



Committee: LICENSING ACT COMMITTEE

Date: THURSDAY, 23 JUNE 2011

Venue: LANCASTER TOWN HALL

Time: 2.00 P.M.

A G E N D A

1. **Apologies for Absence**

2. **Appointment of Vice-Chairman**

3. **Minutes**

Minutes of the meeting held on 25 November 2010 (previously circulated)

4. **Items of Urgent Business Authorised by the Chairman**

5. **Declarations of Interest**

6. **Chairmen of Licensing Act Sub-Committees (Pages 1 - 3)**

Report of Head of Governance

7. **Officer Scheme of Delegation (Pages 4 - 9)**

Report of Head of Governance

ADMINISTRATIVE ARRANGEMENTS

(i) **Membership**

Councillors Joyce Taylor (Chairman), Paul Aitchison, Josh Bancroft, Chris Coates, Kathleen Graham, Mike Greenall, Helen Helme, Tracey Kennedy, Margaret Pattison, Vikki Price, Roger Sherlock, Susan Sykes, Malcolm Thomas, Keith Sowden and Paul Woodruff

(ii) **Queries regarding this Agenda**

Please contact Jane Glenton, Democratic Services - telephone (01524) 582068, or email: jglenton@lancaster.gov.uk.

(iii) **Changes to Membership or apologies**

Please contact Members' Secretary, telephone (01524) 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
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TOWN HALL,
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LICENSING ACT COMMITTEE**CHAIRMEN OF LICENSING ACT SUB-COMMITTEES
23rd June 2011****Report of Head of Governance****PURPOSE OF REPORT**

To enable the Committee to make arrangements for the chairing of Licensing Act Sub-Committees during the forthcoming municipal year.

This report is public

RECOMMENDATIONS

- (1) That the Committee appoint for the new municipal year a number of members to chair the ad hoc Sub-Committees established to hear individual applications under the Licensing Act 2003 and the Gambling Act 2005.

1.0 Introduction

- 1.1 The procedure for establishing sub-committees to deal with hearings under the Licensing Act 2003 was agreed at the Committee's meeting on the 14th February 2005. As Members are aware, each sub-committee must comprise three members of the Committee, and is convened by the Head of Governance, as and when required, from the fifteen members.
- 1.2 It was further agreed in 2005 that the then chairman and vice chairman and three other named members be appointed as chairmen of the sub-committees, and that each ad hoc sub-committee would include one of these members who would act as the chairman.
- 1.3 This arrangement has continued, although in some municipal years, the Committee has nominated four rather than five chairmen.
- 1.4 For Members' information, there were five chairmen nominated for 2010/11. Of these, Councillors Taylor, Helme and Coates remain members of the Committee.
- 1.5 It is always difficult to estimate in advance the workload of the sub-committees. In 2010/11, sub-committees met on thirteen occasions.

2.0 Proposal Details

- 2.1 The Committee is now requested to consider the arrangements for the municipal year 2011/11, and to decide how many and which members to appoint to chair the Sub-Committees.

3.0 Details of Consultation

3.1 None

4.0 Options and Options Analysis (including risk assessment)

4.1 There is a need for the Committee to appoint sub-committee chairmen. Having four or five chairmen has worked well in previous years, but it is for the Committee to determine how many to appoint.

5.0 Conclusion

5.1 The Committee is recommended to appoint a number of its members to chair the sub-committee hearings.

CONCLUSION OF IMPACT ASSESSMENT
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None

LEGAL IMPLICATIONS

The proposal is in accordance with the provisions of the Licensing Act 2003, which provides for the establishment of one or more sub-committees consisting of three members of the Committee, but makes no further provision as to how this should be arranged.

FINANCIAL IMPLICATIONS

The Independent Remuneration Panel (IRP) has made provision for special responsibility allowances to be paid to the Chairman and other Licensing Act Sub-Committee chairmen. The IRP's calculations were based on the Committee chairman and two other sub-committee chairmen receiving allowances. Dependent upon the number of Sub-Committee chairmen appointed there could be up to four allowances paid (at £435 each); however, the fact that a member is only entitled to receive one special responsibility allowance means that there is leeway within the budgetary provision and in any case can be met from savings from a reduction in the number of Cabinet members appointed.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has prepared this report in her capacity as Head of Governance, and has no further comments.

BACKGROUND PAPERS

None

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Ref:

LICENSING ACT COMMITTEE**OFFICER SCHEME OF DELEGATION
23rd June 2011****Report of the Head of Governance****PURPOSE OF REPORT**

To enable the Committee to approve an updated scheme of delegation to officers in respect of matters within its terms of reference.

This report is public

RECOMMENDATIONS

- (1) That the Committee approve the delegations to officers as set out in Appendix 1 for inclusion in the Council's Constitution as part of the Scheme of Delegation to Officers.
- (2) That to ensure consistency, a further item be inserted in the terms of reference of the Licensing Act Sub-Committees, in Part 3 Section 4 of the Constitution, as follows:

"To determine film classification restrictions where there has been no classification by the British Board of Film Classification, and where the Head of Governance considers it inappropriate, in view of the nature of the particular film, for the matter to be determined under the Officer Scheme of Delegation."

1.0 Introduction

1.0 Part 3 Section 15 of the Council's Constitution contains the Council's Scheme of Delegation to Officers. This is currently being reviewed to ensure that it is up to date, and reflects the operational needs of the Council.

1.1 It is for Cabinet and each Regulatory Committee to approve the delegations within their own terms of reference, and it is intended that each will review their delegations so that an updated Scheme of Delegation can be brought to Council for approval and subsequent inclusion in the Constitution. It is intended that the updated scheme will make it clearer as to which member body is responsible for each delegation.

2.0 Proposal Details

2.0 A revised list of officer delegations in respect of the areas of work which fall within the remit of this Committee is set out in Appendix 1. The list has been updated to ensure that the correct officer titles are used and that the relevant legislation referred to is complete and up to date.

- 2.1 One substantive amendment is suggested, and this is highlighted in italics in Appendix 1. At present the determination of film classifications where there has been no classification by the British Board of Film Classification is delegated to the Head of Governance in consultation with the Chairman of the Committee. To date, all decisions taken under this delegation have been uncontroversial. However, in accordance with the normal rules of delegation, the person to whom a decision is delegated may refer a particular decision back to the delegating body for decision, and it is likely that the Head of Governance would wish to do so in the event of a decision being required on a more controversial film. Based on the current scheme of delegation, this would mean that the Head of Governance would have to refer a decision back to the full Committee, as the delegating body. This would be cumbersome, and contrary to the principle that the work of the Committee in dealing with individual cases is carried out by sub-committees. Accordingly, it is recommended that the Scheme of Delegation be amended as set out in Appendix 1 to allow the Head of Governance to refer a decision to a sub-committee of three members rather than to the full Committee. A consequent addition to the Terms of Reference of the Sub-Committees would be required in Part 3, Section 4 of the Constitution as follows:

“To determine film classification restrictions where there has been no classification by the British Board of Film Classification, and where the Head of Governance considers it inappropriate in view of the nature of the particular film, for the matter to be determined under the Officer Scheme of Delegation”.

- 2.3 Members are recommended to approve Appendix 1 as its Scheme of Delegation with immediate effect and to be included in the full Council Scheme, with the consequent addition to the Terms of Reference of the Sub-Committees as set out above.

3.0 Details of Consultation

- 3.0 All Service Heads have been consulted on the proposed revised Scheme of Delegation, as have the officers in Governance, especially Legal, who need to rely on the delegations in the course of any relevant legal proceedings.

4.0 Options and Options Analysis (including risk assessment)

- 4.0 Members are recommended to adopt Appendix 1 as drafted. It would be open to the Committee to make amendments by either adding to or deleting from the list of delegations. However, officers would advise that it has been drafted to meet the operational and legal requirements of Licensing.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising directly from this report.

LEGAL IMPLICATIONS

Legal Services have been involved in the review of the Scheme of Delegation.

FINANCIAL IMPLICATIONS

There are no financial implications arising directly from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer is leading the review of the Scheme of Delegation as the officer responsible for the Council's Constitution.

BACKGROUND PAPERS

None

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LICENSING ACT COMMITTEE

TO THE HEAD OF GOVERNANCE AND DEMOCRATIC SERVICES MANAGER

To empanel ad hoc Sub-Committees from the pool of fifteen Licensing Act Committee Members

TO THE HEAD OF GOVERNANCE AND LEGAL SERVICES MANAGER

To make appropriate arrangements for the institution or defence of any legal proceedings relating to matters within the terms of reference of the Licensing Act Committee

TO THE HEAD OF GOVERNANCE, LEGAL SERVICES MANAGER AND LICENSING MANAGER

To designate authorised persons as defined in Section 13(2)(a) of the Licensing Act 2003.

To designate authorised persons as defined in Section 304(2) of the Gambling Act 2005

TO THE HEAD OF GOVERNANCE, LEGAL SERVICES MANAGER AND LICENSING MANAGER AND ANY OTHER OFFICER DESIGNATED BY ANY OF THEM IN WRITING

Licensing Act 2003

To determine applications for Personal Licences, including with relevant Unspent Convictions provided no Police representation has been made.

To determine applications for Premises Licences/Club Premises Certificates provided no representation has been made.

To determine applications for Provisional Statements provided no representation has been made.

To determine applications to vary Premises Licences/Club Premises Certificates provided no representation has been made.

To determine applications to vary Designated Premises Supervisors provided no police objection has been received.

To determine any request to be removed as a Designated Premises Supervisor.

To determine applications for transfer of Premises Licences provided no police objection has been received.

To determine applications for interim authorities provided no police objection has been received.

To determine whether any representation is irrelevant frivolous vexatious etc.

To agree the appropriate scale of plans required to be submitted by an applicant.

To dispense with a hearing in accordance with Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005.

To extend time limits in accordance with Regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005.

To identify points on which clarification may be required at a hearing, in accordance with Regulation 7 (1) (d) of the Licensing Act 2003 (Hearings) Regulations 2005.

To acknowledge receipt of a Temporary Event Notice under Section 102 of the Licensing Act 2003 and, where appropriate, to serve counter-notice under Section 107 of the Act.

To determine applications for minor variations to Premises Licences/Club Premises Certificates.

In consultation with the Chairman of the Licensing Act Committee or in his/her absence the Vice-Chairman, authority to authorise applications for hypnotism subject to the standard conditions approved by the Committee.

Gambling Act 2005

To determine applications for permits for 3 or 4 gaming machines in premises licensed under the Licensing Act 2003.

To determine applications for premises licences under the Gambling Act 2005 where no representations have been received or representations have been withdrawn.

To determine applications for a variation to a licence under the Gambling Act 2005 where no representations have been received or representations have been withdrawn.

To determine applications for a transfer of a licence under the Gambling Act 2005 where no representations have been received from the Gambling Commission.

To determine applications for a provisional statement under the Gambling Act 2005 where no representations have been received or representations have been withdrawn.

To determine applications for club gaming/club machine permits under the Gambling Act 2005 where no objections have been made or objections have been withdrawn.

To determine applications for other permits under the Gambling Act 2005 where no representations have been made.

To cancel licensed premises gaming machine permits.

To grant a temporary use notice under the Gambling Act 2005 where no representations have been made.

TO THE HEAD OF GOVERNANCE

In consultation with the Chairman of the Licensing Act Committee to determine film classification restrictions where there has been no classification by the British Board of Film Classification; *save that, where the Head of Governance considers it appropriate in view of the nature of the particular film, the matter shall be referred to an ad hoc Sub-Committee of three members.*