

NORTH LINCOLNSHIRE COUNCIL

LICENSING COMMITTEE

REVIEW OF THE LICENSING COMMITTEE'S TERMS OF REFERENCE

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To review the Terms of Reference for the Licensing Committee, to make sure that they comply with legal requirements.

2. BACKGROUND INFORMATION

- 2.1 The Licensing Committee has delegation through the Council's Constitution to deal with non-executive decision making under various Acts of Parliament. The majority of these decisions are made in accordance with the Local Government Act 1972.
- 2.2 Where the Licensing Committee deals with matters under the Licensing Act 2003 or the Gambling Act 2005, these decisions are made in accordance with The Licensing Act 2003 (Hearings) Regulations 2005 or The Gambling Act 2005 (Proceedings of Licensing Committees and sub-committees) Premises Licence and Provisional Statements (England and Wales) Regulations 2007.
- 2.3 In the case of applications determined under the Licensing Act 2003 or the Gambling Act 2005, both allow for the delegation to a committee under section 10(1) of the Licensing Act 2003.
- 2.4 The difference in the way that matters are delegated to the Licensing Committee should be clear in the Council's Constitution.
- 2.5 A copy of the delegation to the Licensing Committee, highlighting the proposed changes is attached as Appendix A to this report.
- 2.6 The proposed delegation groups the decisions made under the Licensing Act 2003 and Gambling Act 2005 together and deals with other matters dealt with under the Local Government Act 1972 separately.

3. OPTIONS FOR CONSIDERATION

- 3.1 Option 1 – To maintain the delegation to the Licensing Committee as per the current constitution at Appendix A.

3.2 Option 2 – To amend the delegation to the Licensing Committee as suggested at Appendix B.

4. ANALYSIS OF OPTIONS

4.1 Option 1 – Although the current delegation includes all relevant information, it is not clearly defined and there is some duplication.

4.2 Option 2 – The revised wording removes the duplication and makes it clear where the delegation comes from. In addition, the revised wording is consistent in the way that it is laid out and details the licensing objectives under the Gambling Act 2005 in the same way that they are detailed for the Licensing Act 2003.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 None

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

6.1 The proposal at Option 2 clarifies the delegation and removes duplication.

7. OUTCOMES OF CONSULTATION

7.1 None.

8. RECOMMENDATIONS

8.1 That Option 2 at paragraph 4.2 be approved and then be referred to the Council for inclusion in the Constitution.

DIRECTOR: OPERATIONS

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Background Papers used in the preparation of this report: - None

LICENSING COMMITTEE - TERMS OF REFERENCE

Advisory

- (a) To receive the outcome of consultations required to be carried out under section 5 of the Licensing Act 2003 and recommend to the council any revision to the local statement of licensing policy as a result of such consultation. The statement of licensing policy shall be reviewed at least every three years and revisions made and published at such times as considered appropriate.

Delegated

- (a) To exercise the functions of the council as the licensing authority for the purposes and requirements of the Licensing Act 2003. To delegate these functions, where appropriate, to the Licensing Activities Sub-Committee or Director: Operations in accordance with the above legislation, and as defined and detailed in the statement of licensing policy in accordance with guidance issued by the Secretary of State (sections 3 to 10 of the above Act refers).
- (b) To promote the four licensing objectives as defined in section 4 of the Licensing Act 2003
 - the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance and
 - the protection of children from harmwhilst carrying out its functions and those delegated to the Licensing Activities Sub-Committee.
- (c) To comment on any draft guidance and respond to any consultation documents issued by the Secretary of State.
- (d) To exercise the functions of the Council as the licensing authority for the purposes and requirements of all other relevant legislation, including that relating to acupuncture and body piercing, animals and pet shops, betting, gaming and lotteries, hackney carriage and private hire vehicles (taxis), house to house and street collections, street trading consents, public entertainment, and sex establishments (Please note this list is not exhaustive). To delegate these functions to the Director: Operations (see Delegations to Officers) or to the Licensing (Miscellaneous) Sub-Committee to determine the grant, renewal, variation, transfer or revocation of any licence, permit, consent permission, registration, certificate or other like document under such legislation.
- (e) To set and review appropriate licensing conditions.
- (f) To set and amend fees and charges for licences, consents and other permissions, together with hackney carriage and private hire tariffs.

- (g) To set and review standard conditions attached to licences, consents and other permissions where applicable.
- (h) To set and review procedures for giving required notices and determining applications for licences, consents or other permissions at meetings of the Committee and its Sub-Committees.
- (i) To determine the action to be taken as regards general relevant licensing issues including new/revised legislation, regulations, codes of practice or circulars. (This would include reviewing delegated powers to take account of and changes to legislation.)
- (j) To set the fees for gambling premises in accordance with paragraph 3.2 of the report of the Director of Neighbourhood and Environmental Services of 7 November 2006.
- (k) To determine applications for small lotteries in accordance with paragraph 3.5 of the report of the Director of Neighbourhood and Environmental Services of 7 November 2006.

Membership

15 members of the Council

LICENSING (ACTIVITIES) SUB-COMMITTEE

Delegated

- (a) To determine any application made under the Licensing Act 2003 as defined and detailed in the statement of licensing policy in accordance with guidance issued by the Secretary of State.
- (b) To consider any revocation or refusal of registration of applications for small lotteries.

Membership

3 members of the Committee (politically balanced).

LICENSING (MISCELLANEOUS) SUB-COMMITTEE

Delegated

- (a) To determine any appropriate applications in accordance with other relevant legislation as set out in paragraph (d) above.
- (b) To determine applications where the number of machines exceeds the number as stated in paragraph 3.2 of the report of the Director of

Neighbourhood and Environmental Services submitted to the Licensing Committee on 6 April, 2006.

Membership

5 members of the Committee (politically balanced).

Delegations

See Delegations to Officers.

LICENSING COMMITTEE - TERMS OF REFERENCE

Advisory

- (a) To receive the outcome of consultations required to be carried out under section 5 of the Licensing Act 2003 and recommend to the council any revision to the local statement of licensing policy as a result of such consultation. The statement of licensing policy shall be reviewed at least every five years and revisions made and published at such times as considered appropriate.
- (b) To receive the outcome of consultations required to be carried out under section 349 of the Gambling Act 2005 and recommend to the council any revision to the local statement of principles as a result of such consultation. The statement of principles shall be reviewed at least every three years and revisions made and published at such times as considered appropriate.

Delegated

- (a) To exercise the functions of the council as the licensing authority for the purposes and requirements of the Licensing Act 2003 and the Gambling Act 2005. To delegate these functions, where appropriate, to the Licensing Activities Sub-Committee or Director: Operations in accordance with the above legislation, and as defined and detailed in the statement of licensing policy in accordance with guidance issued by the Secretary of State (sections 3 to 10 of the above Act refers).
- (b) To promote the four licensing objectives as defined in section 4 of the Licensing Act 2003
 - the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance and
 - the protection of children from harmwhilst carrying out its functions and those delegated to the Licensing Activities Sub-Committee.
- (c) To promote the three licensing objectives as defined in section 1 of the Gambling Act 2005
 - preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way, and
 - protecting children and other vulnerable persons from being harmed or exploited by gamblingwhilst carrying out its functions and those delegated to the Licensing Activities Sub-Committee.

- (c) To comment on any draft guidance and respond to any consultation documents issued by the Secretary of State.
- (d) To exercise the functions of the Council as the licensing authority for the purposes and requirements of all other relevant legislation, including that relating to acupuncture and body piercing, animals and pet shops, ~~betting, gaming and lotteries~~, hackney carriage and private hire vehicles (taxis), house to house and street collections, street trading consents, public entertainment, and sex establishments (Please note this list is not exhaustive). To delegate these functions to the Director: Operations (see Delegations to Officers) or to the Licensing (Miscellaneous) Sub-Committee to determine the grant, renewal, variation, transfer or revocation of any licence, permit, consent permission, registration, certificate or other like document under such legislation.
- (e) To set and review appropriate licensing **policies** and conditions.
- (f) To set and amend fees and charges for licences, consents and other permissions, together with hackney carriage and private hire tariffs.
- ~~(g) To set and review standard conditions attached to licences, consents and other permissions where applicable.~~
- ~~(h) To set and review procedures for giving required notices and determining applications for licences, consents or other permissions at meetings of the Committee and its Sub-Committees. *((Officers from Legal/DS and Licensing Should do this rather than waiting for a report. It is being added to policies))*~~
- (g) To determine the action to be taken as regards general relevant licensing issues including new/revised legislation, regulations, codes of practice or circulars. (This would include reviewing delegated powers to take account of and changes to legislation.)
- (h) To set the fees for gambling premises in accordance with paragraph 3.2 of the report of the Director of Neighbourhood and Environmental Services of 7 November 2006.
- ~~(i) To determine applications for small lotteries in accordance with paragraph 3.5 of the report of the Director of Neighbourhood and Environmental Services of 7 November 2006.~~

Membership

15 members of the Council (**politically balanced**)

LICENSING (ACTIVITIES) SUB-COMMITTEE

Delegated

- (a) To determine any application made under the Licensing Act 2003 as defined and detailed in the statement of licensing policy in accordance with guidance issued by the Secretary of State.
- (b) To determine any application made under the Gambling Act 2005 as defined and detailed in the statement of principles in accordance with guidance issued by the Secretary of State.
- (c) To determine applications where the number of machines exceeds the number as stated in paragraph 3.2 of the report of the Director of Neighbourhood and Environmental Services submitted to the Licensing Committee on 6 April, 2006.

~~(b) To consider any revocation or refusal of registration of applications for small lotteries.~~

Membership

3 members of the Committee (politically balanced).

LICENSING (MISCELLANEOUS) SUB-COMMITTEE

Delegated

- (a) To determine any appropriate applications in accordance with other relevant legislation as set out in paragraph (e) above.

Membership

5 members of the Committee (politically balanced).

Delegations

See Delegations to Officers.