

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

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