

Date of issue: Tuesday, 23rd May 2023

MEETING	LICENSING COMMITTEE (Councillors Shah (Chair), Satti (Vice-Chair), Carter, Instone, Khawar, Mohammad, Mohindra, Naveed, Nazir and Stedmond)
DATE AND TIME:	THURSDAY, 1ST JUNE, 2023 AT 6.30 PM
VENUE:	COUNCIL CHAMBER - OBSERVATORY HOUSE, 25 WINDSOR ROAD, SL1 2EL
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	SHABANA KAUSER 07821 811 259

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



STEPHEN BROWN
Chief Executive

MEMBERS ARE REQUESTED TO NOTE THAT THE LICENSING DEVELOPMENT TRAINING SESSION WILL BE HELD ON THE RISING OF THE COMMITTEE MEETING.

THIS SESSION IS MANDATORY FOR ALL MEMBERS OF THE COMMITTEE

(This session is not open to the Press and Public)

AGENDA

PART I

<u>AGENDA</u> <u>ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence. CONSTITUTIONAL MATTERS		
1.	Declarations of Interest	-	-

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	<i>All Members who believe they have a Disclosable Pecuniary or other Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 9 and Appendix B of the Councillors' Code of Conduct, leave the meeting while the matter is discussed.</i>		
2.	Licensing Committee Terms of Reference – To Note	1 - 2	All
3.	Minutes of the Last Meeting held on 6th February 2023	3 - 4	-
4.	Guidance on Predetermination/ Predisposition - To Note	5 - 6	-
5.	Establishment of a Licensing Sub-Committee and Appointment of Designated Chairs	7 - 12	All
6.	Date of Next Meeting - 30th October 2023	-	-

Press and Public

Attendance and accessibility: You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before any items in the Part II agenda are considered. For those hard of hearing an Induction Loop System is available in the Council Chamber.

Webcasting and recording: The public part of the meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The footage will remain on our website for 12 months. A copy of the recording will also be retained in accordance with the Council's data retention policy. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings.

In addition, the law allows members of the public to take photographs, film, audio-record or tweet the proceedings at public meetings. Anyone proposing to do so is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.

Emergency procedures: The fire alarm is a continuous siren. If the alarm sounds Immediately vacate the premises by the nearest available exit at either the front or rear of the Chamber and proceed to the assembly point: The pavement of the service road outside of Westminster House, 31 Windsor Road.



<p>Licensing Committee No Executive Member other than the Lead Member(s) with responsibility for Licensing functions. Not the Mayor</p>	<ol style="list-style-type: none"> 1. To consider all matters which under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 are required not to be the responsibility of the Executive, save for those matters delegated to other Committees of the Council or reserved to Council. 2. To carry out functions in relation to health and safety, except where this relates to the Council in its capacity as employer. 3. To determine all functions not reserved to Full Council in connection with: <ul style="list-style-type: none"> • Private hire and hackney carriages, including where individuals have been convicted of offences, there is other cause for concern about suitability or officers consider it appropriate to refer the matter to the committee. • Setting conditions, fares and fees and charges for private hire and hackney carriage licensing. • Licensing Act 2003. • Gambling Act 2005. • Food safety and control • Animal health, welfare, safety and control • Other licensing and registration functions including caravan site licences, markets and street trading, scrap yards, sports grounds, special treatments and sex establishments. 4. To approve policy and fees and charges for the above functions where these are not executive functions or reserved to Council. 	<p>Functions can be delegated in accordance with agreed policy.</p> <p>A Licensing Hearing Sub Committee will be appointed to hear licensing applications referred to Committee.</p>
---	---	--

This page is intentionally left blank

Licensing Committee – Meeting held on Monday, 6th February, 2023.

Present:- Councillors Cheema (Chair), Kaur (Vice-Chair), Bains, P. Bedi, Gill, Nazir, Qaseem and Strutton

Apologies for Absence:- Councillor Sandhu

PART 1

21. Declarations of Interest

None received.

22. Minutes of the Last Meeting held on 10th October 2022

Resolved - That the minutes of the meeting held on 10th October 2022 be approved as a correct record.

23. Guidance on Predetermination/ Predisposition - To Note

Mmembers confirmed that they had read and understood the guidance on predetermination and predisposition.

24. Non-Executive (Licensing) Fees and Charges

The Principal Licensing Officer set out details of the report which sought approval of fees and charges for non-executive functions related to licensing.

The Committee were informed that a review had been undertaken of all fees and charges which the Council charged for and this included the fees for services provided by the Licensing team. As part of the review, consideration had been given to the local economy which the licensing regime supported and where applicable the fees remained as reasonable as possible. Where proposed fee increases were above the prevailing rate of inflation, the price had been adjusted in line with providing that service. It was explained that certain fees were set by Central Government and the local authority had no discretion in changing these.

Members were informed that the fees for licensing functions must be ring fenced and be set at the cost for providing the function. Fees and charges were usually set annually but could in certain circumstances be increased during the year to ensure the licensing function was properly costed. A summary of the key proposed changes in fees was highlighted as set out in Appendix A to the report.

In the ensuing discussion Members were informed that the fees were last increased in 2015. Members expressed concern that a number of the proposed fee increases were double than those currently charged, and given the current cost of living crisis, likely to have a significant impact on users of the service. The Licensing Officer explained that any increase in fees was to

Licensing Committee - 06.02.23

cover the cost of providing that service. It was requested that review of fees be carried out on a more regular basis and at least biennially. It was explained that a number of factors, including change in management, lack of resources and the Covid-19 pandemic had resulted in a delay in review of the fees and charges and that the Committee's comments would be relayed to the Licensing Manager.

Responding to how fees were calculated, it was noted that they took into account officer time spent on processing of applications, inspections and advice provided to applicants.

A Member requested that benchmarking information for fees charged by neighbouring local authorities be provided in future reports.

At the conclusion of the discussion, Members agreed that the fees and charges as detailed in the appendix to the report be approved.

Resolved - That the fees for licensing functions as set out in Appendix 1 to the report, be approved for the year 2023/24, except those marked 'for noting only'.

25. Members Attendance Record 2022/23

Resolved - That details of the Members Attendance Record be noted.

26. Date of Next Meeting - 30th March 2023

The date of the next meeting was confirmed as 30th March 2023.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 7.10 pm)

PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

This page is intentionally left blank

SLOUGH BOROUGH COUNCIL

Report To:	Licensing Committee
Date:	1st June 2023
Subject:	Establishment of a Licensing Sub-Committee and appointment of Designated Chairs
Chief Officer:	Stephen Taylor, Monitoring Officer
Contact Officer:	Shabana Kauser, Principal Democratic Services Officer
Ward(s):	All
Exempt:	No
Appendices:	Appendix A – Licensing Sub-Committee Terms of Reference

1. Summary and Recommendations

The purpose of this report is to seek approval for the establishment of a Licensing Sub-Committee, note its terms of reference and the appointment of designated Chairs to the Sub-Committee.

Recommendations

The Licensing Committee is recommended to:

- (a) Note the Licensing Sub-Committee's terms of reference attached as Appendix A to this report.
- (b) Agree to the establishment of Licensing Sub-Committee as required on a proportional basis (2 Conservative, 1 Labour) to determine applications where representations have been made.
- (c) Agree that three Members (drawn from the Members of the Licensing Committee) be appointed to act as designated Chairs of the Sub-Committee for the 2023/2024 municipal year.
- (d) Agree that in the event of the unavailability of the Labour Member, a Sub-Committee will be convened with three Conservative Members.

Reasons for the decision

This report asks the Licensing Committee to note the terms of reference and agree to the establishment of Licensing Sub-Committee to consider applications where representations have been made in accordance with the

Licensing Act 2003 and consider the appointment of Licensing Sub-Committee Chairs.

Commissioner Review

The Commissioner has reviewed the report and made no observations.

Alternative options

Not applicable.

3. Other Implications

(a) Financial implications

There are no financial implications associated with this report at this stage.

(b) Human Rights Act implications

The relevant law in respect of this matter is set out in Sections 15-17 (inclusive) of the Local Government and Housing Act 1989 (the Act) and the Local Government (Committees and Political Groups) Regulations 1990 (as amended). Applying the basic principles of Sections 15-17 of the Act requires not all the seats on the Sub Committee to be allocated to the same political group. However, as an alternative to applying the political proportionality rules the Committee is entitled under Section 17 of the Act to adopt different arrangements provided all of the members vote for/abstain from a proposal (i.e. no member votes against).

(c) Other statutory implications

This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications
- Consultations
- Environmental
- Risk Management
- Crime Reduction
- Safeguarding
- Data Protection/Privacy Impact Assessment

There are no specific statutory implications arising from this report.

(d) Workforce

None.

(e) **Legal comments**

Section 6 of the Licensing Act 2003 (“the 2003 Act”) provides that each Licensing Authority must establish a Licensing Committee consisting of at least ten, but not more than fifteen, members of the authority. Pursuant to section 9(1) of the 2003 Act, a Licensing Committee may establish one or more Sub-Committees consisting of three members of the committee.

Section 10 of the 2003 Act allows Licensing Committee to arrange for its functions relating to contested hearings to be delegated to the Sub-Committees. Due to the nature of the Hearing Regulations, Sub-Committees will be better able to consider applications much more quickly than the main Licensing Committee.

Section 9 of the Licensing Act 2003 provides the power to appoint the Sub-Committee and therefore, it is not classed as an advisory or an ordinary Committee/Sub-Committee of the Council.

Section 9(3) of the Licensing Act 2003 gives power to the Licensing Committee, subject to any Regulations made by Government, that the Committee may regulate its own procedure and that of its Sub-Committees.

The delegation of functions not only applies to licensing authority functions under the 2003 Act but also to licensing authority functions under the Gambling Act 2005 (“the 2005 Act”). Section 154(1) of the 2005 Act provides that licensing authority functions under that part of the 2005 Act are delegated to a Licensing Committee of the licensing authority established under section 6 of the 2003 Act. Section 154(3) of the 2005 Act provides that section 10 of the 2003 Act applies in relation to functions delegated to the Licensing Committee by virtue of section 154(1) of the 2005 Act.

4. **Supporting Information**

In accordance with the Licensing Act 2003, the Licensing Committee first established a Licensing Sub-Committee at its meeting on 31 May 2006 to determine licensing applications. The terms of reference for the Sub-Committee are as set out in Appendix A.

It was agreed appointment of designated Chairs of the Sub-Committee and that the Members would chair the meetings of the Sub-Committee on a rotational basis.

The Licensing Act 2003 allows a Sub-Committee to consist of three Members and the quorum for Sub-Committees is three Members. Therefore, it was agreed that the Sub-Committee would consist of three Members drawn on a rotational basis from the Members of the Licensing Committee on a politically proportionate basis.

The membership of the Licensing Committee for the 2023/24 Municipal Year comprises 5 Conservative Members, 4 Labour Members and 1 Liberal Democrat Member. As the Conservative Group has the most number of Members on the Council, a Licensing Sub-Committee (drawn from the

Members of the Licensing Committee) shall be established, where possible, with 2 Conservative Members and 1 Labour Member with terms of reference as set out in the appendix. However, in the event of the unavailability of the Labour Member, a Sub-Committee will be convened with three Conservative Members to ensure statutory deadlines are met within the prescribed timeframe.

Meetings of the Sub-Committee are held during the daytime and must be held within the statutory deadlines prescribed. There were 4 meetings of the Sub-Committee convened in the 2022/23 municipal year.

5. **Conclusion**

The Committee is requested to establish a Licensing Sub-Committee and appoint three members as designated Chairs for the 2023/2024 municipal year.

6. **Background Papers**

None.

LICENSING SUB-COMMITTEE

Constitution

3 Members of the Licensing Committee (Quorum 3 Members)

Terms of Reference

- 1 To consider and determine applications for licences for private hire vehicles, operators and drivers and for hackney carriage drivers where:
 - (i) The individuals involved have been convicted of traffic or other criminal offences.
 - (ii) Where CRB checks on an individual give cause for concern with regard to their suitability as a fit and proper person to hold such a licence.
 - (iii) In any other special circumstance where the officers consider it appropriate to refer the matter to the Sub-Committee.
- 2 To hear and determine any appeal against a decision of the Executive Director of Place and Communities taken under delegated powers to refuse an application for approval of premises or to revoke any approval previously granted under the Marriage Act 1994.
- 3 To determine such other licensing appeals or other licensing matters referred by officers including but not restricted to:
 - Sex establishments
 - Street trading.

Licensing Act 2003

- 4 To consider applications for a personal licence where a representation has been made.
- 5 To consider applications for a personal licence in cases where the applicant has unspent criminal convictions.
- 6 To consider applications for premises licences/club premises certificates where a representation has been made.
- 7 To consider applications for provisional statement where a representation has been made.
- 8 To consider applications for variations to premises licences or club premises certificates where a representation has been made.

- 9 To consider applications for the transfer of a premise licence where a representation by the Police has been made.
- 10 To consider reviews to premises licence/club premises certificates where these have been requested by the relevant authority in accordance with the relevant regulations.
- 11 To determine a Police representation in respect of a temporary event notice.
- 12 To consider applications for Interim Authorities where a representation by the Police has been made.
- 13 To consider to revoke a personal licence or suspend a personal licence (for a period of up to six months), where the licence holder has been convicted of a relevant offence, foreign offence, immigration offence or been required to pay an immigration penalty.

Gambling Act 2005

- 14 Application for a Non Fast Transitional Conversion for a Premises Licence where representations have been made.
- 15 Application for new Premises Licence where representations have been made.
- 16 Application for a Provisional Statement where representations have been made.
- 17 Application to vary a Premises Licence where representations have been made.
- 18 Application for Transfer of a Premises Licence where representations have been made
- 19 Cancellation of Club Gaming / Club Machine permits
- 20 Applications for other permits where representation have been made
- 21 Decision to give a counter notice to a temporary or Occasional Use Notice
- 22 Application a for a Review of a Premises Licence