



Purpose: For Decision

Committee Report

Committee	LICENSING COMMITTEE
Date	12 JUNE 2023
Title	ESTABLISHMENT OF, AND APPOINTMENTS TO, THE LICENSING SUB-COMMITTEE
Report of	MONITORING OFFICER

EXECUTIVE SUMMARY

1. The purpose of this report is to appoint a licensing sub-committee (which meets as and when necessary or needed) from the membership of the Licensing Committee, with its terms of reference being as set out in the Constitution.

RECOMMENDATION

2. That a licensing sub-committee be appointed of any three members drawn from the Licensing Committee on an ad-hoc basis, with the terms of reference as set out in the Constitution, and that it be politically proportionate as far as practicable, with a quorum of three such members.

BACKGROUND

3. The Full Council appoints its Licensing Committee annually and its Licensing Committee has power to establish a sub-committee.
4. The Council's Constitution sets out the terms of reference of the proposed licensing sub-committee in Part 3 Section 6 (currently on page 41).
5. It is proposed that (as presently detailed in the Constitution) the licensing sub-committee comprises three members drawn from this committee, that it be politically balanced as far as practicable, and that the quorum of the licensing sub-committee should be three members.
6. The appointment of such a sub-committee facilitates effective and efficient decision-making and has proved to be very useful to conduct the business of the local authority as licensing authority.

CORPORATE PRIORITIES AND STRATEGIC CONTEXT

7. Good governance arrangements are essential to the delivery of the council's services and the decision-making process that support this.

Responding to climate change and enhancing the biosphere

8. This would reduce the emissions created from requiring all members of the Licensing Committee to be in attendance to only three members therefore reducing the level of emissions from transport used, it would also reduce the amount of printing undertaken.

CONSULTATION

9. None.

FINANCIAL / BUDGET IMPLICATIONS

10. There are no additional costs associated with the proposals contained in this report. The recommendations accord with the resources available within the overall budget agreed by Full Council in February 2023.

LEGAL IMPLICATIONS

11. The power to appoint a sub-committee is contained in two separate and distinct pieces of legislation.
12. This is because the Licensing Committee is a hybrid committee appointed as an 'ordinary committee' (under section 102 (1) (a) of the Local Government Act 1972) and established as a 'statutory committee' (under section 6 (1) of the Licensing Act 2003). The difference between the 'ordinary committee' and the 'statutory committee' depends upon what functions are to be exercised. No 'ordinary committee' can exercise any function of the Licensing Act 2003 of a licensing authority (see section 101(15) of the Local Government Act 1972).
13. An 'ordinary committee' may appoint one or more sub-committees under section 102 (1) (c) of the Local Government Act 1972. Membership of such a committee is subject to section 15 of the Local Government and Housing Act 1989 ('duty to allocate seats to political groups') i.e. it is required to be politically proportionate (unless alternative arrangements have been agreed without dissent under section 17 of that Act).
14. The committee in its role as a statutory committee established under section 6 (1) of the Licensing Act 2003 may arrange for the discharge of any functions exercisable by it by a sub-committee established by it under section 10 (1) (a) of the Licensing Act 2003. The functions in Part 8 of the Gambling Act 2005 are delegated to the statutory committee established under section 6 (1) of the Licensing Act 2003 and section 10 of the Licensing Act 2003 is applied by section 154 of the Gambling Act 2005. There is no legal requirement as to political proportionality regarding such a sub-committee, but it may be politically proportionate.

15. There are sound practical reasons to appoint a sub-committee, though there is no strict legal requirement to do so.
16. As a sub-committee of the statutory committee is required by statute to comprise three members (see section 9 (1) of the Licensing Act 2003), it is considered expedient that the sub-committee consists of any three members drawn from the parent committee in all cases and for business resilience reasons.
17. This would enable any member of the standing Licensing Committee to be selected from its full pool of all appointed members (subject to any political proportionality requirements as far as is practicable) to serve on the ad hoc licensing sub-committee of three when that sub-committee is called upon to meet from time to time (see R (on the application of Bridgerow Limited) v. Chester West and Chester Borough Council [2014] EWHC 1187 (Admin), and MuMu Enterprises (Weston) Limited v North Somerset District Council (2014)).

EQUALITY AND DIVERSITY

18. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It is not considered that the content of this report has any negative impact on any of the protected characteristics.

OPTIONS

19. **Option 1:** To agree the appointment of a sub-committee of any three members drawn from the Licensing Committee on an ad hoc basis, with the terms of reference as set out in the Constitution and that it be politically proportionate as far as is practicable, with a quorum of three such members.
20. **Option 2:** To not allow the establishment such a sub-committee.

RISK MANAGEMENT

21. The recommendations are to ensure that the council meets its corporate governance requirements and responds to changing requirements and demands. These should lessen the risks arising from any challenge to the decision-making process by way of judicial review or other such legal action.

EVALUATION

22. An effective governance system for the council is essential to enable business to be transacted efficiently, and in a timely manner. The appointment of a sub-committee supports this.

BACKGROUND PAPERS

23. None

Contact Point: Christopher Potter, Monitoring Officer, ☎ 821000 e-mail
christopher.potter@iow.gov.uk

CLAIRE SHAND
Director of Corporate Services