

SUBJECT: Separation of licensing functions

MEETING: Licensing and Regulatory Committee

DATE: 28th January 2025

DIVISION/WARDS AFFECTED: All

1. PURPOSE

- 1.1 To provide members with details of the proposed arrangements to reconfigure the functions of the existing Licensing and Regulatory Committee as set out in the report.
- 1.2 To seek the Committee's endorsement of those proposals before they are reported to Council for approval.

2. RECOMMENDATION

- 2.1 It is recommended that members:
 - a) approve that the functions of the existing Licensing and Regulatory Committee be divided between two separate Committees, comprising of the same members, to be titled the Licensing and Gambling Committee and the Taxi and Regulatory Committee ("the Committees") respectively;
 - b) note and approve that the functions of the Committees and their respective Sub-committees shall be as set out in the terms of reference for each, attached to this report at Appendices 1-2;
 - c) refer the recommendations to Council for approval.

3. KEY ISSUES

- 3.1 The Council currently discharges all of its licensing and regulatory functions via the Licensing and Regulatory Committee and its Sub-committee. The arrangements have been reviewed following consideration of legal advice and guidance that in order to strengthen our governance arrangements, the functions under the Licensing Act 2003 and the Gambling Act 2005 should be discharged by the Licensing Committee (or a Sub-committee of the Licensing Committee where appropriate), and that all other functions should be discharged by a separate committee, albeit with the same members.
- 3.2 By operating separate Committees as proposed below, the Council will be able to maintain its effective governance arrangements.
- 3.3 Having considered the Council's existing arrangements it is proposed that two separate Committees, with respective Sub-committees are set up as follows.

Licensing and Gambling Committee

- 3.4 The Licensing and Gambling Committee will be responsible for all matters regulated by the Licensing Act 2003, Gambling Act 2005 and Part 4 Public Health (Wales) Act 2017 and which do not fall within the responsibility of full Council or of a committee other than itself. It is proposed that the statutory Licensing Committee be named the Licensing and Gambling Committee. The terms of reference for this Committee can be found at Appendix 1.
- 3.5 The following licensing functions are reserved to full Council:
- (a) any function conferred on the licensing authority by **section 5** of the Licensing Act 2003 (statement of licensing policy);
 - (b) the functions of making, and varying or revoking, an order under **section 172A** of the Licensing Act 2003 (early morning alcohol restriction order);
 - (c) any function conferred on the licensing authority under section 166 of the Gambling Act 2005 (resolution not to issue a casino licence)
 - (d) the prescribing of gambling licensing fees under section 212 of the Gambling Act 2005;
 - (e) making an order disapplying section 279 or section 282(1) of the Gambling Act 2005, in accordance with section 284 of the Gambling Act 2005;
 - (f) the designation of authorised persons in accordance with section 304 of the Gambling Act 2005;
 - (g) prosecutions by the licensing authority in accordance with section 346 of the Gambling Act 2005;
 - (h) any function conferred on the licensing authority by section 349 of the Gambling Act 2003 (three-yearly gambling licensing policy).
- 3.6 Where the Authority has referred to a committee other than the Licensing and Gambling Committee a matter which relates to a licensing function of a licensing authority and to a function of the authority which is not a licensing function, the licensing function is to be discharged by that other committee (section 7(5)(a) of the Licensing Act 2003).
- 3.7 The functions that go to the full Licensing and Gambling Committee will be the recommendation of policies fee setting under the Licensing Act 2003 and training.
- 3.8 The Committee may delegate the exercise of functions in relation to individual applications to a Sub-committee or to an officer as appropriate.
- 3.9 The Sub-committee will hear those applications that have relevant representations/objections and any information that may affect the continuation of a licence/permit already granted. All other matters are to be delegated to authorised officers in accordance with current delegations.
- 3.10 The Licensing and Gambling Committee may regulate its own procedure and that of Sub-committees, subject to any regulations in relation to the conduct of hearings, access to public and publicity.

Taxi and Regulatory Committee

- 3.11 The Taxi and Regulatory Committee will be responsible for discharging those licensing activities which are not governed by the Licensing Act 2003 or Gambling Act 2005, and which do not fall within the responsibility of full Council. The terms of reference for this Committee can be found at Appendix 2.
- 3.12 The functions that go to the full Taxi and Regulatory Committee will be the adoption of policies, fee setting and training. The Committee may delegate the exercise of functions in relation to individual applications to a Sub-committee or to an officer as appropriate. The Sub-committee will hear those applications that have relevant representations/objections and any information that may affect the continuation of a licence/permit already granted. All other matters are to be delegated to authorised officers in accordance with current delegations.
- 3.13 The Taxi and Regulatory Committee may regulate its own procedure and that of sub-committees, subject to any regulations in relation to the conduct of hearings, access to public and publicity.
- 3.14 Whilst the two Committees will be separately constituted, the proposed Licensing and Gambling Committee does not need to be politically balanced (although it can be) as it is not a committee created under the Local Government Act 1972. However, the Taxi and Regulatory Committee does have to be politically balanced. For the sake of continuity, it is proposed that the Committees be comprised of the same members. The effect of this will be that both committees will be politically balanced.
- 3.15 The proposals will not increase the frequency of committee or sub-committee meetings. If there are items relevant to both Committees arising on the same day, this can be dealt with both Committees (or their Sub-committees) meeting on the same day, one after the other, with separate agendas being published.

4. RESOURCE IMPLICATIONS

None. See paragraph 3.9 above.

5. CONSULTEES

Chief Officer, Law & Governance (Monitoring Officer)
Senior Solicitor & Deputy Monitoring Officer

6. AUTHOR AND CONTACT DETAILS

Linda O’Gorman – Principal Licensing Officer

7. BACKGROUND PAPERS

Appendix 1 – Licensing and Gambling Committee and Sub-Committee Terms of Reference
Appendix 2 – Taxi and Regulatory Committee and Sub-Committee Terms of Reference