

LICENSING ACT 2003 SCHEME OF DELEGATION

**CHANGES TO THE LICENSING ACT 2003 IN RESPECT OF THE LICENSING
AUTHORITY BECOMING A RESPONSIBLE AUTHORITY**

Purpose of Report

1. To invite Members to approve an addition to the scheme of delegation in relation to the Licensing Act 2003.

Background Information

2. The current scheme of delegation was last approved by members of the Licensing Act 2003 Committee on 24 November 2009 in accordance with the Department of Culture, Media and Sport recommended Guidance.
3. The Licensing Act 2003 is to be amended by the Police Reform and Social Responsibility Act 2011 to give the status of Responsible Authority to the Licensing Authority, thus enabling the Licensing Authority itself to make representations on new applications made in accordance with Section 17 of the 2003 Act; to make representations on variations to licences made in accordance with Section 34 of the 2003 Act and also to call a review of an existing licence in accordance with 51 of the 2003 Act. At the time of preparing this report an inception date for this responsibility had not been published but the delegation needs to be considered by Members in advance of any duly announced date to enable the Licensing Authority to function in its new role as soon as the change is introduced.
4. The Licensing Authority has always been a Responsible Authority in respect of the Gambling Act 2005 and that function is delegated to the Head of Regulatory Services. It is proposed that the function for the 2003 Act should also be so delegated. A full scheme of delegation including the proposed amendment is appended at **Appendix 1A** for the attention of Members.

Legal Implications

15. It is a requirement of the legislation that the Licensing Act Committee formally delegates any of its functions. The Committee minute will provide the evidence that such delegation was approved.

Section 17 of the Crime and Disorder Act 1998

16. It is not considered that the contents of this report have any effect in relation to the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Recommendation

17. Members are requested to approve the delegation of the additional function as detailed within this report.

Background papers

The Licensing Act 2003

The Supplementary Guidance to the Licensing Act 2003, October 2010

The Police Reform & Social Responsibility Act 2011

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APPENDIX 1
Proposed Amended Scheme of Delegation for Licensing Act Functions
27 MARCH 2012

Matter to be dealt with	Full Licensing Committee	Licensing Sub-committee	Officers
Application for Personal Licence		If a Police objection	If no relevant representation made
Application for Personal Licence with unspent convictions		If relevant representation made.	If no relevant representation made.
Application for Premises Licence / Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary Premises Licence / Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for Transfer of Premises Licence		If a Police objection	All other cases
Application for Interim Authorities		If a Police objection	All other cases
Application to review Premises Licence / Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc		If referred by an Officer	All other cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police objection to a Temporary Event Notice		All cases	
Identification of points for clarification in contested hearings			All cases
Decision as to whether or not a club is established in good faith			All cases

Matter to be dealt with	Full Licensing Committee	Licensing Sub-committee	Officers
Decision as to whether a club no longer satisfies the conditions to be a qualifying club			All cases
Acknowledgement of receipt of Temporary event Notices			All cases
Service of Counter Notice			All cases
Rejection of Personal licence application – person under 18 years of age.			All cases
Referral of Personal Licence application to Police – convictions for relevant offences			All cases
Referral of Personal Licence holder to Police – convictions during duration of licence			All cases
Notice requiring Personal Licence holder to produce licence for updating			All cases
Institution of proceedings			Licensing Manager
Determination of Minor Variations			Licensing Manager
Making a Representation on behalf of the Licensing Authority			Head of Regulatory Services
Initiating a Review on behalf of the Licensing Authority			Head of Regulatory Services