

Appendices: 0



NORTHAMPTON
BOROUGH COUNCIL

COUNCIL

10th September 2018

Agenda Status: Public

Directorate: Borough Secretary's

Report Title	Licensing Committee Structure Report
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1. Purpose

- 1.1 To approve the appointment of a further Licensing Committee and the delegation of certain powers to that Committee to ensure lawful discharge of the Council's licensing functions.

2. Recommendations

- 2.1 To appoint a further Licensing Committee, comprised of the same members as the existing Licensing Committee, to discharge functions which are not automatically delegated to the existing Committee and to allow further delegation of those functions to sub-committees and officers as necessary.
- 2.2 To delegate the functions set out in Appendix A to the Licensing Committees specified in that Appendix.

3. Issues and Choices

3.1 Report Background

- 3.1.1 In October 2018 new animal welfare legislation comes into force giving the Council additional licensing functions in relation to pet breeding and sales, animal boarding, hire of horses and use of animals in exhibitions. Whilst the Council has previously been responsible for similar matters under other legislation, these new powers extend the Council's responsibilities and introduce new processes containing significant changes to the previous regime.

- 3.1.2 It is therefore necessary to ensure that the Council delegates the new powers to committee and, in turn, allows the committee concerned to further delegate to sub-committee and officers as appropriate. Whilst undertaking the necessary preparation it became clear that it was also necessary to regularise the exercise of the Council's other licensing functions.
- 3.1.3 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2108 come in to effect on 1 October at which time the Council will become responsible for licensing of premises used for various activities involving animals which can be summarised as the selling, breeding and boarding of animals, the hiring of horses and the keeping or training of animals for exhibition. As the delegations made under the previous legislation are now out of date and due to the new system for processing applications for licences under the regulations, it is proposed that the new powers are delegated to committee in their entirety so that committee can then determine which functions should be exercised by officers, which should be exercised by a sub-committee and which should be reserved to the committee itself. It is further proposed that the committee can develop and adopt policy in relation to the new processes.
- 3.1.4 The Council's current Licensing Committee is established under the Licensing Act 2003 ("2003 Act") to process applications under that Act. It may also discharge functions in relation to gambling under the Gambling Act 2005 ("the 2005 Act"). Other than those functions, the Council is unable to delegate functions to the Licensing Committee due to limitations in the relevant legislation. It is therefore necessary for the Council to arrange for all of its remaining licensing functions to be discharged by another committee.
- 3.1.5 For practical purposes it would be sensible to appoint a further licensing committee to discharge those functions comprising the same members as the existing licensing committee. The potential benefits of doing so include:
- 3.1.5.1 it will allow consecutive meetings of the two committees to be held on the same day at which the same members could determine matters any relevant licensing legislation, therefore maximising use of members time;
- 3.1.5.2 it will ensure that the existing knowledge and experience of the members of the current licensing committee can continue to be utilised across the breadth of the Council's licensing functions.
- 3.1.6 In addition to appointing a further committee it will be necessary for the Council to formally delegate all relevant licensing powers to that committee, reserving those matters to itself which can not be delegated to a committee. The powers concerned are set out in the table in Appendix A.
- 3.1.7 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 2003 Act. Table 2 sets out several exceptions which, as a matter of law, may not be delegated to that committee and are reserved to Full Council. This broadly follows the existing delegation in Part 3 of the Council's Constitution.

- 3.1.8 The functions set out in Table 3 of Appendix A are those which it is recommended are delegated to a new committee. These reflect in part those functions currently referred to in Part 3 of the Council's Constitution, together with the additional functions, including in relation to animal welfare, which may not be delegated to the committee established under the 2003 Act.

3.2 Alternative options

- 3.2.1 If a further committee is not appointed and the relevant powers delegated to it then, as a matter of law, it would be necessary for full Council to make all decisions in relation to licences other than those concerning alcohol and premises licences and gambling matters under the 2003 and 2005 Acts.

3.1 Decision details

- 3.2.1 It is proposed that the Council appoints a further committee, to be known as the Taxi and General Licensing Committee, comprising of those same members as sit on the existing Licensing Committee.

- 3.2.2 It is further proposed that the name of the existing Licensing Committee is changed to the Alcohol and Gambling Licensing Committee.

- 3.2.3 It is still further proposed that the functions in Appendix A to this report are delegated to the Taxi and General Licensing Committee and the Alcohol and Gambling Committee as set out therein.

- 3.2.4 It is yet further proposed that both licensing committees have power to establish and appoint sub-committees and delegate functions to those sub-committees and to officers as they see fit. The 2003 Act makes provision for the determination of applications by 3 member sub-committees and allowing the new committee to do so would replicate this process for effective decision making.

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 both committees will be required to determine matters in accordance with existing policy.

4.2 Resources and Risk

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

4.3 Legal

- 4.3.1 The introduction of new animal welfare licensing legislation requires the Council to ensure that appropriate delegations are in place to discharge those

functions. This has in turn prompted a review of existing arrangements for discharge of all licensing functions by the Council.

- 4.3.2 The 2003 Act requires the Council to establish a licensing committee consisting of ten to fifteen members of the authority. The 2003 Act also states that once established this licensing committee must discharge all the Council's functions under the 2003 Act other than approving its statement of licensing policy and making an early morning alcohol restriction order, some of which are delegated to sub-committees under the 2003 Act.
- 4.3.3 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.
- 4.3.4 Other than the functions referred to in paragraphs 4.3.1 and 4.3.2, neither the 2003 Act nor the 2005 Act allow that committee to exercise any other functions. Similarly, the power in the Local Government Act 1972 ("the 1972 Act") to delegate non-executive functions applies only to committees and sub-committees which the Council has appointed under the 1972 Act. Although this is a subtle distinction, its effect is significant as it prevents the Council making arrangements for the committee established under the 2003 Act to discharge its other licensing functions.
- 4.3.5 In order to lawfully discharge its functions the Council therefore needs to appoint a further committee to discharge those licensing functions which are not contained in the 2003 or 2005 Acts. In turn, to allow effective decision making and determination of applications in relation to licences and review of licences which are issued, it will be necessary for the new committee to further delegate its powers to sub-committees and to officers. As the 2003 Act delegates determination of certain matters to sub-committees this would have to remain in place in relation to alcohol and gambling matters in any event.
- 4.3.6 Any new committee which is appointed will be subject to the requirement for political balance set out in the Local Government and Housing Act 1989. If Council accepts the recommendation to appoint a further committee with the same membership as the existing licensing committee then the requirement for political balance will be met.

4.4 Equality

- 4.4.1 There are no equalities implications since the new structure would apply to applications made by all persons, regardless of any protected characteristics.

4.5 Other Implications

- 4.5.1 None

5. Background Papers

- 5.1 None

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