



Report of the Assistant Chief Executive Corporate Governance

Licensing Committee

Date: 20 July 2010

Subject: Changes to Licensing Arrangements – Consequential Governance Arrangements

Electoral wards affected:

Specific implications for:

Equality and Diversity

Disabled people

Narrowing the gap

Executive Summary

1. On 14 July 2010 full Council resolved that certain functions previously carried out by the Licensing and Regulatory Panel were 'related to' the licensing functions of the Council, and therefore those functions should be carried out by the Licensing Committee. Full Council approved amended Terms of Reference for the Licensing Committee on 14 July 2010 to take effect from 20 July 2010.
2. This report is therefore presented as a LATE ITEM of business under the provisions of Access to Information Procedure Rule 4:2 as the agenda for this Licensing Committee meeting was despatched prior to the resolution of Council. Full Council recommended the changes take effect from the date of this Licensing Committee meeting and Members are requested to consider this report as an urgent matter in order for the changes and necessary transition to be implemented smoothly.
3. This report informs Members of the amended Terms of Reference and deals with the delegation of those functions as appropriate to the Licensing sub-committee and/or officers.

1.0 Purpose of this report

1.1 This report is presented to members :-

- To inform member of the amended terms of reference for the Licensing Committee agreed at full Council on 14 July 2010, with effect from 20 July 2010.
- To approve terms of reference for the Licensing sub-committee.
- To approve the delegation of functions to officers as appropriate.

2.0 Background information

- 2.1 Full Council decided on 14 July 2010 to dissolve the Licensing and Regulatory Panel and transfer certain functions to the Licensing Committee under Section 7(3) of the Licensing Act 2003.
- 2.2 The Licensing Committee was created under the Licensing Act 2003 (“the 2003 Act”). Its initial terms of reference were to deal with all the different types of licence granted under that Act. Functions under the Gambling Act 2005 (“the 2005 Act”) were added to the terms of reference in January 2007.
- 2.3 As the Licensing Committee was created by the Licensing Act it operates outside the normal Council committee structure. With a few exceptions set out in the 2003 or 2005 Act (most notably the approval of a licensing policy for Leeds) all functions are automatically delegated to the committee by the legislation rather than being delegated by Council. The committee has the power to regulate its own procedure subject to regulations issued under the 2003 or 2005 Act as appropriate. It has the power to create its own sub-committees and to delegate to those sub-committees and to officers. It does not have to be politically balanced, does not need to have agendas with five clear days notice of meetings and operates to slightly different rules on matters such as access to information. However as far as possible officers have sought to operate the Licensing Committee as a normal Council committee and therefore the full committee is politically balanced, the committee and sub-committees do have agendas and the minutes are published in the normal way. Members of the Licensing Committee can substitute for other members of the committee on any sub-committee but no other members of Council are allowed to be substitutes for either the full Licensing Committee or a Licensing sub-committee.
- 2.4 Section 7(3) of the Licensing Act 2003 allows functions that “relate to” the statutory licensing functions of the Authority to be discharged by the Licensing Committee. When exercising those “related to” functions, the Licensing Committee will still operate as a committee created by the 2003 Act and to the procedures by which it generally operates. The committee does not need to operate under the processes set out in Section 101 of the Local Government Act 1972 when carrying out a function transferred to it under Section 7(3) of the Licensing Act 2003.

3.0 Main issues

- 3.1 Under the 2003 and 2005 Act the Licensing Committee has the power to create its own sub-committees and delegate to those sub-committees. The Licensing Committee also has the power to delegate its functions to officers.

- 3.2 Full Council considered that the following functions previously carried out by Licensing and Regulatory Panel could be said to “relate to” the statutory Licensing functions and has delegated those functions to the Licensing Committee.
- Sex establishment licensing (lap dancing, sex cinemas and sex shops).
 - Hackney carriage and private hire licensing.
 - The licensing of hypnotism.
 - The licensing of charitable collections.
- 3.3 The amended terms of reference for the Licensing Committee are shown at **Appendix 1** for Members information.
- 3.4 On 22 June 2010 the Committee approved terms of reference for the Licensing sub-committee. However these now require amendment to take account of the new functions delegated by full Council. It is proposed that, in relation to the function of ‘hackney carriage and private hire licensing’, that the committee delegate the function of contract driver permit appeals to the Licensing sub-committee.
- 3.5 It is further proposed that the function of licensing performances of hypnotism be delegated to the Licensing sub-committee where an officer has considered not to exercise their delegated authority and has referred the matter to a relevant committee for determination.
- 3.6 It is further proposed that the function of licensing charitable collections be delegated to the Licensing sub-committee where either objections have been received, or an officer has considered not to exercise their delegated authority and has referred the matter to a relevant committee for determination.
- 3.7 The amended terms of reference for the Licensing sub-committee including these delegations are shown at **Appendix 2** for your approval. If not proposed to delegate any other functions to the sub-committee at this stage.
- 3.8 A number of the functions that have been transferred from Licensing and Regulatory panel to Licensing Committee had also previously been delegated by full Council to the Assistant Chief Executive (Corporate Governance). Under the Licensing Act the Licensing Committee have the power to delegate functions to officers. It is proposed that the delegation to the Assistant Chief Executive (Corporate Governance) remains the same as previously delegated by full Council, however the functions will now be delegated via the Licensing Committee.
- 3.9 Members are asked to approve the revised delegation of the functions to the Assistant Chief Executive (Corporate Governance) as contained in the delegation scheme shown at **Appendix 3**.
- 4.0 Implications for council policy and governance**
- 4.1 Full Council have delegated additional functions to the Licensing Committee, the committee needs to be aware of its new functions and to delegate to the Licensing sub-committee and officers as appropriate to enable the Council to effectively carry out these functions.
- 5.0 Legal and resource implications**

5.1 There are no resource implications

5.2 To avoid legal challenges to licensing matters, the delegation of functions must be established correctly.

6.0 Recommendations

6.1 That members note the amended terms of reference at **Appendix 1**.

6.2 That members approve the Licensing sub-committee terms of reference at **Appendix 2**.

6.3 That members approve the delegation of functions to the Assistant Chief Executive (Corporate Governance) as shown at **Appendix 3**.