

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter:	Licensing & Protection Committee – Scheme of Delegation to Licensing & Protection Sub-Committee
Meeting/Date:	Licensing & Protection 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 & Protection Committee, and the Licensing and Protection Sub- Committee (Table 2, Part 3).

Legal advice has recommended that the Licensing & Protection Committee formally resolve the scheme of delegation between the Licensing & Protection Committee and the Licensing & Protection Sub-Committee, as contained within Table 2, Part 3 of the Council Constitution.

Recommendation(s):

The Licensing & Protection Committee is

RECOMMENDED

- i) approve the scheme of delegation from Licensing & Protection Committee to the Licensing and Protection 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 & Protection 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 & Protection Committee (the Committee) and the Licensing & Protection Sub-Committee (the Sub Committee). Legal advice has recommended that the Licensing & Protection Committee formally resolve this delegation of licensing and registration 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 relating to a range of licensing and registration functions. This in the main relates to hackney carriage and private hire matters, but includes other licensing and registration matters as detailed in the table below. The functions do not include those under the Licensing Act 2003 or 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 licensing and registration matters, 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 if the Committee considers it necessary.

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 and Protection Committee</p> <p>12 members of the Council including at least 1 member of the Cabinet</p>	<p>All functions that are the responsibility of the district council relating to licensing and registration as detailed in Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 detailed below but without limiting this general delegation:</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to licences regarding Hackney Carriage and private hire vehicles, drivers and operators under the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 so far as these powers are not the responsibility of the Cabinet.</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to licences authorising the use of land as a caravan site ("site licences") under the Caravan Sites and Control of Development Act 1960</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to licences for the use of moveable dwellings and camping sites under s269 Public Health Act 1936</p> <p>All powers and functions relating to late night levy requirements under Police Reform and Social Responsibility Act 2011, Chapter 2 of Part 2 and all relevant regulations.</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to sex establishment licences under Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3</p>	<p>Delegations to Officers as set out in the scheme of delegation to Officers</p>

	<p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to licences for performances of hypnotism under the Hypnotism Act 1952.</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to licences for acupuncture, tattooing, skin-piercing and electrolysis under ss13-17 Local Government (Miscellaneous Provisions) Act 1982.</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to licences for pleasure boats and pleasure vessels under s94 Public Health Acts Amendment Act 1907</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to street trading under Local Government (Miscellaneous Provisions) Act 1982 Part III and Schedule 4.</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to food premises licences under s19 Food Safety Act 1990 and all relevant regulations.</p> <p>All powers in relation to the issue, amendment or replacement of safety certificates (whether general or special) for sports grounds under The Safety of Sports Grounds Act 1975.</p> <p>All powers in relation to the issue, amendment or replacement of safety certificates for regulated stands at sports grounds under Fire Safety and Safety of Places of Sport Act 1987 Part III.</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to dog breeding licences under the Breeding of Dogs Act 1973 and the Breeding and Sale of Dogs (Welfare) Act 1999.</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to the licensing of pet shops and other establishments where animals are bred</p>	
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or kept for the purposes of carrying on a business under the Pet Animals Act 1951, the Animal Boarding Establishments Act 1963, the Riding Establishments Acts 1964 and 1970, the Breeding of Dogs Act 1973 and the Breeding and Sale of Dogs (Welfare) Act 1999.

The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to the registration of animal trainers and exhibitors under the Performing Animals (Regulation) Act 1925.

The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to the licensing of zoos under the Zoo Licensing Act 1981.

The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to the licensing of the keeping of dangerous wild animals under the Dangerous Wild Animals Act 1976.

The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to the licensing of persons to collect for charitable and other causes in the street or house to house under Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939.

Taxi, food and miscellaneous licensing, street trading, environmental health, anti-social behaviour, and community safety

Functions relating to Health and Safety under any "relevant statutory provisions" within the meaning of Part I of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.

The approval of the Food Safety service plan

Determining the amount of any charge to be made for any approval, consent, licence, permit or registration, or other activity for which the Council has the ability to levy a legal charge within the terms of reference of the Committee.

<p>Licensing and Protection Sub-Committee</p> <p>The sub committee shall consist of 4 members, drawn from the Licensing and Protection Committee</p>	<p>The Licensing and Protection Committee has delegated the following functions to a Sub-Committee but reserves the right to itself to determine any such matter should the Committee so resolve.</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to licences regarding Hackney Carriage and private hire vehicles, drivers and operators under the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 so far as these powers are not the responsibility of the Cabinet.</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to licences authorising the use of land as a caravan site ("site licences") under the Caravan Sites and Control of Development Act 1960</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to licences for the use of moveable dwellings and camping sites under s269 Public Health Act 1936</p> <p>All powers and functions relating to late night levy requirements under Police Reform and Social Responsibility Act 2011, Chapter 2 of Part 2 and all relevant regulations.</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to sex establishment licences under Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to licences for performances of hypnotism under the Hypnotism Act 1952.</p> <p>The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to licences for acupuncture, tattooing, skin-piercing and electrolysis under ss13-17 Local Government (Miscellaneous Provisions) Act 1982.</p>	<p>Delegations to Officers as set out in the scheme of delegation to Officers</p>
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The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to street trading under Local Government (Miscellaneous Provisions) Act 1982 Part III and Schedule 4.

The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to food premises licences under s19 Food Safety Act 1990 and all relevant regulations.

All powers in relation to the issue, amendment or replacement of safety certificates (whether general or special) for sports grounds under The Safety of Sports Grounds Act 1975.

All powers in relation to the issue, amendment or replacement of safety certificates for regulated stands at sports grounds under Fire Safety and Safety of Places of Sport Act 1987 Part III.

The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to dog breeding licences under the Breeding of Dogs Act 1973 and the Breeding and Sale of Dogs (Welfare) Act 1999.

The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to the licensing of pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business under the Pet Animals Act 1951, the Animal Boarding Establishments Act 1963, the Riding Establishments Acts 1964 and 1970, the Breeding of Dogs Act 1973 and the Breeding and Sale of Dogs (Welfare) Act 1999.

The determination of applications, renewals, suspensions, revocations and all other relevant powers in relation to the registration of animal trainers and exhibitors under the Performing Animals (Regulation) Act 1925.

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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 Committee 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 and registration 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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