

HUNTINGDONSHIRE DISTRICT COUNCIL

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

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 Licensing Sub-Committee, as contained within Table 2, Part 3 of the Council Constitution.

Recommendation(s):

The Licensing Committee is

RECOMMENDED

- i) approve the scheme of delegation from Licensing Committee to the Licensing Sub Committee.
- 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

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) and the Licensing Sub-Committee (the Sub Committee). Legal advice has recommended that the Committee formally resolve this delegation of Licensing Act 2003 and Gambling Act 2005 functions from the Committee to the Sub-Committee

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 Sub Committee.
- 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 which fall outside of the scheme of delegation to Officers, can be determined by the Sub Committee of three Members, as opposed to having to convene a meeting of the full Committee.
- 2.4 The recommended scheme of delegation to the Sub Committee, 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.

Extract from Huntingdonshire District Council Constitution 2016
Part 3, Table 2 Responsibility for Council Functions

Committee/Panel and Membership	Functions	Delegation of Functions
<p>Licensing Committee (established in accordance with section 6 Licensing Act 2003) 12 members of the Council including at least 1 member of the Cabinet (who shall be the same as the membership of the Licensing and Protection Committee).</p>	<p>Functions of the Council as a Licensing Authority under the Licensing Act 2003 and the Gambling Act 2005 (with the exception of those functions which are reserved to Council), and miscellaneous matters as set out in the Functions Regulations.</p> <p>Determining the amount of any charge to be made for any approval, consent, licence, permit or registration within the terms of reference of the Committee.</p> <p>In relation to the functions set out above, determining whether and in what manner to enforce any failure to comply with any approval, licence, permission or registration granted by the Committee (or an officer acting under delegated powers) or any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject.</p>	<p>See Scheme of Delegation to Officers</p>
<p>Licensing Sub-Committee The sub committee shall consist of 3 members - drawn from the Licensing Committee</p>	<p>The Licensing Committee has delegated the following functions under the Licensing Act 2003 (LA03) and the Gambling Act 2005 (GA05) to a Sub-Committee established in accordance with s10 of the Licensing Act 2003, but reserves the right to determine any such matter should the Committee so resolve.-</p> <p>Licensing Act 2003</p> <p>To determine an application for a premises licence where relevant representations are received (LA03 S18)</p> <p>To determine an application for a provisional statement where relevant representations are received (LA03 S31)</p> <p>To determine an application to vary a premises licence where relevant representations are received (LA03 S35)</p> <p>To determine an application to vary a premises licence in relation to a premises supervisor where</p>	<p>See scheme of delegation to Officers</p>

Committee/Panel and Membership	Functions	Delegation of Functions
	<p>relevant representations are received (LA03 S39)</p> <p>To determine an application to transfer a premises licence where relevant representations are received (LA03 S44)</p> <p>To cancel an interim authority notice where an objection is submitted by the Police (LA03 S48)</p> <p>To determine an application for the review of a premises licence (LA03 S52)</p> <p>To determine an application for a summary review of a premises licence (LA03 S53A)</p> <p>To consider representations relating to interim steps on a summary review of a premises licence (LA03 S53B)</p> <p>To determine a review of premises licence following summary review (LA03 S53C)</p> <p>To determine an application for a club premises certificate where relevant representations are received (LA03 S72)</p> <p>To determine an application to vary a club premises certificate where relevant representations are received (LA03 S85)</p> <p>To determine an application for the review of a club premises certificate (LA03 S88)</p> <p>To issue a counter notice to a temporary events notice where an objection notice is submitted by the Police (LA03 S105)</p> <p>To determine an application for a personal licence with unspent convictions (LA03 S120)</p> <p>To revoke a personal licence (LA03 S124)</p>	

Committee/Panel and Membership	Functions	Delegation of Functions
	<p>To determine an objection notice from the Police in response to convictions after the grant of a personal licence (LA03 S124)</p> <p>To determine a review of a premises licence following a closure order (LA03 S167)</p> <p>Gambling Act 2005</p> <p>To determine applications for Premises Licences in respect of which representations have been made (and not withdrawn) (GA05 S163)</p> <p>To attach a condition to a Premises Licence or exclude a default condition (GA05 S169)</p> <p>To determine an application to vary a Premises Licence in respect of which representations have been made (and not withdrawn) (GA05 S187)</p> <p>To determine an application for a transfer of a Premises Licence in respect of which representations have been made (and not withdrawn) (GA05 S188)</p> <p>To reinstate a lapsed Premises Licence in respect of which representations have been made (and not withdrawn) (GA05 S195)</p> <p>To review a Premises Licence and determine action following review (GA05 S201 and 202)</p> <p>To determine application for provisional statement in respect of Premises Licence where representations have been made (and not withdrawn) (GA05 S204)</p> <p>Determination of a Temporary Use Notice where there are objections (GA05 S222)</p> <p>To issue a counter notice in response to Temporary Use Notice (GA05 S224)</p>	

Committee/Panel and Membership	Functions	Delegation of Functions
	<p>To make an Order to remove exemptions from specified premises (GA05 S284)</p> <p>To determine an application for a Club Gaming Permit and a Club Machine Permit and for renewal of a permit in respect of which representations have been made (and not withdrawn) (GA05 Schedule 12 – Para 5, 10 and 24)</p> <p>To determine an application for the variation of a Club Gaming Permit and Club Machine Permit where representations have been made (and not withdrawn) (GA05 Schedule 12 – Para 15)</p> <p>To cancel a Club Gaming Permit and Club Machine Permit in respect of which representations have been made (and not withdrawn) (GA05 Schedule 12 – Para 21)</p> <p>To cancel Licensed Premises Gaming Machine Permit or variation of number or category of machines in respect of which representations received (and not withdrawn) (GA05 Schedule 12-para 16)</p>	

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 Sub Committee. It could be considered that this actually reduces the cost of the Licensing Service as decisions can be made by the Sub-Committee of three members, 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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