

<b>REPORT TO:</b>	<b>Licensing Committee - 23 June 2023</b>
<b>SUBJECT:</b>	<b>Licensing Hearing Procedures</b>
<b>LEAD OFFICER:</b>	<b>Karl Roberts, Director of Growth</b>
<b>LEAD MEMBER:</b>	Councillor Blanchard-Cooper
<b>WARDS:</b>	<b>All</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT/CORPORATE VISION:</b>	
Improving the wellbeing of Arun and supporting our environment to support us by ensuring fair and responsible Licensing of persons, premises, and operations within the remit of The Licensing Act 2003, and Taxi Licensing legislation.	
<b>DIRECTORATE POLICY CONTEXT:</b>	
Helping to improve the social, economic, and environmental wellbeing of the district by ensuring robust and transparent procedures are in place for licensing hearings.	
<b>FINANCIAL SUMMARY:</b>	
There is no additional expenditure associated with the recommendations of this report.	

## 1. PURPOSE OF REPORT

- 1.1 This purpose of this report is to seek adoption of the revised hearing procedures by the Licensing sub-committee.

## 2. RECOMMENDATIONS

- 2.1 That the Licensing Committee adopt the revised hearing procedures for Licensing Act 2003 sub-committee hearing procedures.
- 2.2 That the Licensing Committee separately adopt the revised hearing procedures for Taxi Licensing to be added to the Taxi Licensing Statement of Policy.
- 2.3 That the Group Head of Technical Services in consultation with the Chairman of the Licensing Committee is authorised to make minor changes to the licensing hearing procedures as may be required.

### **3. EXECUTIVE SUMMARY**

- 3.1 This report seeks adoption of the Licensing Subcommittee hearing procedures in relation to Taxis and Licensing Act 2003 matters. These have been reviewed and updated to ensure there is improved clarity and transparency of the procedures that will be used for each type of hearing.

### **4. DETAIL**

- 4.1 The Licensing Act 2003 (LA03) introduced Licensing Sub-committees (LSC) which allow local authorities to convene hearings to combat non-compliance with the LA03 or to review a licence and its imposed conditions if requested by a Responsible Authority or an Other person. In March 2011, the Police Reform and Social Responsibility Bill (2010) made the Licensing Authority a Responsible Authority.
- 4.2 The role of the LSC is to make decisions on specific individual cases such as for applications, reviews and or misdemeanours. The LSC differs from that of the full Licensing Committee, which determines Policy matters and the setting of Fees for Licensing and Taxi Fares etc. We are revising the LSC Hearing Procedures for the refinement of existing procedures to benefit from learning from experience and applying best practice.
- 4.3 The main aim of the current LA03 Hearing Procedures is to ensure a fair and responsible Licensing Authority and Licensing Sub-Committee, whilst balancing the needs of Responsible Authorities, Other persons, and Licence Holders.
- 4.4 The relevant legislation is laid down in Regulations 21 to 25 of the Licensing Act (Hearing) Regulations 2005.
- 4.5 The current policies for Hackney Carriage and Private Hire Licensing Policy and Handbook 2017 for taxis are found in the background documents online at the end of this report. They have been reviewed as it is important to keep them current and although these have worked well of many years, it is important to keep them under regular review. The extent of the recommended changes is minor and for improved clarity and that by adopting the amending taxi hearing procedures this will amend the 2017 Policy.
- 4.6 In Summary the Council's Licensing Sub-Committee Hearing procedures for The Licensing Act 2003 and Taxi Licensing are found in Appendix 2 and 3.
- 4.7 For the avoidance of doubt Committee is asked to note that for Licensing Act hearings there is no requirement that they should take place in person. Council policy is that except in exceptional circumstances as hearings should be in person hearings meaning that all parties including the sub-committee members should attend in person.

### **5. CONSULTATION**

- 5.1 Consultation has been conducted with internal stakeholders, including legal services and committee services. No public consultation has been undertaken.

## **6. OPTIONS/ALTERNATIVES CONSIDERED**

- 6.1 Not to update and adopt the current hearing procedures. The existing procedures are already published on the council's website and within the Hackney Carriage and Private Hire Licensing Policy, however they have not been recently reviewed.

## **7. COMMENTS BY THE INTERIM GROUP HEAD OF FINANCE/SECTION 151 OFFICER**

- 7.1 This approach of adoption by the new committee is following advice from Legal.

## **8 RISK ASSESSMENT CONSIDERATIONS**

- 8.1 Failure to adopt the revised hearings procedure may impact the ability of the Council to effectively manage LA03 and Taxi hearings.

## **9 COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER**

- 9.1 Provisions for holding hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 which provide for the various notification requirements, conduct at, and timings of, hearings.
- 9.2 Where specific provisions for the procedure for hearings have not been made, councils are able to set and control their own procedure as long as it is not contrary to the Regulations. The purpose of procedure should always be to enable those with the right to, to appear and advance their point of view and to test the case of their opponents. This will assist the licensing sub-committee to gather evidence and understand relevant issues.
- 9.3 The committee is asked to note that neither the Licensing Act 2003, nor the Licensing Act (Hearings) Regulations 2005 require hearings to be held in a physical "place". In principle, a "place" for the purposes of the Hearings Regulations can include a "virtual platform" and "attendance" at such a hearing can include "electronic attendance."
- 9.4 Section 9(3) of the Licensing Act 2003 allows licensing committees – subject to the basic procedural framework in the Hearings Regulations – to regulate their own procedure. Whether a hearing is conducted in person, or remotely, is "a matter of procedure" and therefore something the licensing committee may opt for in its discretion.

(Approved by: SO Agutu, Lawyer on behalf of the Head of Law and Governance)

- 9.5 Following the recent court decision regarding LA2003 hearings is a magistrates' court judgment and therefore non-binding, and so the view we are presented within the report is the interpretation of us as the Council's legal advisors and the generally accepted view of professionals in this area.

(Approved by: Daniel Bainbridge, Group Head of Law & Governance)

## **10 HUMAN RESOURCES IMPACT**

10.1 No human resource impacts have been identified in relation to the proposals in this report.

## **11 HEALTH & SAFETY IMPACT**

11.1 There are no direct health and safety impacts in relation to the proposals.

## **12. PROPERTY & ESTATES IMPACT**

No additional property and estates impacts have been identified from the proposals.

(Approved by: Sam Horwill, on behalf of, Head of Property & Estates.)

## **13. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE**

13.1 An EIA has been completed and is attached as Appendix 1.

## **14. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE**

14.1 There are no direct impacts in respect of the above in relation to the proposals.

## **15. CRIME AND DISORDER REDUCTION IMPACT**

15.1 No direct impacts have been identified.

## **16. HUMAN RIGHTS IMPACT**

16.1 By adopting and publishing licensing hearing procedures this ensures there is an open and transparent process. The hearing procedures include a right for an applicant or licensee to be heard and to present their case and any evidence.

## **17. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS**

17.1 There are no direct freedom of information or data protection concerns from the proposals. Licensing hearing procedures include arrangements to hold hearings in camera, when appropriate. Decisions of the licensing sub-committee are published and available on the council's website.

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### **CONTACT OFFICER:**

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## **BACKGROUND DOCUMENTS**

Appendix 1, Equalities Impact Assessment

Appendix 2, Proposed Licensing Sub-Committee Hearing Procedures for Licensing Act 2003 Contested applications.

Appendix 3, Proposed Licensing Sub-committee hearing procedures for Licensing Act 2003 Reviews.

Appendix 4, Proposed Licensing Sub-Committee Hearing Procedures for Taxi Licensing, and non-Licensing Act 2003.

Appendix 5, Definition and list of Responsible Authorities.

Licensing Act review procedure current:

[LA03 Review procedure current](#)

Licensing Act contested procedure current:

[LA03 contested procedure current](#)

Hackney Carriage and Private Hire Licensing Policy and Handbook:

[Taxi licensing Policy 2017-2022](#)

Licensing Act 2003 Statement of Policy:

[Statement of licensing policy | Arun District Council](#)

Licensing Act Hearing Regulations 2005:

[The Licensing Act 2003 \(Hearings\) Regulations 2005 \(legislation.gov.uk\)](#)

Responsible Authorities under The Licensing Act 2003

[Premises licence | Arun District Council](#)

The Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) Regulations 2012

[The Licensing Act 2003 \(Premises licences and club premises certificates\) \(Amendment\) Regulations 2012 \(legislation.gov.uk\)](#)