considering the Council's overall governance arrangements and preparation of the 2014 annual governance statement. For the purpose of this review, the Licensing Committee has been taken to include the Licensing Sub-Committee, the Licensing and Protection Panel and the various sub-groups etc. that hear licence applications.

The scope of the review was agreed by the Chairman and Vice-Chairman of the Committee and details are attached at Appendix 1. The review of effectiveness was conducted by a small team of three Licencing Committee Members together with those Officers who regularly supported the Committee. Challenge within the review process was provided by the Internal Audit & Risk Manager.

Prior to the review commencing all members of the Committee were invited to provide comments and their views on the effectiveness of the Licencing Committee. Three responses were received.

**View of Effectiveness**

The working group considered that the Licensing Committee were generally acting effectively in discharging their responsibilities They have identified a number of issues that they wish to bring to the attention of the Committee.

1. The potential out-sourcing or sharing of Legal Services may impact upon the quality of the legal advice provided to the Sub-Committee/Group hearings.
2. The Vice-Chairman of the Committee stood down from the Council in May 2014 and whilst this will mean that substantial licencing experience and expertise has been lost, it gives the Committee the opportunity to consider the future composition of the Sub-Committee/Group, specifically whether :
  - (a) The Chairman and Vice-Chairman should be de-facto members of the Licensing Sub-Committee and the Licensing and Protection Applications Sub-Group (which accords with the decision of Council in recognising their 'enhanced role' when setting the Special Responsibility Allowance (SRA));
  - (b) Consider if the SRA is set at an appropriate level and provide comments

to the Independent Remuneration Panel if they believe the SRA is not correct;

(c) Identify opportunities for all Members of the Committee to attend Sub-Committee/Groups if they express a wish to do so.

3. 'Refresher' training on some of the more fundamental aspects of the work of the Sub-Committees/Groups would be useful, especially when the membership changes.

### **Licensing Committee comments**

The effectiveness report was considered by the Licensing Committee on the 24 June. No objections were raised with the conclusion reached by the working group.

Recommendation two prompted debate around political proportionality of the Licensing and Protection Applications Sub-Group. The Committee also agreed that the existing custom and practice for the involvement of the Chairman and Vice-Chairman in Licensing Sub Groups and Committees be retained..

### **Financial and Legal Implications**

There are no financial or legal implications arising from this report.

### **Recommendation(s):**

It is recommended that the Panel

1. Note the outcome of the effectiveness review of the Licensing Committee; and
2. Decide which Committee/Panel should be subject to review during 2014/15.

## **1. WHAT IS THIS REPORT ABOUT/PURPOSE?**

- 1.1 This report details the findings of the working group that was set-up to consider the effectiveness of the Licensing Committee.

## **2. WHY IS THIS REPORT NECESSARY/BACKGROUND**

- 2.1 The Corporate Governance Panel review their own effectiveness on a frequent basis. They have found this process to be a useful opportunity to critically review their own performance and identify opportunities for improvement.
- 2.2 At the request of the Corporate Governance Panel, a review of the effectiveness of the three Overview & Scrutiny Panels was conducted in 2013. This review was considered successful, and the Corporate Governance Panel requested that an effectiveness review of the Licensing Committee be undertaken in 2014.

## **3. REVIEW PROCESS**

- 3.1 The effectiveness review was led by the Internal Audit & Risk Manager. Following a meeting with the Chairman and Vice-Chairman of the Committee on 23 March, a scoping document for the review was prepared (Appendix 1). The Chairman of the Committee decided that a small working group be formed to undertake the review – consisting of himself, the Vice-Chairman and Councillors I Curtis and R West. The working group were assisted in the review by the Central Services Manager, Licensing Manager and the Member Development Officer.
- 3.2 An email was sent to all Members of the Licencing Committee on 27 March, that included the scoping document and explained the review process that was to be followed. The email requested that Members share their thoughts on the work of the Committee with the Internal Audit & Risk Manager, so that they could be considered as part of the effectiveness review process. Three members of the Committee responded to this request.

## **4. REVIEW FINDINGS**

- 4.1 The working group met on 8 April. Cllr Curtis was unable to attend but did provide some comments which were considered by the group. Whilst the group focussed on current practices, they also considered whether Committee effectiveness could be enhanced by expanding their terms of reference to consider issues that are currently outside of their remit.

The key findings of the working group are detailed below, in the order they are listed on the scoping document.

### **Officer support, including legal representation Completeness of papers presented to Members**

- 4.2 The working group considered that the Officer support provided to both the main Committee and Sub-Committee meetings and individual licencing application hearings was very good. Reports were considered to be clear in explaining legislative changes and the amendments arising to the scheme of delegation, e.g. the changes that needed to be introduced from the Scrap Metal Dealers Act 2013.

Due to the requirement for fairness in the decision making process, the attendance of a Legal Officer to provide appropriate advice to Members was considered to be very important and a current strength however it was noted that with changes to staffing in the Legal Services, there were occasions when advice was provided by either the Licensing Manager or the Central Services Manager when the applicant was not represented. Concerns were expressed that the potential out-sourcing of Legal Services may reduce the frequency of attendance by an appropriately qualified and knowledgeable Legal Officer.

### **The opportunity for further delegation of decisions to Officers**

- 4.3 The working group felt that the delegation of powers to Officers were appropriate and that they should not be changed. An appropriate balance appeared to have been struck between decision making of the Committee and Officers.

### **Member engagement in attending individual licence hearings**

#### **Chairman and Vice-Chairman**

- 4.4 Hearing individual licence applications is a significant part of the work of the Committee and the working group spent a considerable amount of time discussing this point. The working group were robustly challenged as to why they felt that there was sufficient Member engagement with individual licence application hearings. During the discussions, the rules on Councillor disqualification were acknowledged and taken into account.
- 4.5 Working procedures have been established for both the Licensing Sub-committee (LSC) and the Licensing and Protection Application Sub-group (LAPAS).

Both working procedures set out the process to be followed for appointing Members to the appropriate sub-committee/group and the appointment of the Chairman.

**LSC:** Each Licensing Sub-Committee shall comprise three Members appointed by the Licensing Committee from amongst its membership. A Sub-Committee shall elect a Chairman from amongst its members at each meeting, for the purpose of that hearing or meeting.

**LAPAS:** Each Licensing Sub-Group shall comprise four members appointed from the Licensing and Protection Panel. In the event of the Chairman of the Licensing and Protection Panel not being present at a meeting, the Sub-Group shall elect a Chairman from among its members for the purpose of that meeting.

- 4.6 Neither procedure explicitly require the attendance of either the Chairman or Vice-Chairman of the Licensing Committee (LC) or the Licensing and Protection Panel (LPP) at the LSC or the LAPAS meetings. Custom and practice is such that one or both of the post-holders attend each of the application hearings.
- 4.7 Excluding the Executive, the positions of Chairman and Vice-Chairman of the LC/LPP (along with those of the Development Control Panel) have been

allocated the highest Special Responsibility Allowances (SRA) of all other Committee/Panel appointments. This decision was taken by Council in December 2004 (minute extract below):

### **Implications Of The Licensing Act 2003**

The Licensing Act 2003 and associated Regulations have set the first appointed day for receipt of applications by the Council as 7th February 2005. Later on the agenda the Council is being asked to establish a new Licensing Committee to discharge the functions of the Council as licensing authority under the Act. Having been apprised of the potential workload for Members which will arise from the requirement to hold sub-committee hearings to determine applications and the enhanced role of the Chairman and Vice-Chairman of the Licensing and Protection Panel/Committee, the Panel recommended Special Responsibility Allowances of £5,050 and £2,250 per annum for the Chairman and Vice-Chairman of the Licensing and Protection Panel/Committee which are equivalent to those received by the Chairman/Vice-Chairman of the Development Control Panel.

- 4.8 As Council have recognised the enhanced role of the Chairman and Vice-Chairman of the LC/LPP the working group consider it appropriate that the working procedures for the LSC and LAPAS (and the sex establishment and gambling act licence sub-groups) explicitly reflect this. If such a change is not approved, then consideration should be given as to whether or not the SRA is set at an appropriate level.

### **Other Members**

- 4.9 Whilst acknowledging that only 3 and 4 Members are required to attend the application meetings of the LSC/LAPAS respectively, a review was undertaken to identify which Members (at the time of preparing the report) have attended these meetings. The results of the review are shown in the table below.

Councillor	Membership Meetings April 2013 – May 2014	Total	LSC	LAPAS
		19	6	13
IJ Curtis		18	5	13
JW Davies	Chairman	17	5	12
CR Hyams	Vice-Chairman	13	5	8
RJ West		11	1	10
R Fuller		8	2	6
KM Baker		4	0	4
WT Clough		1	0	1
TD Sanderson		1	0	1
GJ Harlock		0	0	0
Mrs L Kadic		0	0	0
SM Van De Kerkhove		0	0	0
MC Oliver		0	0	0

- 4.10 Ignoring the involvement of the Chairman and Vice-Chairman, four of the remaining 10 Councillors have attended between them, the majority of the 19 application meetings of the LSC/LAPAS. Arranging the meetings and forming

the LSC/LAPAS is the responsibility of Democratic Services, and is carried out in consultation with the Chairman. The decision as to which Councillors are to be asked to attend is driven primarily by a Councillors' daytime availability and their previous responses to requests to attend. If Councillors were unable to attend a meeting, then almost by default, a core group of Councillors who were available has become established.

- 4.11 The working group recognise that the Chairman/Vice-Chairman's attendance at application hearings reduces the opportunities available for others to attend. They were also aware that whilst the training that was provided to Councillors enhanced their understanding and knowledge of licencing law but that was not a substitute for the experience to be gained from attending hearings themselves.
- 4.12 Without changing the composition of the LSC/LAPAS by removing the requirement for the Chairman/Vice-Chairman to attend, the working group was unable to identify any alternative proposals to try and enhance overall effectiveness. However, they were aware that the Vice-Chairman is not standing for re-election in May 2014 and whilst this will mean that substantial licencing experience and expertise will be lost, an opportunity is available to consider the future composition of both the LSC/LAPAS.

#### **Identification of training needs and subsequent training provided Provision of information & legislative changes/updates**

- 4.13 The working group considered that the standard of training and Members understanding of the issues that they need to take into account when considering licence applications appeared to be high. They supported this conclusion based on the knowledge that there had been only one appeal against a licence decision in the last three years.
- 4.14 In November 2011 Council amended both the Constitution and the Licensing Code of Good Practice to reflect the requirement for training:

**Constitution:** No Member shall be eligible to serve on a Regulatory Committee – the Development Management and Licensing and Protection Panels and Licensing Committee unless or until they have undertaken relevant training.

**Licensing Code of Good Practice:** make specialised training mandatory for Members who wish to serve on the Licensing and Protection Panel/Licensing Committee.

Whilst formal training from external 'experts' was only undertaken once per year, the working group felt that the training had considerably improved Members understanding and knowledge and they wished to see the specialised training continue. One of the respondents who provide comments upon the review questioned whether annual training was sufficient. They recognised the usefulness of the annual training but felt that 'refresher' training on some of the more fundamental aspects of the work of the application panels would be useful, especially when the membership changes.

- 4.15 The Licensing Manager also provides one-to-one training with a Member if it is requested, or if the Licensing Manager or Member Development Officer identifies a training need that has the potential to affect the outcome of licence application hearings.

## **The Committee's involvement in receiving information on complaints and their resolution, enforcement action and the performance monitoring of licensing services**

- 4.16 The working group discussed options for expanding the role of the Committee, specifically:
- receiving information on the overall performance of licensing functions that fell within their remit;
  - details of complaints received and resolution; and
  - enforcement action undertaken and any subsequent issues.
- 4.17 Officer's explained to the working group how they assessed the risks associated with the breaching of any licence conditions and how they targeted enforcement. They gave examples of their involvement and liaison with the Police and others.
- 4.18 The working group recognised that licensing was a front line service. Whilst it had many roles, key amongst them was a duty to protect the public and safeguard the reputation of the Council. Information regarding the performance of the licensing service would therefore be of value to the Committee. Having noted that, the working group considered that receiving this information would add little to the overall role of the Committee. In essence, they felt that having received it, what action would they be able to take that improved the effectiveness of the Committee?

## **5. LIST OF APPENDICES INCLUDED**

Appendix 1 - Scope of the review

### **BACKGROUND PAPERS**

Notes of working group meeting

### **CONTACT OFFICER**

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## Scope of the review

### Effectiveness Review of the Licensing Committee<sup>1</sup>

At the request of the Corporate Governance Panel, a review of the effectiveness of the Licensing Committee is to be undertaken.

After discussing the review with the Chairman and Vice-Chairman of the Committee, it was agreed that the review will not consider individual licence applications. It will consider the effectiveness of the meetings at which applications are considered and the Committee's role in monitoring the effectiveness of licensing services provided across the Council.

The areas of focus for the review will include:

- Officer support, including legal representation
- Completeness of papers presented to Members
- The opportunity for further delegation of decisions to Officers
- Member engagement in attending individual licence hearings
- Training, identification of training needs and subsequent training provided
- Provision of information & legislative changes/updates

The Committee's involvement in receiving information on complaints and their resolution, enforcement action and the performance monitoring of licensing services shall also be considered together with the involvement of Overview & Scrutiny Panel.

The review will be undertaken by:

Councillors, J W Davies, C R Hyams, IC Curtis and R J West.

The views of all the members of the Committee will be sought to allow them to highlight any issues of concern and opportunities for improvement.

It is anticipated that the review will be completed by 16 May 2014.

A draft report will be prepared by the Committee Chairman and presented to the 24 June Licensing Committee for discussion and endorsement. This will allow the report to be considered by the Corporate Governance Panel at its 23 July meeting.

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<sup>1</sup> For the purpose of this review, the Licensing Committee should be read to include the Licensing Sub-Committee, the Licensing and Protection Panel and the Licensing and Protection Applications Sub-Group.