

Overview and Scrutiny Committee

17 November 2004

Report to the Executive on the work of the Licensing Act 2003 Scrutiny Review Panel

LICENSING ACT DECISION MAKING STRUCTURE

The Committee received the report and recommendations of the Licensing Act 2003 Scrutiny Review Panel. The Panel had undertaken a review of the decision making structure options to be established for the Council to operate the new responsibilities under the Licensing Act 2003.

The Committee was informed that since the Panel had concluded its work that there had been further advice from LACORS on the interpretation of the Licensing Act. The advice concluded that it was not possible to establish a Regulatory Sub Committee (dealing with other areas of the Council's regulatory responsibilities) as part of the proposed Licensing Act Committee structure. As a result an alternative structure was presented that proposed a separate Regulatory Committee in addition to the Licensing Committee.

The Committee reviewed the recommendations of the Review Panel and agreed the following changes to their proposals, that:

- (a) the structure set out in Annex 1, to the report, be agreed subject to increasing the Membership of the Regulatory Committee, as proposed from 5 to 7;
- (b) the Panel's recommendations be amended to reflect the change required to the structure to accommodate a Regulatory Committee;
- (c) the code of practice, to be developed, should set out the ways in which 'visiting' Ward Members can attend and speak at hearings which are considering applications in their Ward;
- (d) meetings of the Licensing 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. *In determining the time of hearings the needs of all participants be taken into account;* and
- (e) that an explanation of the legal position be provided to all Members on the political proportionality rulings for appointments to the Licensing and the Regulatory Committees.

As a consequence of these changes the Committee **RESOLVED** that the Executive consider and adopt the following recommendations:

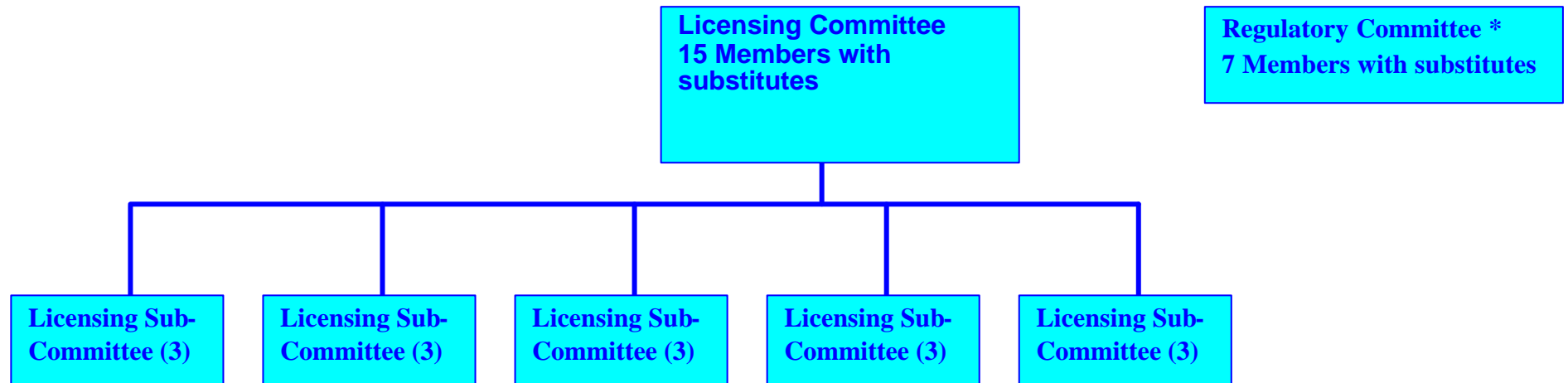
- (i) the structure illustrated in the chart at Annex 1 be established;
- (ii) that a code of practice be developed for the operational arrangements of the Licensing Sub-Committees proposed in the structure;

- (iii) the Membership of the Licensing Committee be 15 Members 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; (with an explanation being sent to all members on the legal position of appointments to Committees that are not affected by the political proportionality rulings);
- (iv) the Membership of the Regulatory Committee be 7 (politically balanced with substitutes) and its responsibilities be to consider the non Licensing Act 2003 areas of the Authority's regulatory responsibilities;
- (v) up to 5 Licensing 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 Committee. No formal substitute arrangements should be made for those Sub Committees as the pool retains that flexibility;
- (vi) meetings of the Licensing 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. *In determining the time for considering applications the needs of all participants be taken into account;*
- (vii) the meetings should be held at the Town Hall, Reigate;
- (viii) Members serving on the Licensing 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;
- (ix) the training should make Members aware of the appeal mechanism available to the Magistrates Court;
- (x) training be provided on a sustainable basis to cater for future changes in membership of the Committee;
- (xi) 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;
- (xii) political proportionality rules be applied to the Licensing 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;
- (xiii) on the basis of legal advice, Ward Members be excluded from serving on Licensing Sub Committees hearing applications in their ward;
- (xiv) 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;

- (xv) 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;
- (xvi) in principle Executive Members should be permitted to serve on the Licensing and Regulatory Committees;
- (xvii) that the working arrangements to be developed in the code of practice set out the ways in which 'visiting' Ward Members can attend and speak at hearings which are considering applications in their Ward;
- (xviii) 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 Committee and the Licensing Act Sub Committees;
- (xix) the operational arrangements be reviewed, to consider whether adjustments would be required in the longer term, as necessary;
- (xx) 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;
- (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 Sub-Committees;
and

the proposed arrangements for training of Members of the Committee be supported.

LICENSING AND REGULATORY DECISION MAKING STRUCTURE



- Standing Chairman
- 2 Members from Pool of 14 from Licensing Committee

* Required to be politically balanced.

