

Report to:	Licensing Committee	Date:	12 June 2017
Report title:	Updates to the Licensing Act 2003 scheme of delegation following changes to Licensing Authority powers under new legislation		
Report from:	Mary Morrissey, Strategic Director Environment Housing and Regeneration		
Ward/Areas affected:	Borough Wide		
Chair of Committee/Lead Member:	Councillor Mary Burstow		
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Corporate Plan Priorities:	<ul style="list-style-type: none"> • An Open Council • A Fair Council 		
Open/Exempt:	Open		
Signed:		Date:	30 May 2017

1. Summary

- 1.1 To agree changes to the Licensing Act 2003 scheme of delegation, to reflect additional powers and responsibilities of the Licensing Sub-committee in respect of Personal Licences.
- 1.2 As the responsibility for Licensing Functions under the Licensing Act 2003 forms part of the Council's Constitution (Section 3, Part 2), the report seeks to recommend the necessary amendments to the Constitution arising from this report.
- 1.3 The Policing and Crime Act 2017 introduced new powers for the Licensing Authority in relation to Personal Licences, and this report sets out an amendment to the Scheme of Delegation for Licensing decisions which is included at Appendix A of the Statement of Licensing Policy.
- 1.4 The Immigration Act 2016, which came into effect in April 2017, created a new Responsible Authority of the Home Office. This report sets out an amendment to the list of Responsible Authorities forming Appendix C of the Statement of Licensing Policy.

2. Recommendations

The Licensing Committee is recommended to:

- 2.1 Agree that decisions relating to Personal Licences, where the Authority becomes aware that a person has been convicted of a relevant or foreign offence after the licence was granted, is delegated to the Licensing Sub-committee.



- 2.2 Approve the amendments to Appendices A and C of the Statement of Licensing Policy as set out in the report.
- 2.3 Recommend to Council, via the Strategy and Resources Committee, that the amendments to the Licensing Policy appendices be reflected accordingly in Section 3, Part 2 of the Council's Constitution.

3. Background

- 3.1 Members will recall that a report to the March meeting of the Licensing Committee set out a number of proposed changes to the Licensing Act 2003 and the processes supporting applications made under the Act.

The Policing and Crime Act

- 3.2 The Policing and Crime Act 2017 received Royal Assent in April 2017 and with it new powers for dealing with Personal Licence holders convicted of relevant offences came into effect. Previously, only a court could revoke or suspend a Personal Licence on conviction of the holder for a relevant offence.
- 3.3 Now, whenever the Licensing Authority becomes aware that an individual holding a Personal Licence has been convicted of a 'relevant offence' or a 'foreign offence' after 6 April 2017, the Authority is now able to suspend (for up to 6-months) or revoke the Personal Licence. Section 132 of the Licensing Act 2003 has been amended by the Policing and Crime Act to this effect. Relevant offences are set out in Schedule 4 to the Licensing Act 2003, and there is an obligation upon licence holders to notify the Authority if they are convicted of an offence.
- 3.4 The legislation sets out the process an Authority must follow when considering what, if any, action should be taken in respect of a Personal Licence in these circumstances. This process includes a requirement to seek representations from the Personal Licence Holder before making a decision.
- 3.5 The Licensing Authority is specifically empowered in the legislation to make the decision and the Act specifies that this decision cannot be delegated to officers. The Licensing Committee, acting as the Licensing Authority, is however able to appoint sub-committees to determine applications that cannot be delegated to officers.
- 3.6 Members will be aware that all relevant application types under the Licensing Act are already determined by a process of hearings by a sub-committee, including applications for grant of a personal licence by an individual with relevant offences which has always been a power of the Licensing Authority.
- 3.7 It is therefore recommended that the Licensing Sub-committee be further delegated to make decisions on whether a Personal Licence should be suspended, revoked or otherwise in the light of a conviction for a relevant offence that the Authority becomes aware of. This delegation of



decision making aligns with the functions of the Licensing Sub-committee as set out at 8.13(1) of the Council's Constitution.

- 3.8 The Licensing Authority sets out its delegation of Licensing Functions under the Licensing Act at Appendix A of its Statement of Licensing Policy. It is recommended that the table of delegations be amended to reflect the above position, and a draft revised table is given at Appendix A to this report for information.

Immigration Act 2016

- 3.9 Members will recall that immigration offences are now relevant offences under the Licensing Act 2003 and can be taken into consideration when making decisions. The Immigration Act 2016 also created an additional Responsible Authority of the Secretary of State (Home Office). This provides the Home Office - through the Immigration Enforcement team - with an opportunity to raise representations and a requirement for applicants to send copies of relevant applications to the Immigration Service's Alcohol Licensing Team.
- 3.10 The committee is recommended to resolve that the list of Responsible Authorities included at Appendix C of the Statement of Licensing Policy is amended to include the contact details for the Secretary of State (Home Office) as a Responsible Authority.

4. Options Considered

- 4.1 The Licensing Committee could itself consider Personal Licences in the situations set out in the report, however this would require all members of the committee being available to consider any representations. This would also be at odds with the delegation for new applications for Personal Licences, which are already delegated to sub-committees when the applicant has relevant offences. It is therefore considered most appropriate for the sub-committee to be delegated to consider these cases.

5. Impacts and Implications

Financial

- 5.1 The cost of holding a sub-committee meeting to consider any cases will be met from existing budgets, and where possible cases will be brought to an already established meeting for the purposes of efficiency.

Legal

- 5.2 The Council is obliged to consult on amendments to its Statement of Licensing Policy, however as this report recommends amendments to the Appendices of the Policy only, it is not considered that the Policy is being changed and as such consultation is not required.



6. Appendices and Background Documents

Appendix letter	Title
A	Draft revised Table of Delegations for Licensing Functions

Background documents
Statement of Licensing Policy (Licensing Act 2003)

Audit Trail		
Version	Final	Date: 1 June 2017
Consultation with other officers		
Finance	No	N/A
Legal	Yes	Saima Khan
Equality Impact Assessment required?	No	N/A