

BROMSGROVE DISTRICT COUNCIL

Council
2024

9th October

Recommendations from the Constitution Review Working Group

Relevant Portfolio Holder	Councillor Karen May
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Assistant Director of Legal, Democratic and Property Services
Report Author	Job Title: Assistant Director of Legal, Democratic and Property Services Contact email: c.felton@bromsgroveandredditch.gov.uk
Wards Affected	N/A
Ward Councillor(s) consulted	N/A
Relevant Priorities	Sustainability
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

1. RECOMMENDATIONS

Council is asked to RESOLVE that:-

- 1) The changes to the terms of reference for the Licensing Committee, the Licensing Sub-Committee and the Licensing (Miscellaneous) Sub-Committee, as detailed Appendix 1, be approved;**
- 2) the Council Procedure Rules in respect of Members' Questions on Notice be amended to enable Councillors to ask up to one supplementary question, which must be based on the original question, or the answer provided to that question;**
- 3) the Chairman's allowance be increased to a multiplier of one of the Members' basic allowance, currently at £5,518; and**
- 4) the updated allowance for the Chairman to be backdated to apply from 1st April 2024.**

2. BACKGROUND

- 2.1 The report details the background to recommendations agreed at a meeting of the Constitution Review Working Group (CRWG) held on 31st July 2024.

2.2 Members are invited to consider whether to approve these recommendations.

3. OPERATIONAL ISSUES

Licensing Committee and Licensing Sub-Committees

3.1 At Bromsgrove District Council, there is a Licensing Committee and Licensing Sub-Committees which have distinct roles:

- The Licensing Committee (parent Committee) considers and determines policy matters in line with national statute. At present, all Members serving on the Committee, including substitutes, have to have received relevant training. Up to now there have been 11 Members on the Committee, which meets in public.
- The Licensing Sub-Committee considers issues relating to the Gambling Act 2005 and the Licensing Act 2003. There are very few licences considered in relation to the Gambling Act 2005. Licences for premises are considered under the Licensing Act 2003. Licensing Sub-Committee hearings held in these circumstances occur in public and the membership comprises three Councillors and one reserve Member from the membership of the parent Licensing Committee. Members have to be trained in order to serve on this sub-committee.
- The Licensing (Miscellaneous) Sub-Committees A and B consider a range of licensing matters including street trading and taxi licensing. These hearings are mainly held in private and the membership comprises of three members and one reserve member from the memberships of the Licensing Committee. The intention of the A and B arrangements is to ensure that the pool of Members used for meetings of this Licensing Sub-Committee are rotated and this was introduced at a time when there were far more hearings of the Licensing (Miscellaneous) Sub-Committee held at the Council. Members have to be trained in order to serve on this Sub-Committee.

3.2 Licensing Sub-Committee and Licensing (Miscellaneous) Sub-Committee hearings are quasi-judicial meetings where the rules of natural justice apply.

3.3 During the 2023/24 municipal year, difficulties were experienced in terms of organising hearings of the Licensing Sub-Committee and Licensing (Miscellaneous) Sub-Committee. In particular, there were challenges in terms of the availability of Members to participate in these hearings.

- 3.4 These challenges were reported on a regular basis at meetings of group leaders held during the 2023/24 municipal year. Unfortunately, this situation resulted in a small number of members of the Licensing Committee having to participate in Licensing Sub-Committee hearings.
- 3.5 There were concerns amongst members of the CRWG about the disproportionate impact that this had had on the workloads of those few Members who were participating in hearings. Officers had therefore been asked to investigate potential options available to address this problem moving forward and to present a report on this subject to the CRWG for consideration.
- 3.6 In considering this matter, the CRWG noted that whilst meetings of the Licensing Committee are held in the evening at Parkside, Licensing Sub-Committee and Licensing (Miscellaneous) Sub-Committee hearings are held during the day. This arrangement, which is standard practice at local authorities, is in place in recognition that applicants, and sometimes objectors, could arrange to have legal representation at the hearings and this would cost them more if the meetings were held outside standard working hours. In addition, by holding these hearings during the day and at times that do not coincide with school opening and closing times, the Council generally causes the applicants less disruption to their work; for example, taxi drivers tend to be busier at night and during school delivery times.
- 3.7 The CRWG was also asked to note that the number of meetings of the Licensing Sub-Committee and Licensing (Miscellaneous) Sub-Committee is relatively low. For example, the CRWG was informed that in the period May 2023 to April 2024, the following hearings had taken place:
- Licensing Sub-Committee – Premises Licence Hearings 3
 - Licensing Sub-Committee A – Street Trading Hearings 1
 - Licensing Sub-Committee A – Taxi Hearings 4
 - Licensing Sub-Committee B – Taxi Hearings 1
- 3.8 Where participation in these meetings is shared amongst members of the Licensing Committee equitably, this should limit the impact on the workloads of individual members of the Licensing Committee.
- 3.9 Licensing Committee and Licensing (Miscellaneous) Sub-Committee meetings are scheduled into the meetings calendar each year. This calendar is circulated for Members' consideration prior to the start of a municipal year. Licensing Sub-Committee meetings for premises hearings are scheduled on an ad hoc basis as and when required.

- 3.10 The CRWG was advised that there were some options available to the Council that could address challenges experienced in terms of organising Licensing Committee meetings and sub-committee hearings, which included the following:
- Increasing the number of Councillors appointed to the Licensing (parent) Committee, which would increase the pool of Members available to participate in Licensing Sub-Committee and Licensing (Miscellaneous) Sub-Committee hearings. Members were asked to note that this would have implications for the political balance at the Council. After the CRWG meeting, as requested by members of the group, the number of members on the Licensing Committee was considered as part of the political balance calculations. At the request of Group Leaders, the Chairman of the Licensing Committee was consulted on their preference of the maximum size of the Licensing Committee and based on the outcome of this discussion it is proposed that the number of members of the Committee be increased to thirteen.
 - Removing the requirement to have a reserve member booked to attend Licensing (Miscellaneous) Sub-Committee hearings. Rescheduling a Licensing (Miscellaneous) Sub-Committee hearing as a result of not having a reserve member present would cause limited disruption for taxi drivers beyond some inconvenience and they would be able to continue to operate whilst waiting for their meeting to be rescheduled. The CRWG agreed that this proposal should be taken forward.
 - Removing the need to have an A and B pool of Members for the Licensing (Miscellaneous) Sub-Committee hearings. Given the small number of hearings that took place during the year, it was suggested that this was no longer necessary. The CRWG agreed that this proposal should be taken forward.
 - Removing the requirement for members of the Licensing Committee, including substitutes, to be trained. It was suggested that this would help new Members in particular to start participating in meetings at an early stage in a municipal year even if they had not had a chance to participate in training. The group was asked to note that Members in this position would not be permitted to serve on Licensing-Sub-Committee hearings, however, it would help to ensure participation in Licensing Committee meetings and that these meetings could proceed with a quorum present. The CRWG agreed that this proposal should be taken forward.
- 3.11 Based on the information provided, the CRWG agreed to update the terms of reference for the Licensing Committee, Licensing Sub-Committee and Licensing (Miscellaneous) Sub-Committee in

accordance with the options they had endorsed. The updated terms of reference can be viewed at Appendix 1 to this report.

Supplementary Questions at Council

- 3.12 At a meeting of the CRWG held on 31st August 2023, Members agreed to launch a trial arrangement whereby Councillors who had submitted Questions on Notice for consideration at Council meetings could ask up to one supplementary question at the meeting. The supplementary question had to be based on the original question that was asked or the answer that had been provided to that question.
- 3.13 The first supplementary questions were permitted at the meeting of Council held on 25th October 2023. Supplementary questions have been trialled at meetings of Council held since this date, with some Members taking the opportunity to ask supplementary questions whilst other Councillors have chosen not to do so.
- 3.14 The CRWG reviewed the outcomes of this trial at the meeting of the group held on 31st July 2024. There was general consensus amongst Members that the trial had worked well and that it would be reasonable for this to become a permanent arrangement at Council meetings, subject to the continuing stipulation that supplementary questions should relate to the original question or to the answer provided to that question.
- 3.15 Therefore, the CRWG recommended that the Council Procedure Rules in the constitution should be permanently updated to enable up to one supplementary question to be asked by Members at Council meetings.

The Chairman's Allowance

- 3.16 The Council appoints a Chairman of the Council each year. The Chairman of the Council has a civic role at the authority, chairing meetings of full Council and taking part in civic engagements on behalf of the authority.
- 3.17 The Chairman of the Council is currently paid an allowance of £4,110 per year in their role as Chairman.
- 3.18 The allowance paid to the Chairman of the Council has not been increased since 2013. In that year, Members agreed to increase the Chairman's allowance from £3,990 to £4,110 per annum. In the same period, the basic allowance paid to all Members has increased from £4,326 per annum to the current basic allowance of £5,518 per annum.

- 3.19 Given the length of time that has passed since the Council last reviewed the allowance paid to the Chairman of the Council, group leaders suggested that a review of this allowance would be timely and the matter was therefore referred to the CRWG for consideration.
- 3.20 The CRWG concluded that an increase to the Chairman's allowance was due, given the time that had elapsed since the last review.
- 3.21 Members of the CRWG agreed that the Chairman's allowance should be set at a level that reflected the importance of the role. The CRWG also agreed that this allowance should be updated more regularly.
- 3.22 In this context, the proposal was made that the Chairman's allowance should be increased to a multiplier of one of the basic allowance, currently set at £5,518.
- 3.23 The timing of this change to the Chairman's allowance was also discussed by the CRWG. Members noted that other allowances paid to Members in the 2024/25 financial year had been increased as of 1st April 2024, the start of the financial year. To ensure consistency, the group concluded that the increase to the Chairman's allowance should also apply from this date and therefore the proposed change should be backdated to apply from 1st April 2024.

4. FINANCIAL IMPLICATIONS

- 4.1 The Council currently pays the Chairman of the Council an annual allowance of £4,110. This expense is covered within existing budgets allocated to Members' allowances.
- 4.2 In addition to the Chairman's allowance of £4,110, the Chairman is also eligible, like other Councillors, to claim for travel and subsistence expenses in line with approved duties, as detailed in the Scheme of Members' Allowances 2024/25.
- 4.3 It is envisaged that it should be possible to accommodate the proposed increase to the Chairman's allowance to £5,518, including backdated payments covering the period back to 1st April 2024, within existing budgets.
- 4.4 Any Member, including the Chairman of the Council, is entitled to forego receiving particular allowances should they wish to do so. In order to forego receiving a particular allowance or allowances, a Member should provide notice in writing to the Proper Officer that they wish not to receive a particular allowance or allowances.

5. LEGAL IMPLICATIONS

- 5.1 There is a legal requirement, detailed in the Licensing Act 2003, for the Licensing Sub-Committee to consider premises hearing within 20 days of receipt of a request for a hearing. These hearings cannot be scheduled in advance and Members of the Licensing Committee need to be available at short notice to participate in these meetings.
- 5.2 Officers had been asked to report to the CRWG about the potential for Members who have received relevant quasi-judicial training, but who are not members of the Licensing Committee, to participate as members on Licensing Sub-Committee hearings. This suggestion had been made as a possible option to increase the pool of Councillors who could participate in Licensing Sub-Committee hearings.
- 5.3 However, the legislation stipulates that applications considered at hearings under the Licensing Act 2003 may only be considered by trained Members of a Council's Licensing Committee.
- 5.4 The legislative requirements in respect of hearings held by the Licensing (Miscellaneous) Sub-Committee are set out in the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 (hackney carriages and private hire licenses) and the Local Government (Miscellaneous Provisions) Act 1982 (street trading and sex establishments). This legislation does not make specific reference to rules in respect of participation of substitutes, so is less prescriptive than the Licensing Act 2003 for Licensing Sub-Committee hearings. However, to ensure consistency, the CRWG was advised that only members of the Licensing Committee should take part in these hearings.
- 5.5 Whilst membership of the Licensing Committee forms part of the Council's political balance, there is no legal requirement for the membership of the Licensing Sub-Committee and Licensing (Miscellaneous) Sub-Committee hearings to be politically balanced. However, Officers contact all members of the Committee when arranging participation in hearings and try to ensure that there is cross-party representation on the hearings wherever possible.
- 5.6 There is no legal requirement to have a reserve member in attendance at Licensing Sub-Committee hearings. However, the CRWG agreed

that there should remain a requirement in the constitution for there to be a reserve member at these hearings in case a member should have to withdraw at short notice or during the course of a hearing. This would help to ensure that the hearing could proceed within the 20 days required for consideration of premises licences under the legislation.

- 5.7 There is no legal requirement to have a reserve member in attendance at Licensing (Miscellaneous) Sub-Committee hearings. However, Members of the CRWG felt that the opportunity should continue to be offered to Councillors to participate as reserve Members, even though this will no longer be a requirement, as this can be a useful learning opportunity for Councillors.
- 5.8 Sections 15 -17 of the Local Government and Housing Act 1989 place a duty on Councils to allocate the seats on certain committees in proportion to the size of the political groups on the Council. Appointments to Committees, including the Licensing Committee, are made by political groups in line with the authority's political balance.
- 5.9 There is no legal requirement for supplementary questions to be permitted at Council meetings. However, other Councils do have this arrangement in place including Malvern Hills District Council, Redditch Borough Council, Worcester City Council, Worcestershire County Council and Wyre Forest District Council.
- 5.10 Changes to the Council's constitution can only be made through agreement at a meeting of Council. Review and revision of the Constitution is governed by Article 15 in the articles of the Council.
- 5.11 The Local Authorities (Members' Allowances) (England) Regulations 2003 detail the rules in respect of payment of Members' allowances, including the role of Independent Remuneration Panels (IRPs) in reviewing allowances.
- 5.12 The Worcestershire IRP reviews allowances paid to District Councillors in Worcestershire (except for Wyre Forest District Councillors). The IRP reports their findings every year, usually at the start of the calendar year, and the Council has to give due regard to the IRP's findings. However, the allowance paid to the Chairman is not within the remit of the Worcestershire IRP to review.
- 5.13 Whilst the Chairman's allowance is not treated as a Special Responsibility Allowance under the terms of the work of the IRP, the payment of a Chairman's allowance is permitted in the Local Government Act 1972.

- 5.14 Any change to the Chairman's Allowance requires a decision to be taken by Council.

6. OTHER - IMPLICATIONS

Relevant Council Priority

- 6.1 The proposals detailed in this report are designed to ensure that Council Services remain efficient and sustainable moving forward.

Climate Change Implications

- 6.2 There are no specific climate change implications.

Equalities and Diversity Implications

- 6.3 At the meeting of the CRWG held in July 2024, Members raised concerns that if the Chairman's allowance was not increased in line with other allowances, this could deter some Members with work commitments, especially those on lower incomes, from potentially taking up the role of Chairman of the Council if the opportunity becomes available in the future.

7. RISK MANAGEMENT

- 7.1 There is a risk that if no changes are made to the terms of reference for the Licensing Committee and Licensing Sub-Committees, the Council will continue to struggle to convene meetings that are quorate and may be unable to meet the statutory deadline to hold Licensing Sub-Committee hearings to consider premises licences within 20 days.

- 7.2 Rescheduling Licensing Sub-Committee hearings to take place in the evening might be more convenient for Members. However, any applicants wanting to arrange legal representation for these hearings would then potentially be required to pay higher fees for this representation. Furthermore, hearings held during the evenings would cause disruption during one of the busiest periods for taxi drivers. There is therefore the risk that if hearings were to be held in the evenings this would cause reputational damage to the Council as well as severe disruption to individuals and local businesses. For these reasons, it is not proposed that members should move to holding Licensing Sub-Committee hearings during the evening.

8. APPENDICES and BACKGROUND PAPERS

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Appendix 1 – Proposed amendments to the Committee Terms of Reference for the Licensing Committee, Licensing Sub-Committee and Licensing (miscellaneous) Sub-Committee

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9. REPORT SIGN OFF

Department	Name and Job Title	Date
Portfolio Holder	Councillor Karen May, Leader of the Council.	
Lead Director / Head of Service	Claire Felton, Assistant Director of Legal, Democratic and Property Services	
Financial Services	Pete Carpenter, Deputy Chief Executive and Section 151 Officer	
Legal Services	Claire Felton, Assistant Director of Legal, Democratic and Property Services.	