

	<p><b>Licensing Committee</b> <b>6<sup>th</sup> July 2017</b></p>
<p><b>Title</b></p>	<p>Delegation of Functions</p>
<p><b>Report of</b></p>	<p>Commissioning Director for Environment</p>
<p><b>Wards</b></p>	<p>All</p>
<p><b>Status</b></p>	<p>Public</p>
<p><b>Urgent</b></p>	<p>No</p>
<p><b>Key</b></p>	<p>No</p>
<p><b>Enclosures</b></p>	<p><b>Appendix 1 – Decision of 11 July 2012</b> <b>Appendix 2 – Table of Delegated Functions</b></p>
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### Summary

To seek to change/clarify the delegation to officers for decisions in respect of acting on the Council’s behalf as a responsible authority under the Licensing Act 2003, as amended by the Police Reform and Social Responsibility Act 2011

### Recommendations

That the committee delegate authority to all Officers to act on the Council’s behalf as a responsible authority under the Licensing Act 2003 (as amended).

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 The Police Reform and Social Responsibility Act 2011 gives licensing authorities greater powers and flexibility by amending the Licensing Act 2003 to make them responsible authorities in their own right.
- 1.2 As a responsible authority the Council, can submit representations and also seek a review of an existing licence without having to wait for the police or another responsible authority to make representations or commence a review.
- 1.3 At the Licensing Committee meeting on 11 July 2012 the power to act as the responsible authority was delegated to the Senior Licensing Officer. Please see the decision at Appendix 1. As at that time all applications were allocated by the Senior Licensing Officer. The Senior Licensing Officer would, upon receipt and prior to commencing work on an application, assess whether they needed to utilise their responsible authority function or not. If they believed they would need to use this function they would pass the unallocated application to the Trading Standards and Licensing Manager to allocate the application to another officer within the department. The Trading Standards and Licensing Manager would then act as line manager to this officer in respect of this application for the duration of the application process, thereby maintaining a clear separation of responsibility and avoiding a conflict of interest.
- 1.4 The scheme of delegation can be found in Appendix 2 The decision made on 11 July 2012 states 'Senior Licensing Officer' so the scheme of delegation is confusing as it does not accurately reflect this decision. Instead, it suggests all officers can act as the responsible authority, rather than the Senior Licensing Officer.
- 1.5 The role of Senior Licensing Officer no longer exists. This role now falls within the remit of Community Protection Regulation Team Leader.
- 1.6 Having only one officer delegated for this function is inefficient and should the current postholder leave before a replacement be recruited it would leave the licensing department with no ability to respond appropriately to applications as a responsible authority.
- 1.7 It is therefore appropriate to delegate the function of acting in the capacity of responsible authority to all officers within the Community Protection Regulation Team.
- 1.8 By delegating this function to all officers it would allow greater flexibility, efficiency and resilience. It will also make managing the separation of the responsibility authority function and the licensing authority functions much easier.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 Failure to review and adopt the delegations would mean that these roles would have to be undertaken by the committee rather than the licensing department which would mean the Council, as the licensing authority, would not be able to perform this function as they would be unable to comment on the applications received.

Failure to adopt the responsible authority delegation correctly could lead to a conflict of interest between the decision maker and the responsible authority allowing for potential legal challenge.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 Keep the current delegation which is incorrectly reflected in the delegation and is not efficient.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 If the suggested new delegation is approved these will come into effect immediately

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

- 5.1.1 The approach taken by the Licensing Authority in relation to applications fully support objectives contained within the corporate plan. In particular it promotes “getting the basics right and delivering quality services”

### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1 There are no specific financial implications. There are no adverse costs associated with adoption of the scheme of delegation.

### **5.3 Social Value**

- 5.3.1 Not relevant to this report

### **5.4 Legal and Constitutional References**

5.4.1 The Licensing Act 2003 placed the responsibility for making local licensing policies and considering applications for licenses on local authorities acting as licensing authorities.

5.4.2 The Council's constitution delegates to the Licensing Committee all functions under the Licensing Act 2003 and the Gambling Act 2005 and associated Regulations, not otherwise delegated to the Licensing Sub-Committee.

## **5.5 Risk Management**

5.5.1 Failure to adopt correctly the responsible authority delegation could lead to a conflict of interest between the decision maker and the responsible authority allowing for potential legal challenge.

## **5.6 Equalities and Diversity**

5.6.1 The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.

5.6.2 When considering applications, only issues provided for in the relevant legislation, in addition to the authority's policy will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

## **5.7 Consultation and Engagement**

5.7.1 There is no consultation required in relation to this decision.

## **5.8 Insight**

5.8.1 Not relevant to this report

# **6 BACKGROUND PAPERS**

None

## **Appendix 1**

### **Decision of the Licensing Committee 11 July 2012**

**That the committee delegate authority to the Senior Licensing Officer to act on the Council's behalf as a responsible authority under the Licensing Act 2003 (as amended).**

**Appendix 2**

**TABLE OF DELEGATED FUNCTIONS**

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Licensing Sub-Committee</b>	<b>Officers*</b>
Application for a personal licence		If a Police objection	
Application for a personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representations made
Application for a provisional statement		If a representation made	If no representations made
Application to vary premises licence/club premises certificate		If a representation made	If no representations made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed 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			All cases

Decision to object when a local authority is a consultee and not a relevant authority considering an application		All cases	
Determination of a police representation to a temporary event notice		All cases	
Minor Variation (section 41A – 41D Licensing Act 2003)			All cases – Officers may consult with Responsible authorities
Fulfil the function of the responsible authority for the Licensing Authority under the Licensing Act 2003			All cases

\*All Officers who have a joint contract