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| **REPORT TO** | **ON** | |
| **Licensing Committee** | **24 July 2018** | |
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| **TITLE** | | **REPORT OF** | |
| **Updated Hearing Guidance** | | Head of Licensing | |

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| Is this report confidential? | **No** |

1. **PURPOSE OF THE REPORT**

For the Committee to consider the updated guidance in relation to the hearings process in respect of Licensing Panel hearings

**2 CORPORATE PRIORITIES**

The report relates to the following corporate priorities:

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| Excellence and Financial Sustainability | x |
| Health and Wellbeing |  |
| Place |  |

Projects relating to People in the Corporate Plan:

|  |  |
| --- | --- |
| People |  |

**3. RECOMMENDATIONS**

To approve the updated Guidance in relation to the Hearings Process, in respect of Licensing Panel Hearings under the Licensing Act 2003.

**4. BACKGROUND TO THE REPORT**

Applications submitted under the LA 2003 process have necessitated in sending guidance and instructions to members of the public and Responsible Authorities, as this is a requirement under the legislation. However, some of the guidance requires improvement and updating. This has been undertaken and a new guidance document has been produced which can be found at Appendix B of the report.

4.1 One of the substantial changes is a Regulation 8 notice to be returned to the Authority in advance of the hearing. This is, a standard requirement set out in The Licensing Act 2003(Hearings) Regulations 2005 which states;

*8.—(1) a party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating—*

*(a) Whether he intends to attend or be represented at the hearing;*

*(b) Whether he considers a hearing to be unnecessary.*

*(2) In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.*

*(3) In the case of a hearing under—*

*(a) Section 48(3)(a) (cancellation of interim authority notice following police objection), or*

*(b) Section 105(2)(a) (counter notice following police objection to temporary event notice),*

*the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.*

*(4) In the case of a hearing under—*

*(a) Section 167(5)(a) (review of premises licence following closure order),*

*(b) Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),*

*(c) Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or*

*(d) Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),*

*the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.*

*(5) In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.*

4.2 Members will note that the guidance is easy to follow and provides Responsible Authorities and members of the public a step by step approach to the hearing process including the requirement to give formal notice to the Council as required by the legislation.

**5. Financial implications**

5.1 There are no direct financial implications arising from this report.

**6. LEGAL IMPLICATIONS**

6.1. The legal implications are contained within the body of the report.

**7. COMMENTS OF THE STATUTORY FINANCE OFFICER**

There are no financial comments in line with paragraph 5.1 of the report.

**9. COMMENTS OF THE MONITORING OFFICER**

Please see Para 6.1 above.

**10. OTHER IMPLICATIONS:**

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| * **HR & Organisational Development** * **ICT / Technology** * **Property & Asset Management** * **Risk** * **Equality & Diversity** | None  None  None  None |

**11. APPENDICES**

**Appendix A - Previous Hearings Guidance**

**Appendix B - Proposed Guidance**

**Appendix C - Copy of Regulation 8 Notice**

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| Report Author: | Telephone: | Date: |
| Mark Marshall | 01772 625401 | 4 July 2018 |