

NORTHAMPTON BOROUGH COUNCIL

Taxi & General Licensing Committee

Your attendance is requested at a meeting to be held at The Jeffrey Room, The Guildhall, St. Giles Square, Northampton, NN1 1DE on Tuesday, 16 October 2018 at 6:30 pm.

**George Candler
Chief Executive**

AGENDA

1. Apologies
2. Minutes
3. Deputations/Public Addresses
4. Declarations of Interest
5. Matters of Urgency which by reason of special circumstances the Chair is of the opinion should be considered
6. Delegation of Powers to Sub-committees and Officers
7. Exclusion of Public and Press

The Chair to Move:

“that the public and press be excluded from the remainder of the meeting on the grounds that there is likely to be disclosure to them of such categories of exempt information as defined by section 100I of the Local Government Act 1972 as listed against such items of business by reference to the appropriate paragraph of Schedule 12a to such act.”

8. Review of a Private Hire Driver's Licence

Public Participation

Members of the public may address the Committee on any non-procedural matter listed on this agenda. Addresses shall not last longer than three minutes. Committee members may then ask questions of the speaker. No prior notice is required prior to the commencement of the meeting of a request to address the Committee.

Appendices: 2



NORTHAMPTON
BOROUGH COUNCIL

ALCOHOL & GAMBLING LICENSING COMMITTEE **16th October 2018**

Agenda Status: Public

Directorate: Borough Secretary's

Report Title	Delegation of functions of Alcohol and Gambling Licensing Committee
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1. Purpose

- 1.1 To establish sub-committees of the Alcohol and Gambling Licensing Committee, approve the delegation of appropriate functions to those sub-committees and to officers, in order to ensure efficient determination of applications made under the legislation concerned, ensuring that this meets the requirements of that legislation.

2. Recommendations

- 2.1 That Committee establish a number of Sub-committees to discharge the Committee's functions under the 2003 Act.
- 2.2. That Committee delegates the discharge of the functions set out in Appendix B to those Sub-committees and Officers.
- 2.3 That Committee confirms that all other functions are to be discharged by the Committee.

3. Issues and Choices

3.1 Report Background

- 3.1.1 In September 2018 Full Council appointed a new Tax and General Licensing Committee in order to ensure that lawful arrangements existed to allow the determination of applications under new legislation relating to animal welfare (which comes into force this month) and also to ensure that the Council's delegation of other licensing functions were up to date, taking account of certain statutory limitations in relation to such delegations.

- 3.1.2 At that time Full Council also delegated certain functions to both the Alcohol & Gambling Licensing Committee and the newly appointed Taxi and General Licensing Committee and allowed each committee to further delegate the exercise of those functions to sub-committees and officers as they consider appropriate. Those functions are set out in the tables in **Appendix A – Functions delegated to Alcohol and Gambling Licensing Committee and the Taxi and General Licensing Committee.**
- 3.1.3 The functions set out in Table 1 of Appendix A are those which, as a matter of law, are automatically delegated to the committee established under the Licensing Act 2003 ('the 2003 Act'). Accordingly, those functions were delegated to the Alcohol & Gambling Licensing Committee. Table 2 sets out several exceptions which, as a matter of law, may not be delegated to that committee and accordingly, they were reserved to Full Council. This broadly follows the previous delegations in Part 3 of the Council's Constitution.
- 3.1.3 The 2003 Act allows the Council's Licensing Committee to delegate certain functions to sub-committees and officers, subject to certain limitations contained in the Act in relation to officers. Since the 2003 Act came into force the Council has followed this approach, delegating the processing of unopposed applications for licences to officers since the 2003 Act does not allow such applications to be refused, and delegating determination of contested applications to sub-committees established under the 2003 Act. Sub-committees also consider reviews of premises licences and club premises certificates.
- 3.1.4 The 2003 Act specifically provides that the Committee may establish one or more sub-committees of 3 members. Since decisions under the 2003 Act have to be made within strict timescales set out in regulations, often at short notice, it is suggested that the Committee establishes every sub-committee combination committees possible so that all members are appointed to every combination of sub-committee. Since this equates to hundreds of different combinations and would take considerable time and space to set out in fine detail, it is recommended that Committee simply resolve that all such sub-committees are established and every member appointed to them.
- 3.1.5 It is now recommended that the process of delegation to sub-committees and officers is continued to allow effective discharge of the functions concerned allowing officers to deal with matters of an administrative nature and only placing matters which are contested before members to determine at sub-committee hearings. It is further proposed that the Alcohol & Gambling Licensing Committee sits as a whole in relation to matters such as development of policy for approval by Full Council. Appendix B contains a list of the proposed delegations to sub-committees and officers.

3.2 Alternative options

- 3.2.1 If Committee is not minded to delegate matters as specified in Appendix B then the Committee could choose to delegate some of those functions and reserve the remainder to itself. Committee must however have regard to the limitations in the 2003 Act in relation to which matters may not be delegated to officers. In order to assist members to understand the limitations in the 2003

Act and the 2005 Act, the table in Appendix B has been annotated to show those functions may not be delegated to officers.

3.1 Decision details

3.2.1 It is proposed that the Committee establishes sub-committees under the 2003 Act to discharge functions under the Act.

3.2.2 It is proposed that the Committee delegates functions under the 2003 Act and the Gambling Act 2005 to those sub-committee and officers in accordance with Appendix B.

3.2.3 Committee confirms that all other functions are to be exercised by the Committee itself.

4. Implications (including financial implications)

4.1 Policy

4.1.1 The proposals do not impact on any of the Council's existing policies since any applications determined by Committee of Sub-committees must consider the Council's existing statements of licensing policy and gambling licensing policy.

4.2 Resources and Risk

4.2.1 There is unlikely to be any change in the number of committee meetings which take place as a result of the proposals.

4.3 Legal

4.3.1 The 2003 Act requires the Council to establish a licensing committee consisting of ten to fifteen members of the authority and automatically delegates most functions under the Act to that committee. Several are reserved to Full Council.

4.3.2 The 2005 Act states that the Council's functions in relation to gambling under the 2005 Act are also delegated to the licensing committee established under the 2003 Act.

4.3.3 The 2003 Act allows appointment of sub-committees and delegation of certain functions to those sub-committees or officers. As a general principle, officers may only deal with uncontentious matters, e.g. were the Council is obliged to grant a licence because there have not been any representations made which object to the proposal. The 2003 Act does not allow officers to deal with matters which are in dispute, e.g. where a representation is made objecting to a licence being granted. Similar restrictions are contained in the 2005 Act in relation to gambling premises licences and permits.

4.3.4 The proposals in Appendix B comply with the restrictions in both Acts and replicate the existing arrangements operated by the Council.

4.4 Equality

4.4.1 No implications since this report addresses only the mechanism of making decisions and every decision made under the 2003 and 2005 must comply with the Council's policies, the criteria in those Acts and the Equalities Act 2010.

4.4.1 Other Implications

4.5.1 None

5. Background Papers

5.1 None

Appendices

A Functions delegated to Alcohol and Gambling Licensing Committee and the Taxi and General Licensing Committee

B List of proposed delegations to sub-committees and officers

**Clive Tobin, Licensing & Litigation Solicitor
Borough Secretary's
0300 330 7000**

Functions delegated to Alcohol and Gambling Licensing Committee and the Tax and General Licensing Committee

Table 1

Functions delegated to Alcohol and Gambling Licensing Committee

Function	Statutory Provision
All licensing functions of the Council relating to the Sale / Supply of Alcohol and Provision of Entertainment and Late Night Refreshment	Section 7 Licensing Act 2003* (except for such functions as cannot be delegated).
Gambling Issue of premises licences	Section 154 Gambling Act 2005*
Determination of applications in relation to temporary use of premises for gambling	Section 232 Gambling Act 2005*
Determination of applications for gaming machine permits	Part 10 Gambling Act 2005
Determination of applications for gaming permits in relation to pubs and clubs	Part 12 Gambling Act 2005

* these functions are automatically delegated to the committee under the provisions referred to and the Council may not make provision for their exercise in any other manner.

Table 2

Functions not delegated to Alcohol and Gambling Licensing Committee and Reserved to Full Council

Function	Statutory Provision
Alcohol Determination of 5 year Licensing Policy	Section 5 Licensing Act 2003
Making, varying or revoking of Early Morning Alcohol Restriction Order	Section 172A Licensing Act 2003
Gambling Setting of fees in relation to applications for premises licences etc.	Section 212 Gambling Act 2005
Determination of 3 year Licensing Policy	Section 349 Gambling Act 2005

Table 3

Functions delegated to Taxi and General Licensing Committee

<p>Taxis Determination of applications for hackney carriage drivers and vehicle licences, reviews, suspension and revocation of such licences and setting policy in relation to licensed vehicles and drivers</p> <p>Determination of applications for private hire vehicle, operator and drivers licences, reviews, suspension and revocation of such licences and setting policy in relation to licensed vehicles and drivers</p> <p>All non-executive functions in relation to such licences</p>	<p>Town Police Clauses Act 1847</p> <p>Local Government (Miscellaneous Provisions) Act 1976</p> <p>Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended)</p>
<p>Sex establishments Determination of applications for licences for sex establishments, review and revocation of such licences and setting of policy in relation to such licences.</p> <p>All non-executive functions in relation to such licences.</p>	<p>Local Government (Miscellaneous Provisions) Act 1982</p> <p>Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended)</p>
<p>Street Trading Determining applications for street trading consent, renewal of street trading consents and revocation of street trading consents and setting policy in relation to such consents.</p>	<p>Local Government (Miscellaneous Provisions) Act 1982</p>
<p>House to House and Street Collections Determination of applications for street collection permits and house to house collection licences, review and revocation of licences and setting of policy and making of regulations in relation to such licences and permits.</p>	<p>House to House Collections Act 1939 Police, Factories etc. (Miscellaneous Provisions) Act 1916</p>
<p>Car Boot Sales Determination of applications for registration of car boot sales and grant of permits</p>	<p>Market Franchise and NBC Conditions</p>

<p>Tattooing etc. Determination of applications for registration of persons to carry on a business of skin piercing, tattooing, semi-permanent skin colouring, acupuncture and/or electrolysis, review, suspension and cancellation of such registrations and making of bye-laws in relation to such activities.</p>	<p>Local Government (Miscellaneous Provisions) Act 1982 (as amended)</p>
<p>Animal Welfare Determination of applications for licences for operation of businesses of pet animal sales, pet boarding, hiring out horses, dog breeding and/or keeping or training of animals for exhibition, review, suspension, variation revocation and reinstatement of such licences and appointment of inspectors.</p>	<p>Animal Welfare Act 2006 and Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018</p>
<p>Scrap metal Determination of applications for site and mobile collectors licences, review and revocation of licences, imposition of conditions, closing of unlicensed sites and setting of policy in relation to such licences.</p>	<p>Scrap Metal Dealers Act 2013</p>

For each power set out in Tables 1 and 3 all associated enforcement powers are also delegated to committee to allow effective administration of the licensing regimes concerned. The administration and enforcement of all relevant regulations made under the Acts referred to is also delegated to committee for these purposes.

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Table: Delegation of Functions Taxi/Private Hire Vehicle Emissions			
Matters to be dealt with	Sub Committee	Licensing Manager	Licensing Officer
Hackney Carriage Vehicle Renewal – Application to Depart from Policy 1 April 2018 – 31 Dec 2025	v		
Existing Licensed Replacement Vehicle (i.e. those vehicles taken off the road due to unforeseen circumstances) 1 April 2018 – 31 Dec 2020			v
Private Hire Exemption Certificates 1 April 2018 – 31 Dec 2025		v	

ULEV Vehicle Manufacture Problems 1 April 2018 – 31 Dec 2028		v	
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Table: Delegation of Functions Taxi & Private Hire			
Matters to be dealt with	Licensing Committee	Licensing Sub Committee	Licensing Officer
Determining the grant, renewal, transfer or amendment: <ul style="list-style-type: none"> • hackney carriages; • hackney carriage drivers; • private hire operators; • private hire vehicles; and • private hire drivers; 		Where convictions of a serious nature	X Where there are no convictions or where convictions do not fall within the local policy
Determining the immediate revocation of licences in accordance with s.61(2B)			X For matters where it is considered there is an immediate

			concern for public safety
Determining the suspension or revocation of driver licences in accordance with s.61			X All cases
Determining the suspension & revocation of vehicles licences in accordance with s.60			X All cases
Determining the revocation & suspension Operators Licence in accordance with s.62			X All cases
In respect of Hackney Carriage or Private Hire drivers the granting of exemptions under relevant equalities legislation.			X Where an appropriate medical letter/certificate has been obtained
Request production of a drivers licence of a hackney carriage of private hire vehicle driver pursuant to			X All cases

the provisions s53.			
Request production of any records pursuant to the provisions of s56.			X All cases
Requiring information from any applicant for a licence pursuant to s57.			
Remove and retain a plate or disc pursuant to the provisions of s58.			X All cases
To inspect and test the fitness of any hackney carriage or private hire vehicle or any taximeter affixed to such vehicle and to take such enforcement action as necessary pursuant to the provisions of s68.			X All cases
Power to change vehicle specifications	All cases		

Signature on Licence			X
Setting Fees	X Within Council's Budget Framework		
Reinstatement of Licence			
X indicates lowest level to which decision can be delegated and may be referred to a higher level			

Table: Delegation of Functions Street Trading Consent			
Local Government Miscellaneous Provisions Act 1972 sex shops move Local Byelaws 13/07/1982 28/05/1998 17/12/1998 25/05/2010			
Matters to be dealt with	Licensing Committee	Licensing Sub-Committee	Licensing Officer
Determining the grant; Application for a Street Trading Consent		X New Location	X Existing Location
Application for the Renewal of a Street Trading Consent		X If representation received	X If no representation received

Revocation of a Street Trading Consent		X All cases	
Designation of street as Consent Street	X		

Table: Delegation of Functions Street Collections/House to House Collections			
Matters to be dealt with	Licensing Committee	Licensing Sub-Committee	Licensing Officer
Determining the grant; First Application for a House to House/Street Collection Permit to this Local Authority		X Does not meet local policy criteria	X Meets local policy criteria

Application for a House to House/Street Collection Permit			X All cases

Table: Delegation of Functions Sex Establishments			
Matters to be dealt with	Licensing Committee	Licensing Sub-Committee	Licensing Officer
Determining the grant; First Application for a Sex Establishment Licence	X All cases	X All cases	
Renewal Application for a Sex Establishment Licence		X If objection / relevant representation	X If no objection / relevant representation
Revocation of a Sex Establishment Licence		X All cases	

Table: Delegation of Functions Acupuncture, piercing etc. Local Government (Miscellaneous Provisions) Act 1982 Byelaw 05/07/1984 Local Government Act 2000			
Matters to be dealt with	Licensing Committee	Licensing Sub-Committee	Licensing Officer
Determination of application to register for: Tattooing, Cosmetic Piercing, Semi-Permanent Skin Colouring, Acupuncture, Electrolysis			All cases

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Table: Delegation of Functions Car Boots Byelaws 1998			
Matters to be dealt with	Licensing Committee	Licensing Sub-Committee	Licensing Officer
Determining the grant; Application for a Car Boot Licence	Does not meet policy criteria	Does not meet policy criteria	Does meet policy criteria

Table: Delegation of Functions Scrap Metal Dealers Scrap Metal Dealers Act 2013			
Matters to be dealt with	Licensing Committee	Licensing Sub-Committee	Licensing Officer
Determining the grant ; Application for a Car Boot Licence		Applicant convicted of relevant offence or subject of relevant enforcement action, previously refused licence or licence revoked	No relevant convictions or enforcement action No previous refusals or revocations
Revocation of Scrap Metal Dealers Licence and imposition of conditions		All cases	

Table: Delegation of Functions Animal Welfare Act 2018			
Matters to be dealt with	Licensing Committee	Licensing Sub-Committee	Licensing Officer
Determining the grant of application for licence for: Cat Boarding Dog Boarding/Home Boarding/Breeding/Home Care Exhibition/Performance Animals Pet Shops/Selling Animals Riding Establishments/Hiring Horses Dangerous Wild Animals Zoos		Where concerns raised by qualified inspector	Where no concerns raised by a qualified inspector

Determining the renewal of application for; A 1 year licence		Where concerns raised by qualified inspector	Where no concerns raised by a qualified inspector
Determining the renewal of application for; A 2 year licence		Where concerns raised by qualified inspector	Where no concerns raised by a qualified inspector
Determining the renewal of application for; A 3 year licence		Where concerns raised by qualified inspector	Where no concerns raised by a qualified inspector
Determining application for variation of licence		Where concerns raised by qualified inspector	Where no concerns raised by a qualified inspector
Application to extend period of continuation of licence following death of licence holder			All cases
Reinstatement of Licence			All cases

Appointment of Inspectors under Animal Welfare Act for purposes of entry, inspection and other purposes under the Act and regulations			All cases
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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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