

MAIDSTONE BOROUGH COUNCIL

DEMOCRACY COMMITTEE

7 JULY 2016

REPORT OF THE LICENSING COMMITTEE HELD ON 16 JUNE 2016

LICENSING COMMITTEE ROLES AND RESPONSIBILITIES

1. Issue for Decision

- 1.1 The Democracy Committee is asked to approve the recommendations of the Licensing Committee regarding its own role and responsibilities.

2. Recommendation Made

- 2.1 That the function to oversee the development, review and implementation of the Council's Licensing Strategy and Policies (including making recommendations to Council) be removed from the delegated functions of the Community, Housing and Environment Committee, and inserted into the delegated functions of the Licensing Committee at part 2.1, para. 2.9 of the Constitution;
- 2.2 That a penultimate sentence be added to part 4.5, para. 1c of the Constitution to read: 'Members will not be eligible to sit on a licensing act 2003 sub-committee until training has been completed'.

3. Reason for Recommendation

- 3.1 At the meeting of Licensing Committee held on 16 June 2016 Members considered a report of the Head of Housing and Community Services in relation to the Licensing Committee roles and responsibilities
- 3.2 The report recommended that training be undertaken by Members and Substitutes of the Licensing Committee within six months of appointment to the Committee, and that this training should be refreshed when statutory or significant guidance changes were made, and on a regular timescale to be agreed by the Committee.
- 3.3 The report explained that the Licensing Committee and its sub-committees exercise licensing and gambling functions on behalf of the Council. This includes undertaking a variety of duties including gambling functions, licences in relation to the sale of alcohol and entertainment, making recommendations to the Communities Housing and Environment Committee or Council concerning the adoption of new Policy Statements, any decisions on Cumulative Impact Policies for the Borough, Late Night Alcohol Levy. Sub-committees are called as required in order to make

decisions about individual licensing matters and appeals that are not otherwise delegated to the Head of Housing and Community Services.

3.4 It was explained that, as this sphere of responsibility is heavily governed by statute and guidance, the discharge of these functions requires that members and officers have a good understanding of the statutory framework. Licensing, as an area of local authority decision making, has become a fertile topic for legal challenge. This emphasises the importance for members and officers to be familiar with the legislation in order to make sound decisions.

3.5 During discussion it was set out that:

- The Community, Housing and Environment Committee has the delegated function to oversee the development, review and implementation of the Council's Licensing Strategy and Policies, including making recommendations to Council. The Licensing Committee has input into policies through making recommendations to the Communities, Housing and Environment Committee.
- Members of the Communities, Housing and Environment Committee are not required to undertake licensing training.
- There was no legal obligation for Members of the Licensing Committee to undertake training, however if Members were untrained this could leave a decision open to appeal.

3.6 The Committee agreed that a Member of the Licensing Committee should not be able to sit on a Licensing sub-committee hearing without having undertaken training, due to the potential for appeal implications, and to recommend to Democracy Committee that the constitution be updated to clarify this.

3.7 The Committee expressed that, as Licensing Committee Members were trained in licensing matters and Community, Housing and Environment Committee were not, it would be preferred that the function to oversee the development, review and implementation of the Council's Licensing Strategy and Policies (including making recommendations to Council) was delegated to the Licensing Committee.

4. Appendices

4.1 Appendix 1 – Communities, Housing and Environment delegation of functions

4.2 Appendix 2 – Licensing Committee delegation of functions

4.3 Appendix 3 – Local code of conduct for Councillors and Officers dealing with Licensing matters, part 4.5, para 1.c.