

OVERVIEW AND SCRUTINY COMMITTEE
LICENSING ACT SCRUTINY REVIEW PANEL

27TH OCTOBER, 2004

Held at 6.30 p.m. in the Front Committee Room, Town Hall, Reigate

Present: Councillors R.M. Stamp (Chairman), Mrs. N.J. Bramhall B.C. Cowle, and J.H. Prevett.

Also present: Councillors A.J. Kay, P.J. Circus, C.T.H. Whinney and J.V. Lyndon-Morgan.

Officers in Support: Mrs. D. Mitchell, Licensing Manager
Mr. I. Tucker, Head of Environmental Health; and
Mr. C. Phelan, Scrutiny Support Officer

13. NOTES OF PREVIOUS MEETING – 15TH SEPTEMBER, 2004

The notes of the last meeting of the Panel held on 15 September 2004 were confirmed as a correct record.

14. APOLOGIES FOR ABSENCE

Councillor R. Harper.

6. DECISION MAKING STRUCTURE FOR THE NEW RESPONSIBILITIES

The Panel received a report on the proposed arrangements for the decision making structure to operate the Licensing Act 2003 requirements. The Panel noted the new responsibilities that had been introduced as part of the Act. The Panel were also informed of the proposed timescales for the consideration of objections and the determination of applications received during the transition period.

The Panel recognised that the proposed model was based on officer predictions of the volume of applications to be determined. It was noted that there was a worst-case scenario of more applications requiring determination. However, the model sought to provide a reasonable balance between the anticipated number of hearings required set against the number of applications to be determined.

The Panel requested that in presenting the information in the next stages that further clarification be given to the following:

- the types of premises licences (taking account of mobile stalls etc);
- Temporary event notices: to confirm that these would be for up to 10 occasions per year together with an indication of the process for those seeking to exceed 10 notices per year; and
- clarifying the definition of conversions in relation to policy objections.

The Panel agreed that the following be recommended to both the Overview and Scrutiny Committee and the Executive on 17 and 18 November respectively, that:

- (i) the structure illustrated in the chart at **Annex 1** be established;
- (ii) a code of practice be developed for the operational arrangements of the Sub Committees proposed in the structure;
- (iii) the Membership of the Licensing and Regulatory Committee be increased from 10 to 15 Members (politically balanced with substitutes) and its responsibilities be to consider (as a consultee) matters of policy, monitor the activities of the Sub Committees and receive reports from them on operational issues;
- (iv) up to 5 Licensing Act Sub Committees be established each comprising 3 Members. That the Chairmen be fixed and the other two Members be drawn from the 'pool' of Members appointed to the Licensing and Regulatory Committee. No formal substitute arrangements should be made for those Sub Committees as the pool retains that flexibility;
- (v) meetings of the Licensing Act Sub Committees be held as required during the day or evening, at least in the interim phase, to ensure maximum flexibility to determine the volume of applications anticipated and ensure Member availability. The Panel expressed the view that the needs of the applicant should be paramount in determining the time for considering their applications;
- (vi) the meetings should be held at the Town Hall, Reigate;
- (vii) Members serving on the Licensing Act Sub Committees must have received specific training before they can sit on any hearings. This should take the form of specialist training with simulated hearings and specific training for the nominated Chairmen of the Sub Committees;
- (viii) the training should make Members aware of the appeal mechanism available to the Magistrates Court;
- (ix) training be provided on a sustainable basis to cater for future changes in membership of the Committee;
- (x) at least one officer be present at the hearings to be determined by the Sub Committees. That care be taken in scheduling the hearings so that there was not an undue burden on the Council in managing the support required for the hearings particularly during the initial period;
- (xi) political proportionality rules be applied to the Licensing and Regulatory Committee but not to the Licensing Act Sub Committees however in the case of the Sub Committees the spirit of the proportionality rules be followed where possible;
- (xii) on the basis of legal advice, Ward Members be excluded from serving on Licensing Act Sub Committees hearing applications in their ward;
- (xiii) a good practice model be adopted that advises those Members holding liquor licenses to distance themselves from serving on a Sub Committee

hearing Licensing Act applications to avoid any question of personal and/or prejudicial interests arising;

- (xiv) the code of practice on the operational arrangements ensures that sufficient information about applications coming before Sub Committees is provided to Members in good time before the hearings;
- (xv) in principle Executive Members should be permitted to serve on the Licensing and Regulatory Committee;
- (xvi) the practice of excluding Ward Members from hearing applications in their Ward be supported as it provided them with the advantage of being able to attend Sub Committees to represent their constituents as necessary without being as constrained;
- (xvii) the code of practice on the operational arrangements ensures that there is a system for securing an equitable distribution of work for the Members of the Licensing and Regulatory Committee on the Licensing Act Sub Committees;
- (xviii) the operational arrangements be reviewed, to consider whether adjustments would be required in the longer term, as necessary,
- (xix) the Panel was satisfied, based on the anticipated workloads that, at this stage, sufficient resources had been put in place. However, the exact resource implications would not be known until the system was in operation. In the circumstances the Panel recognised the 'initial nature' of the resources proposed and that the position should be reviewed to ensure that the Council had sufficient resources to meet the demands of the service. The Panel recognised that the costs of supporting any appeals made was also unknown at present, which could be an additional pressure to manage;
- (xx) a separate Sub Committee be established to consider the non Licensing Act 2003 areas of the Authority's responsibility on a politically balanced basis comprising 5 Members with substitutes all of whom should be Members of the main Licensing and Regulatory Committee;
- (xxi) the Independent Remuneration Panel be requested to give careful consideration to an equitable arrangement being put in place for the special responsibility allowances for the Chairmen of the Licensing Act Sub Committees; and
- (xxii) the proposed arrangements for training of Members of the Committee be supported.

15. ANY OTHER BUSINESS

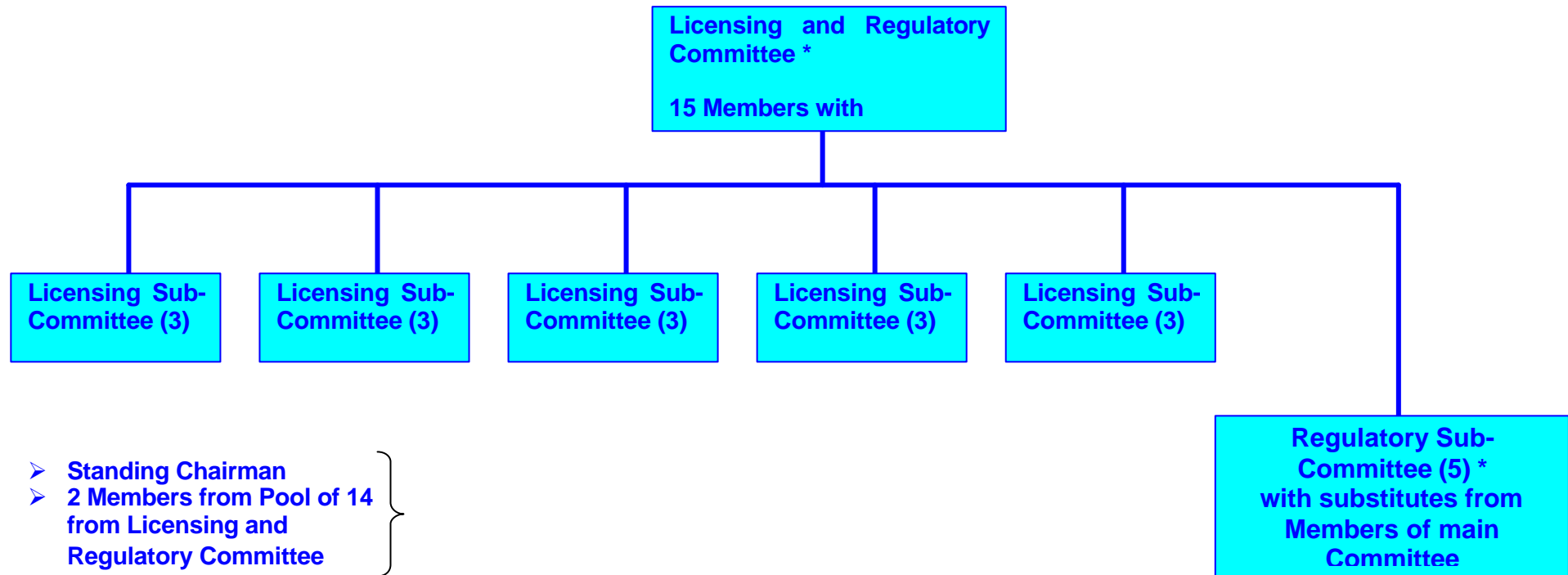
None.

16. DATE OF THE NEXT AND FUTURE MEETINGS OF THE PANEL

The Panel noted that it had completed its terms of reference and that this was its last meeting.

The meeting closed at 8.10 p.m.

LICENSING AND REGULATORY DECISION MAKING STRUCTURE



* Required to be politically balanced.