

## **POLICY AND RESOURCES COMMITTEE – 12 JUNE 2023**

### **PART I – NOT DELEGATED**

#### **9. SUBSTITUTES ON LICENSING COMMITTEE (ADL&DS)**

##### **1 Summary**

1.1 At the Annual Council meeting on 23 May 2023 Members raised concern on a recommendation within the report on appointments to committee that substitute members are not allowed on the Licensing Committee or any sub-committee.

1.2 At the meeting Members voted agreement to this but then subsequently rescinded the decision under Rule 22(1a) and voted to allow substitute members on the licensing committee and sub-committee.

1.3 The report is being presented to the Committee to advise that under the Licensing Act 2003, ss.6(1), 7(1) and 9(1) substitutes are not lawfully permitted. There is recent case law that confirms substitutes are not permitted: R (Bridgerow Limited) v Cheshire West and Chester Borough Council and another (2014) and MuMu Enterprises (Weston) Limited v North Somerset District Council (2014).

##### **2 Details**

2.1 The decision of Council to permit substitutes on Licensing Committee was unlawful, contrary to provisions in the Licensing Act 2003 which stipulate that only full Members may sit on a Licensing Committee or its sub-committees. This report recommends to this committee that it recommends to full Council that it rescinds its decision made on 23 May 2023.

##### **3 Options and Reasons for Recommendations**

3.1 To rescind the decision of Council to permit substitutes on Licensing Committee as that decision was contrary to the law. There are no other options.

##### **4 Policy/Budget Reference and Implications**

4.1 The recommendations in this report are within the Council's agreed policy and budgets.

##### **5 Financial Implications**

5.1 None specific.

##### **6 Legal Implications**

6.1 Legal implications are contained in the body of this report.

##### **7 Equal Opportunities, Staffing, Environmental, Community Safety, Public Health, Customer Service Centre and Communications and website implications**

7.1 None specific.

##### **8 Risk and Health & Safety Implications**

- 8.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.
- 8.2 The subject of this report is covered by the Legal and Committee service plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this/these plan(s).

<b>Nature of Risk</b>	<b>Consequence</b>	<b>Suggested Control Measures</b>	<b>Response</b> <i>(tolerate, treat, terminate, transfer)</i>	<b>Risk Rating</b> <i>(combination of likelihood and impact)</i>
Failure to rescind the decision to permit substitutes on Licensing Committee	The Council will be acting unlawfully if it permits substitutes on Licensing Committee or any of its sub-committees.	Substitutes must not be permitted.	Terminate - by full Council rescinding its decision	1:1

- 8.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

<b>Very Likely</b> ----- <b>Likelihood</b> ----- <b>Remote</b>	<b>Low</b>	<b>High</b>	<b>Very High</b>	<b>Very High</b>
	4	8	12	16
	<b>Low</b>	<b>Medium</b>	<b>High</b>	<b>Very High</b>
	3	6	9	12
	<b>Low</b>	<b>Low</b>	<b>Medium</b>	<b>High</b>
	2	4	6	8
	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>
	1	2	3	4
	<b>Impact</b>			
	Low	----->		Unacceptable
	<b>Impact Score</b>	<b>Likelihood Score</b>		

4 (Catastrophic)	4 (Very Likely (≥80%))
3 (Critical)	3 (Likely (21-79%))
2 (Significant)	2 (Unlikely (6-20%))
1 (Marginal)	1 (Remote (≤5%))

8.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

**9 Recommendation**

9.1 That this Committee recommends to full Council to rescind the decision of full Council made on 23 May 2023 which permitted substitutes to sit on Licensing Committee.

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**Data Quality**

Data sources:

None

Data checked by:

N/A

Data rating: N/A

**Background Papers**

None

**APPENDICES / ATTACHMENTS**

None