



<b>REPORT OF:</b>	HEAD OF CORPORATE POLICY, PERFORMANCE & PARKING
<b>AUTHOR:</b>	DONNA COULON
<b>TELEPHONE:</b>	01737 276025
<b>E-MAIL:</b>	donna.coulon@reigate-banstead.gov.uk
<b>TO:</b>	EXECUTIVE
<b>DATE:</b>	31 MARCH 2016
<b>EXECUTIVE MEMBER:</b>	COUNCILLOR V.W. BROAD

<b>Key Decision</b>	NO
<b>WARD(S) AFFECTED:</b>	N/A

<b>SUBJECT:</b>	<b>AMALGAMATION OF THE LICENSING COMMITTEE AND THE REGULATORY COMMITTEE</b>
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**RECOMMENDATIONS:**

- (i) That the terms of reference for the Licensing and Regulatory Committee (and Sub Committees) as set out in Annex 1 be approved, to come into effect on 27 May 2016;
- (ii) That the other consequential changes to the Constitution, as set out in Annex 1, be approved, to come into effect on 27 May 2016;
- (iii) That the Licensing and Regulatory Committee be authorised to establish and appoint members to sub committees and to determine how it manages its business;
- (iv) That the Monitoring Officer be authorised to amend the Constitution accordingly; and
- (v) That all Councillors appointed to the Licensing and Regulatory Committee attend mandatory training at the start of every Municipal Year, before serving on any sub committee.

**REASONS FOR RECOMMENDATION:**

To improve and strengthen the governance of the Regulatory and Licensing functions and provide a more efficient approach that allows Members sitting on a newly created committee to develop an expertise across all areas of licensing.

**EXECUTIVE SUMMARY:**

In setting the Schedule of Meetings for 2016/17, Council has agreed the proposal of combining the existing Licensing and Regulatory Committees into one overarching committee dealing with all licensing matters.

This report recommends changes to the Constitution to support this new committee

structure for the 2016/17 Municipal Year and beyond.

The report sets out proposed composition and terms of reference for the new Committee so that it can determine its operational arrangements, including the continued arrangement of sub-committees which is known to work well.

Combining these Committees provides the opportunity to streamline our meetings and improve the expertise and governance for managing this function.

**The above recommendations require approval by Full Council.**

## STATUTORY POWERS

1. The Council has a statutory obligation to determine licensing matters under the provisions of the Licensing Act 2003, the Gambling Act 2005, the Local Authorities (Miscellaneous Provisions) Act 1976, the Scrap Metal Dealers Act 2013 and all other licensing and registrations functions set out in paragraph B of Schedule 1 of the Local Authority (Functions and Responsibilities) England Regulations 2000 as amended.
2. The Council is also responsible for determining applications under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which primarily relates to sex shop licences.

## BACKGROUND

3. The Council currently has two regulatory committees which have delegated authority to consider and determine licensing matters under prevailing legislation, as set out below.

### Licensing Committee

4. The Licensing Committee operates under the requirements of the Licensing Act 2003 and the Gambling Act 2005.
5. The Licensing Act 2003 prescribes that the committee should have a membership of between ten and 15 members, with powers to delegate determination of hearings to a sub-committee of any three members. The current Licensing Committee is composed of 15 members.
6. There is no requirement for the membership of this committee to be politically balanced, but the Council has adopted the principle as a matter of good practice.
7. Substitutes may not be appointed to sit on a sub-committee, because 15 members are available to select three from. The current arrangement of appointing a standby member from the Committee (in the case of apologies by an appointed sub-committee member) works well.
8. Membership of any sub-committee is co-ordinated by the Democratic Services Team and is primarily predicated by availability, although membership is rotated wherever possible.

## Regulatory Committee

9. The Regulatory Committee deals primarily with hackney carriage and private hire licensing matters regulated by the Local Authorities (Miscellaneous Provisions) Act 1976.
10. It also has responsibility for dealing with any matters under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
12. The Committee has ten members and conducts all business at full committee. There is no delegation to sub-committee level when determining applications, which is its main function.
13. The membership of this Committee is subject to the rules on political balance.

## General

14. In recent years, both committees have seen their workload reduced and details of meetings held in 2015-16 is set out below:

Committee:	No. of meetings:	Total duration:
Licensing (full committee)	1	2 mins
Licensing (sub committee)	2	4 hr 35 mins
Regulatory	2	3 hr 24 mins

15. In determining the schedule of meetings for 2016/17, Council approved the proposal to combine the Licensing and Regulatory Committees into a single Committee. This requires some amendments to the Council's Constitution

## KEY INFORMATION

15. The new combined Committee will be known as the Licensing and Regulatory Committee, which will deal with all licensing matters under the prevailing legislation.
16. Terms of reference for the Licensing and Regulatory Committee are set out at Annex 1. This provides for the operation of Licensing and Regulatory Sub Committees to be established and for the parent Committee to determine how it manages its business.
17. There are a number of other consequential changes required to the Constitution to reflect combining the Committees and these are also set out in Annex 1.
18. Following existing good practice, it is recommended that the Committee operates the majority of its activities at the sub-committee level. The sub-committee would be formed of three full members of the committee, including one nominated chairman (from a bank of 5), and be delegated authority to determine the majority of applications. Although the full committee would retain the power to determine applications (if deemed appropriate) to be determined by the Chairman of the Committee following advice from the Monitoring Officer.

## Training

19. Licensing training covering all relevant aspects of the committee's remit will be arranged at the start of every municipal year and it is recommended that this should be mandatory for all committee members and not just those new to the committee.

20. Political Group Leaders provide a key role in ensuring members of their Group attend training in order to carry out their roles effectively.

### OPTIONS

21. Council has approved the proposal to combine the Licensing and Regulatory Committees.
22. This report sets out recommended changes to the Constitution in order to support the new combined committee and ensure the Council carries out its functions efficiently and effectively.
23. The Executive may:
- Approve the recommendations, which will then be considered by Council, to amend the Constitution in order to create the combined Licensing and Regulatory Committee (**recommended option**).
  - Request further work be undertaken to the proposed changes. This would delay the introduction of the combined committee (**not recommended**).

### LEGAL IMPLICATIONS

24. There are no legal reasons why the two committees should not be combined, although any report presented to the committee would need to make it clear which piece of licensing legislation is relevant in its consideration.

### FINANCIAL IMPLICATIONS

25. There are no financial implications arising from this report.

### EQUALITIES IMPLICATIONS

26. There are no equalities implications arising from this report, beyond the fact that allowing meetings to be held either in the day or the evening may facilitate attendance for both applicants and other interested parties.

### RISK MANAGEMENT IMPLICATIONS

27. There are no risk management implications arising from this report.

### POLICY FRAMEWORK

28. There are no policy framework considerations arising from this report.

### CONSULTATION

29. Consultation has been undertaken with Officers from Spelthorne Borough Council which currently operates a combined Committee as the one being proposed. Helpful information was obtained in this process and it was confirmed that it works well for that authority.
30. Consultation has also been undertaken with Management Team; existing chairmen of Licensing and Regulatory Committees and Group Leaders and all are supportive of the proposed approach to amalgamate the Committees.

Background papers	None
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## Constitutional Changes proposed to support the amalgamation of the Licensing and Regulatory Committees

### Part 3a: Responsibility for Functions

Insert into Table 2 – Responsibility for Council Functions the following to replace the existing responsibilities for the separate Licensing and Regulatory Committees:

<b>Licensing and Regulatory</b>	15 Members of the Authority	<ol style="list-style-type: none"> <li>1. All functions of the council in relation to licensing and regulation including:               <ol style="list-style-type: none"> <li>a) public entertainments</li> <li>b) cinemas and theatres</li> <li>c) sex establishments</li> <li>d) hackney carriage and private hire</li> <li>e) animal welfare</li> <li>f) food preparation</li> <li>g) betting, gaming and lotteries</li> <li>h) street &amp; house to house collections</li> <li>i) markets and street trading</li> <li>j) takeaway food shops</li> <li>k) caravan and camping sites</li> <li>l) health and safety (otherwise than in the Council's capacity as employer)</li> <li>m) scrap metal and motor salvage registration process</li> <li>n) any other licensing/regulatory or individual applications for service not within the remit of another Committee</li> </ol> </li> <li>2. Application for registration of Small society lotteries (where the authority is minded to refuse and the applicant wishes to make representations)</li> <li>3. Revocation of Small society lotteries (where the applicant has made representations)</li> <li>4. Applications under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended</li> </ol>	<p>Officer Delegation -see schedule</p> <p>“</p> <p>“</p> <p>“</p>
		<ol style="list-style-type: none"> <li>5. Review of a premises licence (in all cases)</li> </ol>	



	licence (where representations have been received and not withdrawn)	
19.	Application for a transfer of a licence (where representations have been received from the Gambling Commission)	“
20.	Application for a Provisional Statement (where representations have been received and not withdrawn)	“
21.	Application for club gaming/club machine permits (where objections have been made and not withdrawn)	
22.	Cancellation of club gaming/club machine permits (in all cases)	
23.	Refusal of club gaming/club machine permits (unless the applicant/objectors agree that a hearing can be dispensed with)	“
24.	Application for licensed premises gaming machine permits (where Officers have notified the applicant of their intentions to refuse and the applicant has made representations)	“
25.	Applications for other permits (where officers have notified the applicant of their intentions to refuse and the applicant has made representations)	“
26.	Grant or vary a licensed premises gaming machine permit for either a smaller number of machines specified in the application, and/or different category of machine than specified in the application (where the applicant has made representations)	“
27.	Cancellation of licensed premises gaming machine permits (where representations have been received and not withdrawn)	“
28.	Make an Order disapplying exempt gaming provisions and/or removal of automatic entitlement to make available two (category C or D) gaming machines for specified alcohol licensed premises (where the applicant has requested a hearing)	“

		29. Consideration of temporary use notice (where objections have been made and not withdrawn)	“
		30. Decision to give a counter notice to a temporary use notice (in all cases)	“

#### Procedure Rule 4: Committees and Sub-Committees

To consider changes to the paragraphs of Procedure Rule 4 as shown in track changes below:

##### 4.2 Membership

With the exception of the ~~Licensing Committee, Licensing Sub-Committees and the~~ Standards Committee and unless the Council decides otherwise, with no Member voting against, the Council and Committees shall appoint Members to Committees and Sub-Committees respectively in accordance with the statutory requirements for political balance.

~~For the Licensing Committee there is no statutory requirement for political balance but the spirit of this shall be followed where practical.~~ For the Licensing and Regulatory Sub-Committees in addition to Chairman, the remaining membership shall be drawn from the Licensing and Regulatory Committee.

##### 4.3 Appointment of substitute members of Committees and Sub-Committees

With the exception of the ~~Licensing Committee and its Licensing and Regulatory~~ Sub-Committees when appointing Committees and Sub-Committees the Council or Committee respectively may appoint to each Committee or Sub-Committee substitute Members for each Political Group on the Council in accordance with the wishes of the Group and such substitute may take the place of any Member of that Group who is a Member of the particular Committee or Sub-Committee for the meeting when such Member is absent;

##### 4.8 Meetings of Committees and Sub-Committees

###### Time

4.8.4 With the exception of Licensing and Regulatory Sub-Committees all Committee and Sub-Committee Meetings shall start at 7.30 p.m. unless otherwise agreed by the Chairman of the Committee or Sub-Committee.

4.8.5 In the case of Licensing and Regulatory Sub-Committees, meetings shall be held during the day or evening at a time to be agreed by the Chairman.

##### 4.15 Minutes

4.15.1 The Minutes of every Committee and Sub-Committee meeting shall be circulated to all Members and with the exception of the Licensing and Regulatory Sub-Committees presented to the next meeting for confirmation and signature by the Chairman. Where this is impractical, owing to the short



time between meetings, or where the next meeting is a Special Meeting, the Minutes may be presented to the next following meeting.

- 4.15.2 The Minutes of the Licensing and Regulatory Sub-Committee shall be submitted to either the next meeting of the Licensing and Regulatory Sub-Committee or to the next meeting of the Licensing and Regulatory Committee (whichever is the sooner) for confirmation and signature by the Chairman provided at least one Member of the Sub-Committee whose Minutes are being considered for approval is present.

## Part 6: MEMBERS' ALLOWANCES SCHEME

2. Payment of Special Responsibility Allowances to:-

### Chairmen of Committees/Panels

<u>Licensing and</u> Regulatory	£416
Licensing <u>and Regulatory</u> Sub	£416