

AMENDMENTS TO THE CONSTITUTION: LICENSING SUB-COMMITTEE HEARING PROCEDURES

Council - 30 April 2019

Report of Chief Officer Corporate Services

Status For Decision

Key Decision No

Portfolio Holder Cllr. Anna Firth

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Recommendation to Council: That 'Part 8 - Licensing Committee' of the Council's Constitution be amended as highlighted in Appendix A and by the insertion of the wording in Appendix B.

Reason for recommendation: To ensure compliance with relevant legislation.

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 Governance Committee and Council 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 where delegated authority was requested and granted to complete the amendments in order to have them drafted ready for consideration at this meeting.
- 3 Following the agreed amendments made at Council on 26 February 2019, some further minor amendments/clarifications are proposed and attached as Appendix A.
- 4 In response to the delegated authority given on 26 February 2019, procedures for hearings under: The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007; and, Town Police Clauses Act 1847, Public Health Act 1875 and Local Government (Miscellaneous Provisions) Act 1976, have been prepared after consultation

with the Chairman of the Governance Committee, and are attached for approval at Appendix B.

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.

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 - Amendments to Part 8 of the Council's Constitution

Appendix B - proposed additions to Part 8 of the Council's Constitution

Background Papers

[Sevenoaks District Council Constitution](#)

[Gambling Act 2005](#)

[The Gambling Act 2005 \(Proceedings of Licensing Committees and Sub-committees\) \(Premises Licences and Provisional Statements\) \(England and Wales\) Regulations 2007](#)

[Town Police Clauses Act 1847](#)

[Public Health Act 1875](#)

[Local Government \(Miscellaneous Provisions\) Act
1976](#)

Jim Carrington-West

Chief Officer Corporate Services