

Appendix A

Brighton and Hove City Council Constitution

PART 2B – Scheme of Delegation to Committees and Sub Committees

LICENSING COMMITTEE

Explanatory Note

The Licensing Committee is responsible for discharging the Council's functions under the Licensing Act 2003 and Gambling Act 2005. The day-to-day decisions on individual applications are dealt with by the Licensing Panel.

Delegated Functions

1. Licensing Act 2003

- (a) To discharge all functions which, under the Act, stand referred to a Licensing Committee, including, but not limited to the following:
 - (i) Applications for a personal licences;
 - (ii) Applications for premises licence/club premises certificate;
 - (iii) Applications for provisional statement; (iv) Applications for Interim Authorities.
- (b) The powers of the Committee under 1(a) shall include the power to deal with all applicants for the grant, renewal, variation or revocation of any licence or consent or any actions which a Licensing Committee is required or authorised to take under the Licensing Act 2003.
- (c) The delegated powers of the Committee shall not include the adoption or review of the Statement of Licensing Policy (which are functions of Full Council).

2. Gambling Act 2005

- (a) To discharge all functions which, under the Gambling Act 2005, stand referred to the Licensing Committee, including but not limited to the following:
 - (i) applications for premises licences;
 - (ii) applications for provisional statements;
 - (iii) applications for club gaming / club machine permits.
- (b) The powers of the Committee under 2(a) shall include the power to deal with all applications for the grant, renewal, variation, cancellation or revocation of any licence or consent or any actions which a Licensing Committee is required or authorised to take under the Gambling Act 2005.

- (c) The powers of the Committee shall also include the power to set fees pursuant to section 212 of the Gambling Act 2005 but shall not include the power to adopt or review the Statement of Licensing Policy, which is a function of Full Council.

3. Other Licensing and Registration Functions

To discharge all the Council's functions regarding licensing and registration and any associated or connected functions.

Referred Functions

1. To advise Full Council regarding the Statement of Licensing Policy under the Gambling Act 2005.
2. To advise Full Council regarding the Statement of Licensing Policy under the Licensing Act 2003.
3. To advise the Council, Cabinet and other Committees on matters related to functions under the Licensing Act 2003 and the Gambling Act 2005 but are not themselves Licensing Act or Gambling Act functions.

LICENSING PANEL

Explanatory Note

The Licensing Panel is a Sub-Committee of the Licensing Committee. Its functions are to:-

- Hear applications under the Licensing Act 2003 and the Gambling Act 2005 where the matter is authorised or required to be dealt with by a Committee. These are usually, but not necessarily, cases where Officers do not have delegated powers or a hearing is required.
- Deal with appeals against licensing and registration decisions and cases where officers do not have the power to make determinations
- Serve as the appellate Committee where there is a right of appeal from a decision of an Officer and no other arrangements have been made under the Constitution; and
- Determine any other matter of a quasi-judicial nature which may be referred to it.

Delegated functions

1. Licensing Act Functions

- (a) To deal with applications under the Licensing Act 2003 and make determinations on all matters required or authorised by the Act to be dealt with by a committee.
- (b) The powers under (a) above shall not include the adoption of the Statement of Licensing Policy.
- (c) Where, in the opinion of the Corporate Director City Services or other officer authorised by them, after consultation with the Chair of the Licensing Committee, an application is a major application having regard to the licensing objectives, the Director or other authorised officer may refer the matter to the Licensing Committee.

2. Gambling Act 2005 Functions

- (a) To deal with applications under the Gambling Act 2005 and make determinations on all matters required or authorised by the Act to be dealt with by a committee.

- (b) Where, in the opinion of the Corporate Director City Services or other Officer authorised by them, after consultation with the Chair of the Licensing Committee, an application is a major application having regard to the licensing objectives, the Director or authorised Officer may refer the matter to the Licensing Committee.

3. Other Licensing and Registration Functions

Within the policy framework set by the Council or the Licensing Committee, to exercise the Council's functions in relation to licensing and registration providing that the power shall not include the adoption, revocation or amendments of policies.

4. Determinations and Appeals

To hear and determine cases:

- (a) where there is a right (under the Human Rights Act 1998 or otherwise) to be given the opportunity to appear before and be heard by a committee or Sub-Committee of the Council and no other arrangements have been made under the Council's Constitution, or
- (b) where the case is referred to the Licensing Panel as it is considered to be a suitable forum for the determination of matters of fact and/or law, for example determinations relating to rights of way or the Council's definitive map of rights of way.

5. General

For the avoidance of doubt and without prejudice to the generality of 1 to 3 above, the powers of the Panel under those provisions shall include the power to deal with all applications for the grant, renewal, variation or revocation of any licence or consent or any actions (other than the adoption or review of a Licensing Policy) which a Licensing Committee is required or authorised to take under the Licensing Act 2003 or the Gambling Act 2005.

NOTE: Only Members who are members of the Licensing Committee may serve as members or substitute members of the Licensing Panel.

