

LONDON BOROUGH OF SUTTON
LICENSING COMMITTEE
TUESDAY, 15 SEPTEMBER 2015



10.00 am at the

Civic Offices, St Nicholas Way, Sutton, SM1 1EA

SECOND DISPATCH

To all members of Licensing Committee:-

The following papers have been updated for dispatch with the agenda. Please bring them with you to the meeting:

5. GOVERNANCE REVIEW - LICENSING SCHEME OF DELEGATION (Pages 1 - 10)

To consider changes to the constitution to ensure greater constitutional robustness in terms of decision making.

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7 September 2015

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Report to:	Licensing Committee	Date:	15 September 2015
Report title:	Governance Review - Licensing Scheme of Delegation		
Report from:	Strategic Director Environment, Housing and Regeneration		
Ward/Areas affected:	Borough wide		
Chair of Committee/Lead Member:	Councillor Mary Burstow		
Author(s)/Contact Number(s):	Victoria Lower, Senior Business Support Officer (Democratic Services), 020 8770 4640 Richard Winch, Licensing Manager, 020 8770 5070		
Corporate Plan Priorities:	<ul style="list-style-type: none"> • An Open Council • A Fair Council • A Smart Council 		
Open/Exempt:	Open		
Signed:		Date:	7 September 2015

1. Summary

- 1.1 To consider changes to the constitution to ensure greater constitutional robustness in terms of decision making.

2. Recommendations

- 2.1 That the Licensing Committee comment on the revised Section 3, Responsibility for Licensing Functions Part 2, attached at Appendix A, ahead of consideration by the Strategy and Resources Committee.

3. Background

- 3.1 The aim of the Governance Review is to strengthen open and transparent decision making, to provide clarity in terms of member and officer relationships and to assist members and officers to work in a more efficient way. This review is consistent with the principles set in the Council's corporate plan particularly in terms of being a Fair and Open Council. A key principle of the review is for the Constitution to reflect the vision and values of the Council.
- 3.2 The review of the Responsibility for Licensing Functions within Section 3 of the Constitution is part of the wider Governance Review of the Scheme of Delegation.



- 3.3 Strategy and Resources Committee have the responsibility for the Council's Constitution, and so amendments to the Scheme of Delegation will be considered by this committee before being recommended to Council.

4. Issues

Scheme of Delegation and Thresholds for Decisions

- 4.1 Amendments to Section 3, Part 2 Responsibility Licensing Functions under the Licensing Act 2003, the Gambling Act 2005, the Scrap Metal Dealers Act 2013, the Local Government (Miscellaneous Provisions) Act 1982, and the London Local Authorities Act 1990 are proposed as the delegations have not been reviewed for some time, and are not assigned at the appropriate officer level.

Timescales for implementation

- 4.2 If these recommendations are agreed by Council in November 2015 it is proposed that the changes will be introduced in January 2016. This gives time to implement and brief officers on the new requirements for decision making.

Options Considered

- 4.3 It is for Council to agree the Constitution which includes the scheme of delegation to officers. It is a decision for members on whether to change how delegated decisions are structured. These changes are being proposed to ensure clarity and robustness of decision making structures in Sutton.

5. Impacts and Implications

Financial

- 5.1 There are no direct financial implications arising out of this report.

Legal

- 5.2 The proposed delegations outlined within this report have been taken from the table attached to Paragraphs 13.61 – 13.63 of the Revised Guidance issued under section 182 of the Licensing Act 2003 dated 27 March 2015. Any slight variance is made to strengthen the Council's scheme of delegation for Licensing Act 2003 decision making.
- 5.3 The proposed delegations outlined with this report arise from section 154 of the Gambling Act 2005 and have been taken from Paragraph 4.3(a) and the table attached to Paragraphs 4.4–4.8 of the Gambling Commission Guidance (4th Edition) issued under section 25 of the Gambling Act 2005 dated September 2012. Any slight variance is made to strengthen the Council's scheme of delegation for Gambling Act 2005 decision making.



6. Appendices and Background Documents

Appendix letter	Title
A	Proposed revised Section 3, Part 2 (Responsibility for Licensing Functions under the Licensing Act 2003 and Gambling Act 2005)

Background documents
None

Audit Trail		
Version	Final	Date: 3 September 2015
Consultation with other officers		
Finance	Yes	Christine Little
Legal	Yes	Guy Bishop

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SECTION 3
RESPONSIBILITY FOR FUNCTIONS

PART TWO - Responsibility for Licensing Functions under the Licensing Act 2003

Function	Licensing Sub-Committee	Officer
Application for personal licence	If a police objection is made due to relevant offence	If no objection is made and application is complete
Application for premises licence or club premises certificate	If a relevant representation is made and remains	If no relevant representation is made or a relevant representation has been withdrawn
Application for provisional statement	If a relevant representation is made	If no relevant representation is made
Application to vary premises licence or club premises certificate	If a relevant representation is made	If no relevant representation is made
Application to vary Designated Premises Supervisor	If a police objection is made	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection is made	All other cases
Application for interim authorities	If a police objection is made	All other cases
Application to review premises licence or club premises certificate	All cases	
Decision on whether a Representation is irrelevant, frivolous, vexatious, etc	All cases	All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection and/or environmental health objection to a temporary event notice	All cases where there is a objection notice that has not been withdrawn	
Making a representation on behalf of the Licensing Authority		Licensing Manager
Initiating a review on behalf of the Licensing Authority		Licensing Manager
Authority to extend for a specified period a time limit provided for in the Licensing Act 2003 (Hearings) Regulations 2005, where it is considered necessary in the public interest.		Strategic Director Environment, Housing & Regeneration / Executive Head of Safer and Stronger Communities
Authority to defend appeals or agree consent orders in relation to determinations made by Licensing Sub Committees		Strategic Director Environment, Housing & Regeneration / Executive Head of Safer and Stronger Communities in conjunction with three members of the Licensing Committee

Function	Licensing Sub-Committee	Officer
Application to vary premises licence at community premises to include alternative licence condition	Where there is a relevant Representation	If no relevant Representation is made or withdrawn
Decision whether to consult other responsible authorities on minor variation applications		All cases
Application for a minor variation		All cases
Withdrawal of a club premises certificate (S.90)		All cases
To administer and carry out all other functions of the Licensing Authority capable of delegation under The Licensing Act 2003 which is not otherwise delegated to the Authority, The Licensing Committee or its Sub Committees	All cases	All cases

Responsibility for Licensing Functions under the Gambling Act 2005

Matter to be dealt with	Full Council	Sub-Committee	Officers
Three year licensing policy	All cases		
Policy not to permit casinos	All cases		
Fee Setting		Licensing Committee	
Application for premises licences		Where representations have been received and not withdrawn and there is an Operating Licence in force	Where no representations received / representations have been withdrawn and there is an Operating Licence in force
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for transfer of a licence		Where representations have been received from Responsible Authorities	Where no representations received from Responsible Authorities
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations have been received / representations have been withdrawn
Review of a premises licence		All cases	

Matter to be dealt with	Full Council	Sub-Committee	Officers
Application for club gaming / club machine permits		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Cancellation of club gaming / club machine permits		All cases	
Applications for other permits		All cases	All cases
Cancellation of licensed premises gaming machine permits			All cases
Consideration of temporary use notice			All cases
Decision to give a counter notice to a temporary use notice		All cases	
Determination as to whether a person is an Interested Party		All cases	All cases
Determination as to whether representations are relevant		All cases	All cases
Determination as to whether a representation is frivolous, vexatious or repetitive		All cases	All cases
Propose to attach default or mandatory conditions to a premises licence in accordance with section 169(1)(a)			All cases
Propose the exclusion of a default or mandatory condition from a premises licence under section 169(1)(b)			All cases

Matter to be dealt with	Full Council	Sub-Committee	Officers
To request a review of a premises licence under section 200			All cases
Give a notice of objection to a temporary use notice under section 221			All cases
Revoke a premises licence for non-payment of the annual fee (s193)			All cases
Serve notification of intended refusal of any of the following:- Family Entertainment Centre Gaming Machine Permit (Sch 10 para 10) Prize gaming Permits (Sch 14 para 11) Licensed Premises Gaming Machine Permits (Sch 13 para 6)			All cases
Notice of intention to grant the application but for a smaller number of machines than specified and/or a different category of machines from that specified in the application			All cases
Serve notification of lapse of a Family Entertainment Centre Gaming Machine Permit (Sch 10 para 14 and 15 (1)(b))			All cases
Serve notice of intention to cancel or vary a Club Gaming permit or Club Gaming Machine permit (Sch 12 para 21)			All cases

Matter to be dealt with	Full Council	Sub-Committee	Officers
<p>Create and amend the Authority's application procedures in relation to applications for the following in accordance with any relevant legislation:- Family Entertainment Centre Gaming Machine Permits (sch10 paras 5 and 7) Licensed Premises Gaming Machine Permits (Sch 13 para 2) Prize Gaming Permits (Sch 14 paras 6 and 8)</p>			All cases
<p>The power to appoint authorised persons under section 304 of the Act</p>			Executive Head of Safer and Stronger Communities.
<p>Power to issue formal cautions and/or Instruct the Solicitor to the Council to commence and defend proceedings under the Gambling Act 2005</p>			Executive Head of Safer and Stronger Communities.
<p>To administer and carry out all other functions of the Licensing Authority capable of delegation under The Gambling Act 2005 which is not otherwise delegated to the Authority, The Licensing Committee or its Sub Committees</p>			Executive Head of Safer and Stronger Communities.

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