

North East Derbyshire District Council

Licensing and Gambling Act Committee

7 February 2023

Licensing and Gambling Acts Committee and Sub-Committee Meeting Arrangements

Report of the Assistant Director of Governance and Monitoring Officer

Classification: This report is public

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PURPOSE / SUMMARY

To consider the arrangements for General Licensing Committee and Sub-Committee meetings for the forthcoming Municipal Year.

RECOMMENDATIONS

1. That Committee notes the schedule of draft dates for the Licensing and Gambling Act Committee during the 2023-24 Municipal Year.
2. That Committee notes the schedule of draft dates for the Licensing and Gambling Acts Sub-Committee meetings for the 2023-24 Municipal Year.
3. That the Assistant Director of Governance and Monitoring Officer continues to appoint Members to serve on scheduled and unscheduled meetings of the Licensing and Gambling Acts Sub-Committee and that Committee recommends to Standards Committee that a specific delegation be included in the Scheme of Delegation in the Constitution.
4. That Committee considers and determines the Procedural Arrangements for Licensing and Gambling Acts Sub Committee meetings.

IMPLICATIONS

Finance and Risk: Yes No

Details:

On Behalf of the Section 151 Officer

Legal (including Data Protection):

Yes

No

Details:

On Behalf of the Solicitor to the Council

Staffing: Yes

No

Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	N/A

Links to Council Plan priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.

N/A

REPORT DETAILS

1 **Background** (reasons for bringing the report)

To determine the arrangements for Licensing and Gambling Acts Committee and Sub- Committee meetings for the 2023-24 Municipal year.

2. Details of Proposal or Information

2.1 The Licensing and Gambling Acts Committee's responsibilities are set out in the Council's Constitution. This has been published on the Council's Web Site: <https://democracy.ne-derbyshire.gov.uk/ieListDocuments.aspx?CId=1293&MIId=2331&Ver=4>

2.2. The functions of the Committee are set out below:

- To consider all licensing matters related to the Licensing Act 2003 and the Gambling Act 2005
- To recommend to Council statements of Licensing Policy under the both the Licensing Act 2003 and the Gambling Act 2005
- To make any minor changes and updates to the Statements of Licensing Policy under the both the Licensing Act 2003 and the Gambling Act 2005 that are required following the adoptions by Council of both statements.
- To recommend to Council to resolve whether to issue a Casino Licence

2.3 The following matters are reserved to the Council Meeting:

- (i) The Statements of Licensing Policy under both the Licensing Act 2003 and the Gambling Act 2005
- (ii) The power to resolve to issue a Casino Licence

2.4. The Licensing and Gambling Acts Committee has three scheduled meetings each year. With the agreement of the Chair, special meetings will be arranged, as required. A draft schedule of meetings for 2023-24 has been produced and is currently subject to extensive consultation within the Council. The draft schedule suggests General Licensing Committee meetings on the following dates:

*** Wednesday 5 July 2023**

*** Wednesday 8 November 2023**

*** Wednesday 6 February 2024**

2.5 Specific aspects of the Committee's responsibilities under the Council's Constitution are discharged by the Licensing and Gambling Acts Committee Sub-Committees. In particular, the Sub-Committees:

- To consider all matters which cannot be delegated to officers concerning the discharge by the Council of its licensing functions under the Licensing Act 2003, including:
 - Application for a personal licence where there are relevant unspent convictions;
 - The review of a premises licence or club premises certificate; other than minor variations
 - Decision to object when the local authority is the consultee and not the relevant authority considering the application;

- Determination of a police or environmental health objection to a temporary event notice.
- Where a relevant representation has been made in respect of the following applications:
 - (i) Personal licence;
 - (ii) Premises licence or club premises certificate;
 - (iii) Provisional statement;
 - (iv) Variation to a premises licence or club premises certificate;
 - (v) Variation to a designated personal licence holder;
 - (vi) Transfer of a premises licence;
 - (vii) Interim authority.
- To consider all matters which cannot be delegated to officers concerning the discharge by the Council of its licensing functions under the Gambling Act 2005, including:

Application for a premises licence where representations have been received and not withdrawn.

Application for variation to a licence where representations have been received and not withdrawn.

Application for a transfer of a licence where representations have been received from the Gambling Commission.

Application for a provisional statement where representations have been received and not withdrawn.

Review of a premises licence.

Application for a club gaming/club machine permits where objections have been received and not withdrawn.

Cancellation of club gaming/club machine permits.

- 2.6 Each Sub Committee meeting consists of three Members appointed by the Monitoring Officer. **It is proposed that Standards Committee be asked to include a specific provision for this Delegation in the Council's Scheme of Delegation.**
- 2.7 The Chair for the meeting is determined by the Members present at the meeting.
- 2.8 Some of the scheduled meetings may have to be cancelled. Additional meetings may have to be arranged at short notice when relevant issues arise, for instance around Temporary Event Notices.

2.9 Sub Committee meetings are scheduled monthly, but are only held if they are required. The draft schedule currently proposes that it meets on the following dates:

- **Tuesday 6 June 2023**
- **Tuesday 4 July 2023**
- **Tuesday 29 August 2023**
- **Tuesday 10 October 2023**
- **Tuesday 14 November 2023**
- **Tuesday 19 December 2023**
- **Tuesday 30 January 2024**
- **Tuesday 27 February 2024**
- **Tuesday 26 March 2024**
- **Tuesday 8 April 2024**

2.10 The composition of the Licensing and Gambling Act Sub-Committee meetings will continue to be determined by the Monitoring Officer as and when required from the available Members of the Committee.

3 Procedural Arrangements

3.1 The Council has procedural arrangements in place for considering hearings under the Licensing and Gambling Acts. These are summarised below.

The Chair of the Sub-Committee will:

- (a) Indicate that the procedure for the hearing will be as required in the Licensing Act 2003 (Hearing) Regulations 2005 and will take the form of a discussion led by the licensing authority.
- (b) Indicate that this hearing shall take place in public, except where (as defined in regulations) the Public Interest requires the public exclusion. A party or any person assisting or representing a party may be treated as a member of the public.
- (c) Indicate that at the hearing a party shall be entitled to:
 - (i) In response to a point which the Council has given notice that it will want clarification under the Regulations, give further information in support of their application, representations or notice;
 - (ii) Subject to permission by the Chair of the Panel allow you to question any other party present; and
 - (iii) Address the Sub-Committee
- (d) Indicate that in considering any representations or notice made by a party, the authority may take into account documentary or other information produced by a party in support of their application, representation or notice (as applicable) either before the hearing or, with the consent of all the other parties at the hearing.

The Sub-Committee will consider any request made by a party for permission for another person to appear at the hearing, other than the person he/she intends to represent him/her at the hearing. Such permission shall not be unreasonably withheld

The order for submissions by each party to the hearing will be:

- (a) The Licensing Officer
- (b) The Objectors
- (c) The Applicants

After each of the above submissions the Members of the Sub-Committee will be entitled to ask questions of the relevant party.

Each party will be allowed the equal maximum period of time in which to exercise their rights.

The authority may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing.

Regarding failure of parties to attend the hearing; if the authority has not been notified then it may, where it considers it to be necessary in the public interest, adjourn the hearing to a specified date or continue to hold the hearing in their absence.

Where the authority holds a hearing in a party's absence it will consider the application, representations or any notice made.

Where the authority adjourns the hearing to a specified date it will notify each party of the date, time and place, to which the hearing has been adjourned.

The parties will be entitled to make closing submissions. The closing submission of any applicant for a licence will follow the closing submissions of the representatives of any objectors.

The Licensing Sub-Committee may, after hearing the representations ask all parties, except the legal adviser and the Governance Services representative to withdraw to enable the Sub-Committee to deliberate in private.

In most cases the authority will make its determination at the conclusion of the hearing. The pronouncement of the determination is made in public. In all cases specified in the Hearing Regulations, the authority will make its written determination within a period of five or ten working days as appropriate.

- 3.2 Applicants and those making representations have the right to be accompanied by a legal representative, friend or other representative of their choice.
- 3.3 If Applicants and those making representatives have informed the Council that they do not intend to attend or be represented at a hearing, the hearing may proceed in their absence. If they have not informed the Council and they fail to attend or be represented at a hearing the Sub-Committee may –
 - (a) Where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or

(b) Hold the hearing in their absence

3.6 Committee discussed this earlier in the year. Since then the issue has not arisen. As Members will be aware, this was an issue for the General Licensing Sub Committee, which was resolved by allowing the Licence Holder to attend remotely, using the electronic conference-call system.

3.7 The most appropriate approach, therefore, might be for each case to continue to be judged on its merits. In particular, when advance notice has been given the Chair of Committee could be asked to determine if it would be appropriate for the hearing to take place, following advice from the appropriate officers. When no notice or very short notice is given then this could be decided by the Sub Committee Members by a simple majority, again following advice from the appropriate officers.

Would Committee be content with this approach?

2.14 Applicants and Licence Holders currently receive written and email confirmation from the Council's Governance Service of the arrangements for Sub-Committee meetings. No further confirmation of their identities is required when they attend Sub-Committee meetings.

Would it be appropriate to ask for additional confirmation of identity from Licence Holders and Applicants, and if so, what form might this take?

Should all those Licence Holders and Applicants called to Sub-Committee be given the opportunity to attend remotely, through the electronic conference call system?

3 Reasons for Recommendation

3.1 To help ensure the operation of the Council's Licensing and Gambling Acts Committee and Sub-Committees and ensure that it can undertake its functions effectively

4 Alternative Options and Reasons for Rejection

4.1 None

DOCUMENT INFORMATION

Appendix No	Title
	None
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	