

## AMENDMENTS TO THE CONSTITUTION: LICENSING SUB-COMMITTEE HEARING PROCEDURES

### Governance Committee - 12 February 2019

Report of Chief Officer Corporate Services

Status For Decision

Also considered by Council - 26 February 2019

Key Decision No

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Portfolio Holder Cllr. Anna Firth

Contact Officers Vanessa Etheridge, Ext. 7199 / David Lagzdins, Ext. 7350

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**Recommendation to Governance Committee:** That it be recommended to Council that

- (a) 'Part 8 - Licensing Committee' of the Council's Constitution be amended as set out in Appendix A; and
- (b) delegated authority be granted to the Head of Legal & Democratic Services, to draft further amendments to Part 8 of the Council's Constitution to include hearing procedures under the Gambling Act 2005 and the Town Police Clauses Act 1847, Public Health Act 1875 and Local Government (Miscellaneous Provisions) Act 1976, for consideration at Council on 30 April 2019 after consultation with the Chairman of Governance.

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**Reason for recommendation:** To ensure compliance with relevant legislation.

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## Introduction and Background

- 1 Officers recently undertook a review of Licensing Committee procedures, initiated by the possibility of requiring a hearing for a Sex Entertainment Venue application. Part 8 of the Council's Constitution was found to be lacking a tailored sub-committee hearing procedure.
- 2 Due to reporting timescales it was not possible to present this Committee with the necessary amendments for all forms of hearing. Therefore, a view was taken to prioritise a hearing procedure for Sex Establishment licences in order for it to be agreed at Council on 26 February 2019 and to request delegated authority to complete the amendments in order to have them drafted ready for consideration at full Council on 30 April 2019.
- 3 Whilst drafting a hearing procedure for Sex Entertainment Venues, Officers have also taken the opportunity to streamline the current Licensing Hearing Procedure.
- 4 There are no further scheduled Governance Committee meetings before the end of the municipal year and the calendar is quite full. Governance Committee could decide to schedule a further meeting or agree that delegated authority be granted to the Head of Legal & Democratic Services to draft the further required amendments for consideration at Council on 30 April 2019. Granting delegated authority would give Officers slightly more time to draft the necessary amendments.

## Key Implications

### Financial

None directly arising from this report.

### Legal Implications and Risk Assessment Statement.

The Council is occasionally required to hold Licensing Sub-Committee hearings to consider a range of applications. However, these applications are often under different statutory regimes and therefore must take account of different factors. For example, some decisions are considered to be administrative in nature, while others are quasi-judicial.

Should a Sub-Committee fail to follow a procedure that is appropriate for the matter before them then the risk is increased that the Sub-Committee will fail to consider all material facts in an appropriate way. This increases the risk that the Council's decisions will be found unsound, if challenged. The proposed procedure in Appendix A is considered to be consistent with the statutory framework and the Council's existing SEV policy.

## Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## Human Rights

Matters considered by a Sub-Committee may engage rights including the right to a fair hearing (Art. 6) and the right to the protection of property (including licences) (Protocol 1 Art. 1)

## **Appendices**

Appendix A - Proposed amendments to Part 8 of the Council's Constitution

## **Background Papers**

[Sevenoaks District Council Constitution](#)

[Licensing Act 2003](#)

[Gambling Act 2005](#)

[Local Government \(Miscellaneous Provisions\) Act 1982 \(as amended by Section 27, Policing and Crime Act 2009\)](#)

[Town Police Clauses Act 1847, Public Health Act 1875 and Local Government \(Miscellaneous Provisions\) Act 1976](#)

**Jim Carrington-West**

**Chief Officer Corporate Services**