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**PROPOSED CHANGES TO LICENSING COMMITTEE  
AND THE SCHEME OF DELEGATION**

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**Responsible Cabinet Member(s) – Councillor Stephen Harker,  
Consumer and Environmental Services Portfolio**

**Responsible Director(s) - John Buxton, Director of Development and Environment**

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**Purpose of Report**

1. To consider:
  - (a) the establishment of a Licensing Act 2003 Committee;
  - (b) an amendment to the current Licensing Committee;
  - (c) increasing the number of Members on the Licensing Committee: and
  - (d) a change to the current scheme of delegation relating to the Licensing Committee.

**Background**

2. Members are aware that the Council's Licensing Committee has delegated powers to determine a range of licensing applications. In addition the Licensing Committee has delegated powers to deal with specific matters relating to current licences. Other, non-contentious matters are delegated to the Director of Development and Environment.
3. The Licensing Act 2003 has specified that a Licensing Committee be established to deal with matters arising from the new legislation. Once established, this Committee has plenary powers. The 2003 Act also states, in its guidance, that this Committee should delegate all non-contentious matters to Licensing Officers and all contested applications should be delegated to Sub Committees of three Members drawn from a Licensing Committee of between 10 and 15 Members.
4. The Licensing Committee referred to in the Licensing Act 2003 is specifically formed to deal only with applications under the new legislation. Other licensing matters, such as taxi licensing and the current licensing of public entertainment, do not come within the remit of the 2003 Act.

**Licensing Committee - Proposals**

5. It is proposed that Darlington Borough Council's Licensing Committee will take on a dual role. Under the title, "General Licensing Committee" it will sit, as a Full Committee, to deal with licensing matters outside of the remit of the 2003 Act. Under the title "Licensing Act 2003 Committee" it will sit as a Full Committee within the remit of the 2003 Act to receive reports for information as determined by the new legislation. Each Committee will have a separate schedule and agenda and will be minuted as two discrete entities. Given that, after the delegation to Sub Committees and Officers, the function of the Licensing Act 2003

Committee is only to receive reports it is envisaged that this Committee will sit on a quarterly basis. It will therefore be programmed to meet immediately before a meeting of the General Licensing Committee.

### **Membership of Licensing Committee**

6. The current Licensing Committee (which is politically balanced) has a membership of 11 Members.
7. Once the Licensing Act 2003 Committee has been established it will be invited to approve the relevant delegations and then its Members will sit as Sub Committees of three Members (to be known as Licensing Panels) to deal with contested applications made under the 2003 Act.
8. In view of the number of Panels which will have to be arranged from the membership of the Licensing Committee it is suggested that consideration be given to increasing the number of Members who serve on the Licensing Committee.
9. As stated in paragraph 3 above, the Licensing Act states that Committees should comprise of between 10 and 15 members and it is therefore suggested that the membership of Licensing Committee increase to 13 Members (eight Labour, four Conservative and one Liberal Democrat) to allow a greater number of Members to be available to serve on the Licensing Panels. This will provide greater flexibility for the establishment of licensing panels, it will provide sufficient membership to ensure that panels are quorate particularly when other members have declared a personal and/or prejudicial interest and will spread the workload more evenly between Members of the Licensing Committee.

### **Reporting Arrangements**

10. In addition, although not a matter for the scheme of delegation, it is proposed that reports for information, particularly in relation to vehicle testing, are no longer taken routinely to Members but that any Operator with a history of poor vehicle test results be referred to the Licensing Committee at renewal to consider his/her suitability to continue to hold an Operator Licence.

### **Officers Scheme of Delegation**

11. The new legislation will increase the number of applications dealt with by the Licensing Section considerably. It is anticipated that the current workload of 90 licences for Public Entertainment will increase to approximately 450 Premises Licences. In addition it is anticipated that there will be approximately 800 applications for Personal Licences. This is in addition to the current taxi licences of 586 and additional 304 licences /permits for a range of other licensing activities. Between 7 February 2005 and the 2nd Appointed Day (currently expected to be 7 November 2005) the Licensing Section will be responsible for a dual system ie dealing with applications for PELs, Cinemas, Theatres and Late Night Refreshment licences whilst at the same time accepting and processing applications under the new legislation. The workload will therefore increase considerably and this has led to the recruitment of additional staff. To compound the anticipated problems of operating a dual system, the new legislation places strict time limits on the processing of applications with

either deemed grant or refusal of application if the time constraints are not met.

12. It is anticipated that there will need to be additional meetings programmed into the Municipal Diary to ensure that the statutory timescales are met. This will place an increasing burden on Members. A study on the amount of work referred to the current Licensing Committee has indicated that many non-contentious matters are currently being referred to the Committee. As the new legislation directs this type of work away from Committees to be dealt with by Officers, Members are invited to consider an amendment to the current scheme of delegation as follows:

(a) **Proposal A:**

Applications for variations to Public Entertainment Licences without objections and renewals of other general licensing applications without objections, , which are currently referred to Members to be dealt with by Officers.

**Reason:** This mirrors the requirements of the new legislation.

(b) **Proposal B:**

Applications for House to House and Street Collections which are currently referred to Members to be dealt with by Officers following consultation with the Chair of Licensing Committee.

**Reason:** This will free up Officer time and remove an undue burden from Members.

(c) **Proposal C:**

Taxi drivers with more than three points on DVLA licences which are currently referred to Members to be dealt with by Officers until they reach nine or more penalty points. At this stage they will be referred to Members.

**Reason:** This will free up Member and Officer time given that it is normal for a warning to be issued at the six points stage. Members will be invited to consider requiring the Driver Improvement Scheme to be undertaken once nine points are reached. This will address poor driving and promote the protection of the Public.

### **Outcome of Consultation**

13. Consultations on the proposals have been discussed with the Chair of Licensing and the Portfolio Member who are in agreement with these proposals.

### **Legal Implications**

14. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

### **Section 17 of the Crime and Disorder Act 1998**

15. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, 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. It is not considered that the contents of this report have any such effect.

### **Council Policy Framework**

16. The issues contained within this report are required to be considered by Council.

### **Conclusion**

17. The Licensing Act 2003 requires the Council to establish a Licensing Committee and this must to be formally undertaken. Members are therefore invited to approve the establishment of The Licensing Act 2003 Committee, made up of the same 11 Members of the current Licensing Committee and an additional 2 Members.. Members are also invited to amend the name of the current Licensing Committee to The General Licensing Committee to make a clear differentiation between the two Committees.

18. The new legislation has placed an increasing burden on the Council. There is likely to be a ten-fold increase for Officers in general licensing work relating to entertainment and alcohol licences. If the Department of Culture, Media and Sport (DCMS) figures of 60% variation applications are correct this would mean a potential 270 contested applications within the six month period from 7 February to 6 August 2005. If, realistically, only 25% of these variations were actually contested this would still mean that 67 hearings would have to be arranged during the period of mid March to the end of October 2005 (i.e. two Licensing Panels per week). These would be in addition to the normal monthly Licensing Committee meetings. Legislative timescales must also be met within this framework.

19. Given such a work pressure any way in which the workload can be reduced both for Members and Officers, needs to be addressed. Members are therefore invited to approve the proposed changes to the current membership of the Licensing Committee and the scheme of delegation to facilitate such reduction.

### **Recommendation**

20. It is recommended:

- (a) That the establishment of a Licensing Committee with a dual role, as detailed in paragraph 5 be approved.
- (b) That the membership of the Licensing Committee be increased to 13 Members (eight Labour Members, four Conservative Members and one Liberal Democrat Member).
- (c) That the amendments to the Officer Scheme of Delegation as detailed in paragraph 11 of the report be approved.
- (d) That the proposed changes to the reporting arrangements to Licensing Committee as detailed in paragraph 10 be approved.

### **Reason**

21. The recommendations are supported to ensure that the Council can fulfil its obligation in relation to Licensing matters.

**John Buxton**  
**Director of Development and Environment**

**Background Papers**

Licensing Act 2003 – Guidance and Regulations

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