

Amendment to the Constitution –Scheme of Delegation for Non-Executive Functions 18 July 2018

Report of the Monitoring Officer

PURPOSE OF REPORT

To seek approval for an amendment to the scheme of delegation for non-executive functions recommended by the Licensing Act Committee.

This report is public

RECOMMENDATIONS

- (1) That power to revoke a personal licence under Section 132A of the Licensing Act 2003 be delegated to the Licensing Manager where no representations have been made by the licence holder within the 28-day statutory period.**
- (2) That the Monitoring Officer be asked to amend the Constitution by adding this to the scheme of delegations from the Licensing Act Committee, as set out on Appendix 1 of this report.**

1.0 Introduction

- 1.1 The Licensing Act Committee met on 14 June 2018. One of the items was to consider revocation of a personal alcohol licence under Section 132A of the Licensing Act 2003. The individual concerned had made no representations and the Committee agreed that, under those circumstances, it would be more efficient for the power to revoke to be delegated to the Licensing Manager for any future cases, rather than take the matter to the full committee.

2.0 Section 132A of the Licensing Act 2003

- 2.1 Under Section 132A of the Licensing Act 2003, the licensing authority has the power to suspend or revoke a personal alcohol licence it has granted if it becomes aware that the holder of the licence has been, at any time before or after grant of the licence, convicted of a relevant offence.

3.0 Amendment to the Constitution

- 3.1 The amendment to the Constitution will be to revise the delegations relating to the Licensing Act Committee as shown on Appendix 1 (the revision is shown highlighted in italics).

4.0 Conclusion

- 4.1 Members are requested to approve the amendment to the scheme of delegation for non-executive functions set out in the Council's constitution, as recommended by the Licensing Act Committee.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

There are no direct implications as a result of this report.

FINANCIAL IMPLICATIONS

There are no significant financial implications as a direct result of this report although it may make some small saving. If a Committee meeting had to be called for one item only, to consider revoking a personal licence under Section 132A of the Licensing Act 2003, it would be costly. An officer delegated decision would not have the costs of clerking, meeting room accommodation, travel/parking reimbursement for Members, etc.

LEGAL IMPLICATIONS

The non-executive scheme of delegation in the Council's constitution sets out delegations for non-executive functions made via committees and approved by Council. If approved, this would be an addition to the delegations from the Licensing Act Committee.

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 approved this report, drafted on his behalf.

BACKGROUND PAPERS

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LICENSING ACT COMMITTEE

TO THE CHIEF OFFICER (HEALTH AND HOUSING)

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 Chief Officer (Environment) considers it appropriate in view of the nature of the particular film, the matter shall be referred to the Committee.

To act on behalf of the Licensing Authority as Responsible Authority when required under the Licensing Act 2003.

To suspend licences and club premises certificates for non-payment of annual fees in accordance with the Licensing Act 2003

TO THE DEMOCRATIC SERVICES MANAGER

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

TO THE LICENSING MANAGER

To revoke a personal licence under Section 132A of the Licensing Act 2003 where no representations have been made by the licence holder within the 28-day statutory period.

TO THE CHIEF EXECUTIVE

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 CHIEF OFFICER (HEALTH AND HOUSING) 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 CHIEF OFFICER (HEALTH AND HOUSING) 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.