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## Report of the Head of Licensing and Registration

### Report to the Licensing Committee

Date: 28 March 2011

Subject: Licensing Committee – delegation of functions to officers

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Electoral wards affected:

Specific implications for:

Equality and Diversity

Disabled people

Narrowing the gap

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### Executive Summary

1. Under the Licensing Act 2003 and the Gambling Act 2005 the Licensing Committee is authorised to discharge the licensing functions of the Licensing Authority. The Licensing Act 2003 specifically provides that the Licensing Committee may arrange for the discharge of any of its functions by a sub-committee established by it, or by an officer of the Licensing Authority. On 22 June 2010 the Licensing Committee approved an officer delegation scheme covering the licensing and related functions within its Terms of Reference.
2. This report deals with changes required to the delegation of functions to officers as a result of staff changes within the council..

## 1.0 Purpose of this report

This report seeks approval for changes to the delegation of functions to officers as a result of staff changes within the council.

## 2.0 Background information

2.1 The Council is the Licensing Authority under the Licensing Act 2003 (“the 2003 Act”) and the Gambling Act 2005 (“the 2005 Act”).

2.2 In accordance with both the 2003 Act and 2005 Act but with the exception of certain specified functions (which largely relate to the Authority’s statement on licensing policy), all matters relating to the discharge by the Authority of its licensing functions are referred to its Licensing Committee. This does not extend to any licensing function referred to full Council or a licensing function where full Council has referred the matter to another committee. Members will be aware that under Section 7(3) of the 2003 Act, full council may also arrange for the Licensing Committee to discharge any function of the Authority which “relates to” a matter referred to the committee but which is not a licensing function. A number of functions have been delegated under this provision including taxi and private hire licensing, sex establishment licensing and charity collections. These are set out in the Terms of Reference for the Committee which are attached at **Appendix 1**.

2.3 Section 101 of the Local Government Act 1972 sets out the arrangements for the discharge of functions by Local Authorities. Section 101 is, however, amended by the 2003 Act to dis-apply these provisions in respect of any functions of the Licensing Authority. Instead the 2003 Act specifically provides that the Licensing Committee may arrange for the discharge of any of it’s functions by an officer of the Licensing Authority subject to certain statutory exceptions. These limitations are set out in Section 10(4) of the 2003 Act. Generally these relate to applications where representations or objections have been made in respect of particular applications and so these decisions cannot be delegated to an officer.

2.4 Where arrangements are made for a sub-committee to discharge functions, that sub-committee may in turn arrange for the discharge of the function by an officer of the Licensing Authority. The powers of the sub-committee to delegate to officers are subject to any direction given by the Licensing Committee to the sub-committee (Section 10(5) of the 2003 Act).

2.5 The arrangements may provide for more than one sub-committee or officer to discharge the same function concurrently (Section 10(3)).

## 3.0 Main issues

3.1 Members will recall that on 22 June 2010 they approved a report recommending the delegation of functions to the Assistant Chief Executive (Corporate Governance).

3.2 Due to staffing changes within the council, that post will be vacant from 31 March 2011. To preserve continuity of delegations the committee is asked to approve the delegation of the licensing functions to the Director of Resources with effect from 1 April 2011 in the same terms as the previous delegation to the Assistant Chief Executive (Corporate Governance) as set out in **Appendix 2**.

## 4.0 Implications for council policy and governance

4.1 The maintenance of the delegations of licensing functions to officers is consistent with good corporate governance arrangements and the efficient administration of business.

## **5.0 Legal and resource implications**

5.1 This delegation ensures that officers of the Licensing Authority can carry out functions as required by the legislation.

5.2 There are no resource implications.

## **6.0 Recommendations**

6.1 Members of the Licensing Committee are asked to approve the delegation of licensing functions to the Director of Resources with effect from 1 April 2011 as set out in **Appendix 2** to this report.