

 Regulatory and Licensing Committee		Agenda Item No. 5
Title	Procedures for the New Regulatory and Licensing Committee	
For further information about this report please contact	Marianne Rolfe, Regulatory Manager Health and Community Protection Tel: 01926 456320 Marianne.rolfe@warwickdc.gov.uk	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	An informal meeting of the licensing committee and regulatory committees on the 19 th February 2014 Unminuted.	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	No
Equality and Sustainability Impact Assessment Undertaken	Yes/No (If No state why below)

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive		
Head of Service	29 May 2014	Richard Hall
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)	29 May 2014	Michael Coker
Consultation & Community Engagement		
Legal Services 9 June 2014 Democratic Services 9 June 2014		
Final Decision?	Yes	
Suggested next steps (if not final decision please set out below)		

1. **SUMMARY**

- 1.1 Following the merger of the Licensing and Regulatory committees into the new Regulatory and Licensing Committee, the operational arrangements of the committee need to be agreed. This report provides recommendations as to proposed operational arrangements.

2. **RECOMMENDATION**

- 2.1 As far as is reasonable practicable and acceptable under the governing legislation that matters are heard by subcommittees called Panels as described in Appendix 1
- 2.2 That Sexual Entertainment Venues license determinations when objections have been received and Premises License Reviews are heard by the full committee as described in Appendix 1.
- 2.3 The 5 subcommittee panels, of three members, are formed from the main committee that operate on a 10 week rota.
- 2.4 That public speaking arrangements follow the guidelines set out in Appendix 2.
- 2.5 That the committee attend training events to ensure knowledge of the subject area, the matters which must be given consideration, consistency of decision making and confidence of the general public in the decisions made by the Committee.
- 2.6 That the Chairman of the new Committee meets with officers to define appropriate levels of redactions of personal data in reports.

3. **REASONS FOR THE RECOMMENDATION**

- 3.1 On the 19th February 2014 the Licensing and Regulatory Committees met informally to discuss a proposal to merge the two committees and some of the operational arrangement changes that would be needed for the new committee.
- 3.2 During that meeting it was agreed that the two committees should merge, that it should be constructed of 15 members and that operational arrangement would need to be discussed.
- 3.3 There was concerns expressed that some very serious matters under the licensing committee were dealt with via a panel of three members and comparatively minor matters were dealt with by the full regulatory committee. Therefore officers have reviewed which matters could be heard by a subcommittee panel rather than the full committee.
- 3.4 During that meeting the councillors expressed their concerns with forming 5 subcommittee panels from the main committee. However, noted that it would be for the new committee to decide if preformed panels were appropriate.
- 3.4 Officers have experienced difficulties in forming panels with the current arrangement of voluntary participation. It would be advisable that the panels are preformed, this would ensure that there are always councillors available, allow the spread of work amongst the committee members; allow committee members to plan ahead and simplify the process of forming panels.

- 3.5 Due to the nature of some of the applications and the number of objections received it is felt prudent to clarify the matter of public speaking arrangements at hearings. It is proposed that that the similar public speaking arrangements are used as are currently employed by the planning committee as described in the appendix 2.

4. POLICY FRAMEWORK

- 4.1 The merging of the committees will assist in the efficient working of the council and contribute to the vision of making a Warwick District a great place to live.

5. ALTERNATIVE OPTION(S) CONSIDERED

- 5.1 Continue with the original delegated arrangements.
- 5.2 Continue with the current voluntary arrangements for the creation of panels.
- 5.3 Continue with current public speaking arrangements.

6. BACKGROUND

- 6.1 Under the Licensing Act 2003 local authorities are required to establish a Licensing Committee to determine matters under the Licensing Act 2003 and the Gambling Act 2005. This Committee must consist of at least ten and not more than fifteen members of the authority. There are specific hearing regulations that govern how the committee should function.
- 6.2 The old Regulatory Committee sat as a full committee to consider all of the matters which were brought before them. The workings of this committee were governed by the normal rules governing council committee under the Local Government Act 1972. It is possible for the committee to delegate powers to sub committees or officers.
- 6.3 Where the committee or sub-committee is considering matters under the Licensing Act 2003 or the Gambling Act 2005 it will important that the hearing is governed by the appropriate statutory hearing regulations
- 6.3 It is proposed that that as far as is reasonably practicable that the committee delegates functions to sub- committees consisting of 3 or more members of the committee.
- 6.4 Appendix 1 shows the current and proposed arrangements for matters to be brought before the committee. It is proposed that changes to policies (including those upon which the committee comment and make recommendations to the appropriate decision making committee) and Sexual Entertainment Venue license determinations and Premises License reviews remain a full committee function.
- 6.5 Previously, the Licensing Committee members volunteered for those Panels which consider the matters that were brought before them. On occasion it has been very difficult to form a Panel by this method due to the number of prior commitments experienced by committee members.
- 6.6 Historically, panels are scheduled every two weeks and cancelled when they are not required. It is proposed that this continues to be the case. However, there is an exception that there are rare occasions that a panel must be formed at

very short notice to consider a legally time restricted activity, namely an objection to a Temporary Event Notice.

- 6.7 To ensure the even spread of work amongst the committee, to give councillors an opportunity to plan their diaries ahead and to simplify the process of forming panels the forming of 5 panels would be advised. These would operate on a 10 week rota.
- 6.8 As part of the merger of the committees, Officers have conducted a review of the matters that should be brought before the new committee. It is proposed that officers will recommend refusal of hackney carriage and private hire licensing applications where refusal is indicated by the policy. The applicant will then be informed of the reasons why refusal is recommended and that they have a right to be heard by the Committee before a decision is made. The applicant would have to confirm that they want the application to be heard by the Committee.
- 6.9 The proposal is that where the applicant chooses not to have the matter heard by the Committee or does not respond within a certain period then the application would then be refused by the officer in accordance with the policy and the decision communicated to the applicant in writing.
- 6.10 Changes have already been made to the reports provided for consideration by committee. Reports already contain additional information that should provide a more rounded view of the application. Reports will continue to be improved as best practise is established and identified.
- 6.11 Officers have been asked to consider if the Licensing Officer should be present during deliberations. Currently the Licensing Officers conduct to functions which are conflicting. The first is the assessment of the application and presenting it to the committee for a decision. The second is to act as a Responsible Authority. Therefore, it is advisable that the Licensing Officer does not remain in the room during any deliberations, ensuring that there can be no allegation of improper influence.
- 6.12 Training providers have been identified to provide training on various licensing subject areas. The initial subject areas for the training have been identified as:
- Premises - Licensing Act 2003
 - Taxis
 - Sexual Entertainment Venues
- 6.13 It is proposed that a training events are organised that are attended by the full committee. This would ensure familiarity with the requirements of the relevant piece of legislation, our policies and the matters to which the committee must have regard. It would also provide the general public with confidence in the decisions being made by the committee and allow consistency of decision making.
- 6.14 Due to the nature of some of the licenses, registration or permit applications there can be a number of members of the public and or responsible authorities wishing to make representations during a hearing process. In order to promote fair, objective and consistent hearings, it is proposed that the committee adopt the guidance on public speaking attached in Appendix 2 which is taken from the Planning Committee procedure guidance attached in Appendix 3.

6.15 However, it should be noted that Responsible Authorities and the Applicant and License Holder will need adequate time to present the evidence to support their view. This cannot be restricted.

Appendix 1: Current & Proposed Delegation Arrangements:

Premises (Licensing Act 2003)

**Proposed arrangements.*

Matters to be dealt with	Full committee	Subcommittee (Panel)	Officers
Application to review premises licence/ club premises certificate	*All cases	All cases	
Changes to licensing policy for comment	All cases		
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/ club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases (and where responsible authority withdraws objection)
Application for transfer of premises licence		If a police objection	All other cases (and where responsible authority withdraws objection)
Applications for interim authorities		If a police objection	All other cases
Determination of an objection to a temporary event notice		All cases (except a late TEN)	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Summary Review of premises/Personal license		All cases as an Emergency activity	
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases
Request to be removed as designated premises			All cases

supervisor			
Decision on whether a complaint is irrelevant frivolous vexatious etc.			In all cases in consultation with chairperson
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	

Gambling & Lotteries Activities - Delegation of Functions

Matters to be dealt with	Full committee	Subcommittee (Panel)	Officers
Changes to gambling policy	All cases		
Issue club/ gaming machine permits		If objection received	Where no objections received
Determine applications/Approve gambling act licenses		If representation received	No representations
Vary gambling act licenses		If representation received	No representations
Transfer gambling act licenses		If representation received	No representations
Cancel gambling act licenses/permits			All cases
Issue track betting permits (occasional use)			All cases
Issue amusement permits with prizes under the gambling act			All cases
Issue small lotteries licence			All cases

Street Traders, Street Collections and House to House Collections

**Proposed arrangements.*

Matters to be dealt with	Full committee	Sub committee (Panel)	Officers
Issue Street Trading Consents	If objection received	<i>*If objection received</i>	No objection received
Issue Street Collection Permits			All cases
Issue Street Collection Permits in excess of set numbers			In consultation with the regulatory committee spokesperson.

Sexual Entertainment Venues

Matters to be dealt with	Full committee	Subcommittee (Panel)	Officers
Sexual Entertainment Venues	All other cases		Where recommendation to grant and no objections received

Hackney Carriage and Private Hire Taxis

**Proposed arrangements.*

Matters to be dealt with	Full committee	Subcommittee (Panel)	Officers
Policy changes to disability policy for vehicles	All cases where fundamental change		
Taxi Licensing Policies	All cases		
Private Hire Operator Complaints	Serious/repeat offender cases	<i>*Serious/repeat offender cases</i>	Depending on seriousness/ quantity
Taxi Driver Complaints	Serious/repeat offender cases	<i>*Serious/repeat offender cases</i>	Depending on seriousness/ quantity
Taxi Driver Renewal issue	Unacceptable matters highlighted	<i>*Unacceptable matters highlighted & Request to be heard received</i>	No issues or Unacceptable matters highlighted
Private Hire Operator Renewal issue	Unacceptable matters highlighted	<i>*Unacceptable matters highlighted & Request to be heard received</i>	No issues or Unacceptable matters highlighted
Application to be a taxi driver	Unacceptable matters highlighted	<i>*Unacceptable matters highlighted & Request to be heard received</i>	No issues or Unacceptable matters highlighted
Application to be Private Hire Operator	Unacceptable matters highlighted	<i>*Unacceptable matters highlighted & Request to be heard received</i>	No issues or Unacceptable matters highlighted
Suspended/Revoke Private Hire Operator	Non-emergency cases (through complaints)	<i>*Non-emergency cases (received through complaints)</i>	In consultation with legal & Chair for emergency cases where immediate revocation or suspension is in the interests of public safety

Suspended/Revoke Taxi Drivers	Non-emergency cases (through complaints)	*Non-emergency cases (received through complaints)	In consultation with legal & Chair emergency cases
Approve use of vehicle as taxi (wheelchair accessible)			All cases in consultation with Council for the Disabled.
Refuse application of drivers not passing the knowledge test			All cases
Refuse application for taxi and private hire driver licenses not attended disability awareness training			All cases
Inspection of hackney carriage and private hire vehicles: Notices under section 68 of the local gove misc pro act 1976			All cases

Busking

Matters to be dealt with	Full committee	Subcommittee (Panel)	Officers
Review of the busking code of conduct	All cases		

Other Matters

Matters to be dealt with	Full committee	Subcommittee (Panel)	Officers
All powers of the council relating to the control of the consumption of alcohol in public places under the Criminal Justice and Police Act 2001	All Cases to confirm decision.		Dispersal in consultation with CE and Ward Cllr (people)
Orders under the Criminal Justice and Police Act 2001	All cases		
Issue Closure Notices under section 19 of CJPA 2001			All cases & Police

Appendix 2: Proposed speaking arrangements

These are suggested guidelines for speaking at hearings held by the Regulatory and Licensing Committee.

The Chairman of the Committee may intervene, or vary the speakers, in the interests of efficiency of the meeting.

Licensing Officer:

The Licensing Officer's report summarises the application, setting out the features of the application and the key issues that require consideration. For these reasons the officer's time is not limited.

Applicant/License Holder & Responsible/Licensing Authorities:

The applicant/license holder called before Committee and the Responsible Authorities must be allowed sufficient time to present their representations to support their view. In the case of some of the committee matters this may be a large quantity of material. I.e. premises license review. The Chair of the Panel/Committee must be mindful of this and each individual case must be taken on its own merits.

Members of the Public:

For applications/license continuation, depending on the number of public speakers, those objecting to the application or raising concerns, they will be allowed between 5 and 15 minutes total speaking time at the discretion of the Chair of the panel/Committee. No individual speaker will normally be allowed more than 5 minutes.

The Applicant or license holder will then be allowed the equivalent time irrespective of the number of speakers. The allocation will be notified as soon as possible after the list of speakers has closed.

Councillors:

Parish/Town Council and Warwick District Towns representatives will have 5 minutes each, and Warwick District Councillors will have up to 10 minutes at the discretion of the of the Panel/Committee because they provide a key role in representing the local community.

Appendix 3: Rules of public speaking used by Planning Committee (Extract taken from the Planning Committee Procedure a Guide)

How long will I be able to speak for?

With the exception of applications for “major development”, there is a time limit of 3 minutes for each group of supporters and the same amount of time for each group of objectors on all applications. Parish/Town Council and Warwick District Towns Conservation Area Advisory Forum representatives will have 3 minutes each, and Warwick District Councillors will have up to 10 minutes at the discretion of the Chairman of the Committee because they provide a key role in representing the local community.

If there is more than one speaker in the same category for an item, the three minutes will be shared equally among them. For example objectors to the application will normally be heard in equal amounts of time until the 3 minutes have expired. However, objectors to the application may get together and decide to make a joint case, appointing a representative, or vary the order of the speakers within the group if they wish.

For applications for „major development“ which are recommended for grant, depending on the number of speakers, those opposing will be allowed between 5 and 15 minutes total speaking time at the discretion of the Chair of Planning Committee (or Vice Chair in their absence) in consultation with the Development Manager. No individual speaker will normally be allowed more than 5 minutes.

For applications for „major development“ which are recommended for refusal, depending on the number of speakers, the applicant and those supporting will be allowed between 5 and 15 minutes total speaking time at the discretion of the Chair of Planning Committee (or Vice Chair in their absence) in consultation with the Development Manager. No individual speaker will normally be allowed more than 5 minutes.

In both cases, the opposing view will then be allowed the equivalent time irrespective of the number of speakers. The allocation will be notified as soon as possible after the list of speakers has closed.

For applications for „major development“, Parish/Town Council and Warwick District Towns Conservation Area Advisory Forum representatives will have 5 minutes each, and Warwick District Councillors will have up to 10 minutes at the discretion of the Chairman of the Committee because they provide a key role in representing the local community.

Normally, when multiple applications are considered for the same site, these will be considered at the same time by the Committee. The Chairman will use their discretion on this matter and how long the public speakers will have on combined items, although normally this will be three or five minutes depending on the application type.

The planning officer at the meeting will present each application, summarising for the meeting the relevant features of the site, details of the development and the key issues that the Committee needs to consider as set out in the report. For these reasons the officer's presentation is not time limited.

The Chairman of the Committee may intervene, or vary the speakers, in the interests of efficiency of the meeting.