

**HUNTINGDONSHIRE DISTRICT COUNCIL**

<b>Title/Subject Matter:</b>	Licensing Committee – Scheme of Delegation to Officers
<b>Meeting/Date:</b>	Licensing Committee – 19 <sup>th</sup> July 2016
<b>Executive Portfolio:</b>	Executive Councillor for Community Resilience – Cllr Steve Criswell
<b>Report by:</b>	Head of Community - Chris Stopford
<b>Ward(s) affected:</b>	All

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**Executive Summary:**

In February 2016, Council approved a new Constitution. Contained therein is the Responsibility for Functions (Part 3), and specifically those functions of the Licensing Committee, and the Licensing Sub- Committee (Table 2, Part 3).

Legal advice has recommended that the Licensing Committee formally resolve the scheme of delegation between the Licensing Committee and the Council's Officers.

**Recommendation(s):**

The Licensing Committee is

**RECOMMENDED to**

- i) approve the scheme of delegation from Licensing Committee to Officers
- ii) that the Head of Community be authorised to make minor editorial changes which by definition make no change to the powers of delegations,
- iii) that the Head of Community, in consultation with the Chair and Vice Chairman of the Licensing Committee, be authorised to make changes as a result of revocations, amendments, or enactment of relevant statutory provisions
- iv) that the Head of Community, and Head of Development (with regards to Licensing Act 2003, Section 13(4)(d)), be authorised to appoint such suitably qualified officers as deemed appropriate to exercise those duties delegated to them

## **1. PURPOSE OF THE REPORT**

- 1.1 The Council Constitution 2016 details the Responsibility for Functions, and specifically the responsibilities of the Licensing Committee (the Committee). Legal advice has recommended that the Committee formally resolve a scheme of delegation for Officers with regards to the Licensing Act 2003 and Gambling Act 2005.

## **2. WHY IS THIS REPORT NECESSARY/BACKGROUND**

- 2.1 The Council has approved a new Constitution, which includes the responsibility for functions under the Licensing Act 2003 and Gambling Act 2005.
- 2.2 Advice obtained from James Button, a legal 'expert' on licensing law has recommended that the Committee should formally resolve to approve a scheme of delegation between the Committee and the Council's Officers.
- 2.3 The scheme being recommended for approval, detailed below, allows for the efficient and effective execution of the Council's functions under the Licensing Act 2003 and Gambling Act 2005, such that decisions in defined instances can be made by Officers of the Council, rather than having to be determined by Licensing Committee, or Licensing Sub Committee.
- 2.4 The recommended scheme of delegation to the Officers, allows the Committee to effectively reverse the delegation and determine a matter under the Licensing Act 2003 and Gambling Act 2005 if the Committee considers it necessary.
- 2.5 The scheme of delegation does not affect the requirement on Council to approve the Licensing Act 2003 Statement of Licensing Policy, and Gambling Act 2005 Statement of Principles.

## POWERS DELEGATED BY OR ON THE RECOMMENDATION OF THE LICENSING COMMITTEE

(Reviewed 19<sup>th</sup> July 2016)

Source	The Power Delegated	Delegated to	Date of Original Delegation	Remarks
Licensing Act 2003	To make changes to the proceedings adopted for hearings of the Licensing Sub Committees	Head of Community	19.01.05	After consultation with the Chairman and Vice-Chairman of the Licensing Committee
Licensing Act 2003, Section 120	To determine applications for personal licences where there is no objection from the Police	Head of Community or, in his absence, the Licensing Manager	19.01.05	
Licensing Act 2003, Section 18	To determine an application for a premises licence where no relevant representations are received	Head of Community or, in his absence, the Licensing Manager	19.01.05	
Licensing Act 2003, Section 31	To determine an application for a provisional statement where no relevant representations are received	Head of Community or, in his absence, the Licensing Manager	19.01.05	
Licensing Act 2003, Section 35	To determine an application to vary a premises licence where no relevant representations are received	Head of Community or, in his absence, the Licensing Manager	19.01.05	
Licensing Act 2003, Section 39	To determine an application to vary a premises licence in relation to a premises supervisor where no relevant representations are received	Head of Community or, in his absence, the Licensing Manager	19.01.05	

Licensing Act 2003, Section 41	To determine a request to be removed as a designated premises supervisor	Head of Community or, in his absence, the Licensing Manager	23.10.12
Licensing Act 2003, Section 41A	To determine an application for a minor variation of a premises licence	Head of Community or, in his absence, the Licensing Manager	23.10.12
Licensing Act 2003, Section 41B	To decide whether to consult other responsible authorities on minor variation applications	Head of Community or, in his absence, the Licensing Manager	23.10.12
Licensing Act 2003, Section 41D	To determine an application to vary a premises licence at community premises to include alternative licence condition where there is no objection from the Police	Head of Community or, in his absence, the Licensing Manager	23.10.12
Licensing Act 2003, Section 41D	To determine an application to vary a premises licence at community premises to include alternative licence condition where there is no objection from the Police	Head of Community or, in his absence, the Licensing Manager	23.10.12
Licensing Act 2003, Section 44	To determine an application to transfer a premises licence where no relevant representations are received	Head of Community or, in his absence, the Licensing Manager	19.01.05
Licensing Act 2003, Section 47	To cancel an interim authority notice where no objections have been submitted	Head of Community or, in his absence, the Licensing Manager	23.10.12
Licensing Act 2003, Section 55A	To suspend a premises licence for non-payment of annual fee	Head of Community or, in his absence, the Licensing Manager	23.10.12
Licensing Act 2003, Section 72	To determine an application for a club premises certificate where no relevant representations are received	Head of Community or, in his absence, the Licensing Manager	19.01.05

Licensing Act 2003, Section 85	To determine an application to vary a club premises certificate where no relevant representations are received	Head of Community or, in his absence, the Licensing Manager	19.01.05	
Licensing Act 2003, Section 86A	To determine an application for a minor variation of a club premises certificate	Head of Community or, in his absence, the Licensing Manager	23.10.12	
Licensing Act 2003, Section 90	To withdraw a club premises certificate where a club ceases to be a qualifying club	Head of Community or, in his absence, the Licensing Manager	23.10.12	After consultation with the Chairman or Vice-Chairman of the Committee
Licensing Act 2003, Section 92A	To suspend a club premises certificate for non-payment of annual fee	Head of Community or, in his absence, the Licensing Manager	23.10.12	
Licensing Act 2003 Various	To determine that a hearing is unnecessary where representations are received	Head of Community or, in his absence, the Licensing Manager	19.01.05	After consultation with the Chairman or Vice-Chairman of the Committee
Licensing Act 2003 Various	To determine whether a representation is frivolous, vexatious etc.	Head of Community or, in his absence, the Licensing Manager	19.01.05	After consultation with the Chairman or Vice-Chairman of the Committee
Licensing Act 2003 Various	To instigate proceedings for the contravention of the provisions of the Act	Head of Community or, in his absence, the Licensing Manager	19.01.05	After consultation with the Chairman or Vice-Chairman of the Committee
Licensing Act 2003, Section 13(4)(Za)	To act on behalf of the Licensing Authority as a Responsible Authority and to decide whether to make representations when the Licensing Authority is the relevant Licensing Authority	Head of Community or, in his absence, the Licensing Manager	23.10.12	

Licensing Act 2003	To make representations under S13(4)(d) of the Act (on behalf of local planning authority)	Head of Development or, in his absence, the Planning Policy Manager (Development Management)	18.06.08	
Licensing Act 2003	To act on behalf of the environmental health authority under S13(4)(e) of the Act	Head of Community	18.06.08	
Licensing Act 2003	To determine a minor variation application to vary a club premises certificate (S86)	Head of Community or, in his absence, the Licensing Manager	16.09.09	
Licensing Act 2003	To determine a minor variation application to vary a premises licence (S41)	Head of Community or, in his absence, the Licensing Manager	16.09.09	
Licensing Act 2003	To determine an application for the mandatory alcohol condition requiring a designated premises supervisor in respect of a premises licence to be disapplied (S19)	Head of Community or, in his absence, the Licensing Manager	16.09.09	
Licensing Act 2003	To determine requests to amend the classifications of films by the BBFC and to classify films that have not been classified which are intended for public exhibition in the District.	Head of Community or, in his absence, the Licensing Manager.	20.10.15	After Consultation with the Chairman and Vice-Chairman of the Licensing Committee) or nominated representatives.
Gambling Act 2005, Section 157(a)	To act on behalf of the licensing authority	Head of Community or, in his absence, the Licensing Manager	18.06.08	
Gambling Act 2005, Section 157(g)	To act on behalf of the environmental health authority	Head of Community	18.06.08	
Gambling Act 2005, Section 163	To determine applications for Premises Licence where no relevant representations received	Head of Community or, in his absence, the Licensing Manager	13.06.07	
Gambling Act 2005, Section 162	To decide whether a representation is vexatious, frivolous, or would certainly not influence the authority's determination of an	Head of Community or, in his absence, the Licensing Manager	13.06.07	After consultation with Chairman or Vice-Chairman of the

	application				Licensing Committee
Gambling Act 2005, Section 187	To determine an application to vary a Premises Licence in respect of which no representations have been received	Head of Community or, in his absence, the Licensing Manager	13.06.07		
Gambling Act 2005, Section 188	To determine an application for transfer of a Premises Licence where no representations received	Head of Community or, in his absence, the Licensing Manager	13.06.07		
Gambling Act 2005, Section 193	To revoke a Premises Licence for failure to pay an annual fee	Head of Community or, in his absence, the Licensing Manager	13.06.07		
Gambling Act 2005, Section 194	To determine that a Premises Licence has lapsed	Head of Community or, in his absence, the Licensing Manager	13.06.07		
Gambling Act 2005, Section 195	To reinstate a lapsed Premises Licence where no representation has been received	Head of Community or, in his absence, the Licensing Manager	13.06.07		
Gambling Act 2005, Section 198	To reject an application for a review of a Premises Licence on various grounds	Head of Community or, in his absence, the Licensing Manager	13.06.07		After consultation with the Chairman or Vice-Chairman of the Licensing Committee
Gambling Act 2005, Section 200	To initiate review of Premises Licence	Head of Community or, in his absence, the Licensing Manager	13.06.07		
Gambling Act 2005, Section 201	To determine that representation about a review of a Premises Licence is frivolous, vexatious or will certainly not influence a review of a Premises Licence	Head of Community or, in his absence, the Licensing Manager	13.06.07		After consultation with the Chairman or Vice-Chairman of the Licensing Committee
Gambling Act 2005, Section 204	To determine application for provisional statement in respect of which no representations have been received	Head of Community or, in his absence, the Licensing Manager	13.06.07		
Gambling Act 2005, Section 205	To decide whether to disregard representations made in respect of an	Head of Community or, in his absence, the Licensing Manager	13.06.07		After consultation with the Chairman or Vice-

Gambling Act 2005, Section 218	application for a Premises Licence after issue of a provisional statement To issue counter notice to Temporary Use Notice where the number of permitted days are exceeded	Head of Community or, in his absence, the Licensing Manager	13.06.07	Chairman of the Licensing Committee
Gambling Act 2005, Section 221	To object to a Temporary Use Notice	Head of Community or, in his absence, the Licensing Manager	13.06.07	
Gambling Act 2005, Section 284	To make an Order to remove exemptions from specified premises where no representations have been received	Head of Community or, in his absence, the Licensing Manager	13.06.07	
Gambling Act 2005, Section 346	To institute criminal proceedings in respect of an offence under the provisions of the Act	Head of Community or, in his absence, the Licensing Manager	13.06.07	After consultation with the Chairman or Vice-Chairman of the Licensing Committee
Gambling Act 2005, Schedule 10, Paragraph 8	To determine an application for a Family Entertainment Centre Gaming Machine Permit	Head of Community or, in his absence, the Licensing Manager	13.06.07	Refusal to be exercised only after consultation with Chairman or Vice-Chairman of the Licensing Committee
Gambling Act 2005, Schedule 10, Paragraphs 14 and 15	To notify a lapse of a Family Entertainment Centre Gaming Permit	Head of Community or, in his absence, the Licensing Manager	13.06.07	After consultation with the Chairman or Vice-Chairman of the Licensing Committee
Gambling Act 2005, Schedule 11, Paragraph 44	To register a society for the small society lottery	Head of Community or, in his absence, the Licensing Manager	13.06.07	
Gambling Act 2005, Schedule 11, Paragraphs 47 and 48	To refuse an application for the registration of a society for the small society lottery	Head of Community or, in his absence, the Licensing Manager	13.06.07	After consultation with the Chairman or Vice-Chairman of the Licensing Committee



Gambling Act 2005, Schedule 11, Paragraph 50	To revoke the registration of a society for the small society lottery	Head of Community or, in his absence, the Licensing Manager	13.06.07	After consultation with the Chairman or Vice-Chairman of the Licensing Committee
Gambling Act 2005, Schedule 11, Paragraph 54	To cancel the registration of a society for a small society lottery for non-payment of annual fee	Head of Community or, in his absence, the Licensing Manager	13.06.07	
Gambling Act 2005, Schedule 12, Paragraphs 5, 10 and 24	To determine an application for a Club Gaming Permit and Club Machine Permit and for renewal of a permit where no representations have been received	Head of Community or, in his absence, the Licensing Manager	13.06.07	
Gambling Act 2005, Schedule 12, Paragraph 15	To determine an application for the variation of a Club Gaming Permit and Club Machine Permit where no representations received	Head of Community or, in his absence, the Licensing Manager	13.06.07	
Gambling Act 2005, Schedule 12, Paragraph 21	To cancel a Club Gaming Permit and Club Machine Permit where no representations have been received	Head of Community or, in his absence, the Licensing Manager	13.06.07	
Gambling Act 2005, Schedule 12, Paragraph 22	To cancel a Club Gaming Permit and Club Machine Permit for failure to pay an annual fee	Head of Community or, in his absence, the Licensing Manager	13.06.07	
Gambling Act 2005, Schedule 13, Paragraphs 4, 15 and 19	To determine an application for grant, variation or transfer of a Licensed Premises Gaming Machine Permit	Head of Community or, in his absence, the Licensing Manager	13.06.07	Refusal and limitation on number of machines only after consultation with Chairman or Vice-Chairman of the Licensing Committee
Gambling Act 2005, Schedule 13, Paragraph 17	To cancel Licensing Premises Gaming Machine Permit and variation of number or category of machine where no	Head of Community or, in his absence, the Licensing Manager	13.06.07	

representations have been received

Gambling Act 2005, Schedule 13, Paragraph 17	To cancel Licensed Premises Gaming Machine Permit for failure to pay annual fee	Head of Community or, in his absence, the Licensing Manager	13.06.07	
Gambling Act 2005, Schedule 14, Paragraphs 9 and 18	To determine applications for a Prize Gaming Permit and applications for the renewal of Permits	Head of Community or, in his absence, the Licensing Manager	13.06.07	Refusal only after consultation with Chairman or Vice-Chairman of Licensing Committee
Gambling Act 2005, Schedule 14, Paragraph 15	To determine that Prize Gaming Permit has lapsed	Head of Community or, in his absence, the Licensing Manager	13.06.07	
Scrap Metal Dealers Act 2013	To appoint suitably qualified and competent persons to act as 'authorised persons' to determine and issue licences and enforce the provisions of the Act	Head of Community or, in his absence, the Licensing Manager	13.11.13	
	To determine the licensing fees and to review them annually and as appropriate	Head of Community or, in his absence, the Licensing Manager		
	To initiate prosecutions under the Act	Head of Community or, in his absence, the Licensing Manager		

### **3. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND / OR CORPORATE OBJECTIVES**

- 3.1 The Councils Corporate Plan provides a priority of 'becoming a more efficient and effective Council'. This scheme of delegation between the full and the Sub Committee supports this priority, and its action of 'improve processes to reduce the time taken from receipt to decision of licensing matters'.

### **4. LEGAL IMPLICATIONS**

- 4.1 Without a formalised scheme of delegation for Licensing Act 2003 and Gambling Act 2005 functions, the Council may be exposed to legal challenge in the decisions that it makes regarding these functions. This report reduces the risk of being challenged by way of 'demonstration of an approved scheme of delegation'.

### **5. RESOURCE IMPLICATIONS**

- 5.1 There are no resource implications to this report. The report formalises a scheme of delegation between the Committee and Officers. It could be considered that this actually reduces the cost of the Licensing Service as decisions can be made by Officers rather than having to be determined by the full Committee.

### **6. REASONS FOR THE RECOMMENDED DECISIONS**

- 6.1 The recommendation implements the legal advice that has been obtained as part of the Council's Constitution review

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