

Committee(s)	Dated:
Licensing	28/04/23
Subject: Delegation of functions	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	1,4,5
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	n/a
What is the source of Funding?	n/a
Has this Funding Source been agreed with the Chamberlain's Department?	n/a
Report of: Juliemma Mcloughlin Executive Director Environment	For Decision
Report author: Aggie Minas – Licensing Manager	

Summary

A licensing committee may arrange for the discharge of any of its functions as the licensing authority under the Licensing Act 2003 (the 2003 Act) and the Gambling Act 2005 (the 2005 Act), to a sub-committee established by it and, in some circumstances, the functions may be discharged to an officer of the licensing authority. The licensing committee may also discharge functions of the licensing authority under schedule 3 of the Local Government Act (Miscellaneous Provisions) Act 1982 (the 1982 Act). This report outlines the legislative provisions and statutory guidance in respect of delegating those functions.

Recommendation(s)

Members are asked to:

1. Agree the recommendations in paragraph 12 and the proposed scheme for delegation of functions and powers as set out in Appendix 1.
2. Delegate the officer function to the Executive Director for Environment.

Main Report

Background

Licensing Act 2003

1. Section 10 of the 2003 Act provides that a licensing committee may arrange for the discharge of any of its functions under that Act to a sub-committee established by it or, subject to certain exemptions, to an officer of the licensing authority.

2. Statutory guidance to the 2003 Act (S182 guidance) recommends that ‘where, under the provisions of the 2003 Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters should be dealt with by officers in order to speed matters through the system.’
3. Table 1 of Appendix 1 sets out a list of matters to be dealt with and the circumstances in which they would normally be dealt with by a Sub-Committee or Officers. This table is based upon the recommended delegation of functions in accordance with Section 10 of the 2003 Act and S182 guidance.

Gambling Act 2005

4. Section 154 of the 2005 Act provides that a licensing committee may arrange for the discharge of any of its functions under that Act to a sub-committee established by it or, subject to certain exemptions, to an officer of the licensing authority.
5. Table 2 of Appendix 1 sets out a list of matters to be dealt with and the circumstances in which they would normally be dealt with by a Sub-Committee or Officers. This table is based upon statutory guidance to the 2005 Act (Gambling Commission guidance) which sets out a recommended delegation of functions.

Local Government Act (Miscellaneous Provisions) Act 1982 (schedule 3)

6. The 1982 Act does not make any recommendations on how a licensing committee may discharge its functions under that Act.
7. Table 3 of Appendix 1. sets out a list of matters to be dealt with and the circumstances in which they would normally be dealt with by a Sub-Committee or Officers. This table is based upon the same principle for delegating functions under the 2003 Act and the 2005 Act

Proposals/Options

8. In respect of the three Acts of Parliament listed above it is proposed that all functions and powers to enable the relevant sub-committee and officer to deal with the matters listed in column 1 of the relevant table in the circumstances listed in columns 2 and 3 as appropriate are delegated to the relevant sub-committee and officer.
9. Notwithstanding delegation by the Licensing Committee to sub-committee or to an officer, the Licensing Committee or licensing sub-committee can determine any matters within their remit. The Executive Director for Environment may refer any matter which she considers appropriate back to a licensing sub-committee for consideration. Similarly, a licensing sub-committee may refer any matter it considers appropriate back to Licensing Committee for consideration.

Corporate & Strategic Implications

10. The proposals within this report meet the statutory requirements to delegate functions under the Licensing Act 2003, the Gambling Act 2005, and the Local Government (Miscellaneous Provisions) Act 1982.

Implications

11. An approved scheme of delegation will reduce the risk of judicial review challenge to the Corporation's decisions under the above Acts.

Recommendations

12. It is recommended that Members approve the following:
 - (a) In so far as not already delegated, to delegate the requisite functions and powers to enable the matters to be dealt with listed in column 1 of Table 1 at Appendix 1 to any licensing sub-committee or the officer in the circumstances as set out in columns 2 and 3 of Table 1 (where no circumstances are mentioned in column 2 or 3 of Table 1 there is no delegation).
 - (b) In so far as not already delegated, to delegate the requisite functions and powers to enable the matters to be dealt with (listed in column 1 of Table 2 at Appendix 1 to any licensing sub-committee or the officer in the circumstances as set out in columns 2 and 3 of Table 2 (where no circumstances are mentioned in column 2 or 3 of Table 2 there is no delegation)..
 - (c) In so far as not already delegated, to delegate the requisite functions and powers to enable the matters to be dealt with (listed in column 1 of Table 3 at Appendix 1 to any licensing sub-committee or the officer in the circumstances as set out in columns 2 and 3 of Table 3 (where no circumstances are mentioned in column 2 or 3 of Table 3 there is no delegation).
 - (d) The reference to the officer at (a), (b) and (c) above is the Executive Director for Environment.

Appendices

- Appendix 1 – Proposed Delegation of Functions

Background Papers

- Licensing Act 2003 and associated regulations and guidance
- Gambling Act 2005 and associated regulations and guidance
- Local Government (Miscellaneous Provisions) Act 1982.

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