

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Licensing Committee

31 March 2009

AUTHOR/S: Chief Executive / Democratic Services Manager

CLARIFICATION OF ARRANGEMENTS FOR HEARING LICENSING APPEALS

Purpose and background

1. This report proposes clarification of the procedures under which Members hear appeals against the determination of the Licensing Officer. In the vast majority of cases, such appeals will relate to taxi licensing activities, however there are other determinations against which appeals are allowed but are seldom put forward in practice.

Considerations

2. The relevant section of the Constitution presently provides for licensing appeals to be heard by 'one or more sub-committees or Panels', such sub-committees or panels to comprise no more than five councillors. The current procedure provides for sub-committees to be appointed by the parent committee and *ad hoc* panels by its Chairman.
3. The procedures currently set out in the Constitution are considered to be ambiguous as they fail to which Member body will hear appeals and do not reflect current practice, which is the hearing of appeals by a body entitled the Licensing Committee (Taxi Hearings), a committee not recognised in the Constitution. The decision notices arising from such appeal hearings are signed by the 'Chairman of the Licensing Review Panel', which may be compatible with the requirement for a panel set out in the Constitution but is not consistent with the Agenda convening a Committee meeting.
4. There is no evidence that the inconsistencies and lack of clarity with current procedures, identified above, have adversely affected the speed and quality of decision-making in respect of licensing appeals, however it is considered that the Council may be at greater risk of a decision being challenged if it is not in a position to describe the legal and constitutional basis on which such decisions are made.
5. In order to address these concerns, it is recommended that the Committee establish a single body to hear appeals from the determination of the licensing committee entitled the 'Licensing Appeals Sub-Committee'. The Sub-Committee will comprise not more than five councillors from the Licensing Committee who have undertaken the appropriate training to be appointed by the Democratic Services Manager. It would be chaired by the Chairman of the Licensing Committee, in his/her absence the Vice-Chairman and, in the absence of both, by a member elected at the start of each meeting.
6. The Licensing Committee should agree the detailed hearing procedures as required, based on existing procedures (**Appendix A**).

Options

7. The Committee could support a continuation of the current arrangements; however, this will not overcome the inconsistencies referred to above. It may wish to explore alternative options for membership and chairmanship to those recommended in paragraph 5 above, for example in terms of the size, appointments to and Chairmanship, of the sub-committee.

Implications

8.	Financial	None specific
	Legal	As described in paragraph 4 above, it is considered that a failure to clarify its procedures will put the Council at greater risk of a subsequent decision being successfully challenged on the grounds that the decision-making body has not been properly constituted.
	Staffing	None specific
	Risk Management	The risk of challenge identified in the 'legal implications' section above is low, however can be eliminated altogether through the agreement of a revised procedure.
	Equal Opportunities	None specific.

Consultations

9. The issues arising have been discussed with the Licensing Officer and Principal Solicitor.

Effect on Corporate Objectives and Service Priorities

10.	Work in partnership to manage growth to benefit everyone in South Cambridgeshire now and in the future
	None specific
	Deliver high quality services that represent best value and are accessible to all our community
	The clarification of procedures for the hearing of licensing appeals will improve understanding of the process by officers, members, applicants and other interested parties.
	Enhance quality of life and build a sustainable South Cambridgeshire where everyone is proud to live and work
	None specific.

Recommendations

11. It is recommended that:
- (a) A Licensing Appeals Sub-Committee be established to consider all appeals from the determination of the Licensing Officer where in-house procedures allow appeals;
 - (b) The Sub-Committee comprise not more than five councillors from the Licensing Committee who have undertaken the appropriate training;
 - (c) The Democratic Services Manager be authorised to make appointments to the Sub-Committee when it is required to meet;

- (d) Sub-Committee meetings be chaired by the Chairman of the Licensing Committee, in his/her absence the Vice-Chairman of the Licensing Committee, and in the absence of both by a member elected at the start of the hearing;
- (e) The Chief Executive be authorised to make the necessary amendments to Table One of Part Three of the Constitution.
- (f) The Licensing Appeals Sub-Committee procedure be agreed

Background Papers: the following background papers were used in the preparation of this report:

The Council's Constitution: [link to the Council's website \(www.scambs.gov.uk\)](http://www.scambs.gov.uk)

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