

REPORT TO	ON
Governance Committee	13 September 2017

Jan 2017



TITLE	AUTHOR
Review of Constitution - General Licensing Committee and Licensing Act Committee	Interim Governance Manager

## 1. PURPOSE OF THE REPORT

**1.1** At their meeting on the 1 February 2017 the Governance Committee resolved to review the Terms of Reference for the General Licensing Committee and the Licensing Act Committee as part of their overall review of the Constitution. It is the intention to introduce a more streamlined system for hearings of the General Licensing Committee with the introduction of smaller Sub-Committees.

**1.2** This report provides Members with the opportunity to comment on the proposals prior to their submission to the Council for approval at their meeting on 27<sup>th</sup> of September 2017. Unfortunately Licensing Committee(s) do not meet to discuss these proposals until the 19<sup>th</sup> of September 2017 – hence delegated authority is sought for the Chair and Vice Chair of this committee to finalise the decision (in the context of any comments being made from the Licensing committee(s)) prior to consideration by Full Council.

## 2. RECOMMENDATIONS

**2.1** That Members consider and comment on the proposed new Terms of Reference for General Licensing Committee and Licensing Act Committee

**2.2** The final decision be delegated to the Chairman and Vice Chairman to recommend the wording for approval to the Council meeting on the 27<sup>th</sup> of September 2017 subject to any comments/views being made by the Licensing committee(s) on the 19<sup>th</sup> of September

## 3. CORPORATE PRIORITIES

The report relates to the following corporate priorities

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	√

## 4. BACKGROUND TO THE REPORT

**4.1** As part of the general ongoing review of the Constitution there is a need to review the terms of reference as it relates to both of our Licensing committees – General Licensing and Licensing Act.

**4.2** As a result of previous difficulties encountered by the Licensing function, during early 2017 the Council requested that Commissioner Mary Ney (a senior manager at Rotherham Council with considerable experience in the transformation of Licensing services) undertake an independent review of the service. Commissioner Ney visited the Council on 21 – 23 March 2017, when she

carried out a range of activities intended to enable her to better understand the Council's approach to the licensing of Private Hire / Hackney Carriage vehicles, drivers and operators. These included interviews with senior Council officers and members, as well as attending a meeting of the General Licensing Committee on 21 March.

4.3 On 23 March Commissioner Ney presented her review of the Council's taxi licensing function to an audience which included members of the General Licensing Committee, as well as other officers and members. Whilst Commissioner Ney found much about which she could speak positively, one of the areas she felt could be made more robust related to the conducting of hearings (where the Committee sits as a quasi-judicial body to determine the suitability of an applicant / driver to hold a licence with this authority under the statutory "fit and proper" test). Commissioner Ney noted that the Committee currently sat as a full committee during such hearings; this could involve up to 11 members sitting in deliberation at any one time.

4.4 Local authorities across the country conduct licensing hearings for taxi-related matters in a variety of ways, ranging from the use of a full committee to delegation to a single senior officer (although the trend is generally towards the use of smaller rather than larger bodies to conduct proceedings). Each system has its own merits, and it is clear that the current South Ribble approach has the advantage of full member involvement in the process, with all members of the Committee playing a part in each decision.

4.5 However, it is also considered that the current system has certain disadvantages including:

- the large number of members in attendance makes it hard for the committee to develop and sustain a co-ordinated line of questioning (especially in cases where the driver / applicant may be unwilling to engage or the allegation is of a particularly sensitive nature);
- the number of members present in a formal environment may intimidate some drivers / applicants and therefore undermine the committee's attempts to gather information from the person in front of them; and
- larger meetings are administratively unwieldy, requiring a large number of members to attend each hearing session. This problem will be exacerbated by the more proactive approach to Licensing enforcement which the Council has now adopted, with an increased number of hearings more likely in future.

## **5. EXISTING CONSTITUTIONAL ARRANGEMENTS**

5.1 A copy of the Council's current Terms of Reference for both the General Licensing Committee and the Licensing Act Committee is attached as Appendix 1. Members may consider this document to be brief and not fully reflective of the Committee's wider role and responsibilities.

## **6. PROPOSED NEW ARRANGEMENTS**

6.1 In view of the above concerns it is proposed to adopt revised Terms of Reference for both the General Licensing Committee and the Licensing Act Committee. The draft Terms of Reference for the General Licensing Committee and the Licensing Act Committee are attached as Appendices 2 and 3 respectively.

6.2 As part of the process of revising the General Licensing Committee's Terms of Reference, it is also proposed to introduce a new and more streamlined system for hearings. It is proposed that in future:

- hearings should be heard by a Sub-Committee Panel consisting of 5 members only, drawn from the General Licensing Committee;

- in order to ensure consistency of approach across all the hearings which take place, each Sub-Committee Panel should be chaired by either the Chair or Vice Chair of the Licensing Committee;
- other member vacancies on the Sub-Committee Panels would be filled on a rota basis to ensure that all members continue to play a positive role in the practical work of the Committee and contribute to its output; and
- it is suggested that – for matters concerning taxi licensing but not liquor licensing - members (other than the Chair/Vice-Chair of the Panel depending on availability) should be allocated in accordance with political balance.

6.3 In all other respects, the agreed procedures for Sub-Committee Panels of the General Licensing Committee would remain the same as for a hearing at full committee, eg Legal Services will attend and draft the Decision Notice and the Licensing Manager will present details of the allegations.

6.4 This new suggested approach would:

- enable members' attendance at hearings to be pulled together more speedily and flexibly in order to prevent a backlog of hearings building up, as has occurred in the recent past;
- bring the hearing process into line with that of the majority of other licensing authorities, very few of whom are now seen to hold hearings at full committee level; and
- free up the main committees to strengthen their strategic role in the development of policy.

6.5 It is important to note that the above proposal for 5 member panels only relates to the General Licensing Committee and does not extend to the panels convened under the Licensing Act 2003. Section 9(1) of the 2003 Act states that:

“A licensing committee may establish one or more subcommittees consisting of three members of the committee.”

As a statutory requirement, the Council does not intend to alter its current approach and the use of 3 member panels will be retained for the Licensing Act Committee. As with Sub-Committees Panels for the General Licensing Committee, the panels for the Licensing Act Committee will be chaired by the Chair or Vice-Chair of the main committee.

6.6 Essentially we are now looking at two new documents. The main provisions with regard to the General Licensing Committee are as follows:

Heading	Summary	Rationale
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1. General Licensing Committee	General Introduction	Short Explanatory introduction – slightly expanded to existing wording
2. Membership	Sets out the rules for membership of the Committee including the requirement for political proportionality	Within current version.
3. Terms of Reference	Sets out more detailed Terms of Reference	A more thorough set of terms of reference is set out to bring greater clarity. References to Health and Safety are removed as they are not considered relevant.
4. Delegation to Sub-Committee	Sets out scope of proposed delegation (see paras 6.1 – 6.6 above)	Essentially new wording to reflect the proposals set out in the report
5. Terms of Reference for Sub-Committee	Sets out the terms of reference for the proposed new Sub-Committees (see paras 6.1 – 6.6 above)	Essentially new wording to reflect latest proposals

6.7 The main provisions with regard to the Licensing Act Committee are:

<b>Heading</b>	<b>Summary</b>	<b>Rationale</b>
1. Licensing Act Committee	General Introduction	Short Explanatory introduction.
2. Membership	Sets out the rules for membership of the Committee	Within current version.
3. Terms of Reference	Sets out new Terms of Reference	New text but essentially reflects current practice
4. Delegation to Sub-Committee	Sets out the Scope of Delegation – this is based on the Licensing Act 2203 and essentially happens now	New text but essentially reflects current practice
5. Terms of Reference for Sub-	Sets out the Terms of Reference for	New text but essentially reflects

Committee/Panel	the Sub-Committee/Panel - this essentially happens now	current practice
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## 7. TIMESCALES & PRACTICAL IMPLICATIONS

- 7.1 As has already been explained these new documents still require the approval of the Licensing committee(s) – they will be considered on the 19<sup>th</sup> of September. If at all possible though we would like to get these documents approved by Full Council on the 27<sup>th</sup> of September – hence the reason for the current report.
- 7.2 If the move to Sub-Committee Panels for the General Licensing Committee is confirmed, there will be a need for officers to amend current procedures and documentation accordingly.

## 8. CONCLUSION

- 8.1 If adopted, the proposal to adopt revised Terms of Reference will update the Council's constitutional arrangements for both the General Licensing Committee and the Licensing Act Committee. The proposed introduction of 5 member panels for hearings under the remit of the General Licensing Committee would provide a modern and streamlined approach to the conducting of hearings. Whilst the General Licensing Committee's workload in this regard is difficult to quantify in advance, it is undoubtedly increasing and the new structure would provide a more flexible and agile approach.
- 8.2 Members of the General Licensing Committee would still be actively involved through their roles on the Sub-Committee Panels as allocated, as well as retaining an overall responsibility for policy development in an area of key importance for the authority.

## 9. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

### 9.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

### 9.2 Comments of the Monitoring Officer

The Licensing Committee has the power to delegate its functions to a Sub-Committee for hearings. This should enable a more effective and streamlined approach.

<p><b>Other implications:</b></p> <ul style="list-style-type: none"> <li>• <b>Risk</b></li> <li>• <b>Equality</b></li> <li>• <b>HR</b></li> </ul>	<p>The introduction of smaller Sub-Committee Panels could potentially lead to members becoming disengaged from the Licensing process. However, this will be overcome by regular scheduled attendance on Panels (the number of which is likely to increase overall), whilst the overall responsibility for policy development is still retained.</p> <p>None</p> <p>None</p>
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## 10. BACKGROUND DOCUMENTS (or there are no background papers to this report)

Appendix 1 – existing Terms of Reference  
Appendix 2 – proposed Terms of Reference (General Licensing Committee)  
Appendix 3 – proposed Terms of Reference (Licensing Act Committee)

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