

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – WEDNESDAY, 18 SEPTEMBER 2024



Title of Report	LICENSING ACT 2003 AND GAMBLING ACT 2005 DELEGATIONS	
Presented by	Lee Mansfield Environmental Health Team Manager	
Background Papers		Public Report: Yes
Financial Implications	There are no financial implications associated with this report.	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	Section 10 of the Licensing Act 2003 permits the Licensing Committee to delegate functions under the Act to either a Sub Committee or to an Officer.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	There are no HR implications associated with this report	
	Signed off by the Head of Paid Service: Yes	
Purpose of Report	To set out and seek approval for updated delegations under the Licensing Act 2003 and Gambling Act 2005	
Recommendations	To approve the delegations to the Licensing Sub-Committee and officers set out at Appendix A and Appendix B to this report.	

1.0 BACKGROUND

- 1.1 The purpose of this report is to allow the Committee to consider updated delegations for the purposes of the Licensing Act 2003 (LA03) and Gambling Act 2005 (GA05).
- 1.2 The proposed scheme of delegation for the LA03 can be found at Appendix A to this report and the proposed scheme of delegation for the GA05 can be found at Appendix B to this report.
- 1.3 These delegation schemes have been drafted taking account of the relevant legislation, statutory guidance, the Council's Licensing Act 2003 Statement of Licensing Policy Issue 8 approved by Council on 14 November 2023 and the Council's Statement of Licensing Policy under the Gambling Act 2005 approved by Council on 16 November 2021 and the Council's draft Statement of Licensing Policy under the Gambling Act 2005 considered by this Committee today (18 September 2024).

- 1.4 All fees, including licensing fees, are signed off by Cabinet as part of the final budget.
- 1.5 Should the Committee approve the LA03 delegations they will replace the delegations listed at Appendix 2 of the Licensing Act 2003 Statement of Licensing Policy Issue 8.
- 1.6 Should the Committee approve the GA05 delegations they will be inserted as an appendix within the Gambling Act 2005 Statement of Licensing Policy.

2.0 STATUTORY BASIS FOR LICENSING DELEGATIONS

The legal position regarding the delegation of licensing functions can be summarised as follows:

- Section 101(1) of the Local Government Act 1972 provides that (subject to any express statutory provision) a local authority may arrange for the discharge of any of its functions by a committee, sub-committee or one of its officers.
- Section 101(15), inserted by the LA03, states that section 101 does not apply to any function of a licensing authority under the LA03. This means that the usual mechanisms for delegation do not, and cannot apply to the LA03, and by extension the GA05.
- Under section 7 of the LA03, the functions of the licensing authority (Council) are expressly delegated to, and must and can only be discharged by, the licensing committee which must be established by the authority, subject to the exceptions contained in subsection (2) and the circumstances described in subsection (9).
- The exceptions contained in subsection (2) and the circumstances described in subsection (9) are the only functions that can be discharged by the licensing authority (full Council).
- Section 10 of the LA03 allows a licensing committee to sub-delegate any functions to sub-committees and some functions to officers.
- Section 154 of the GA05 applies section 10 of the LA03 to the discharge of functions by a licensing committee created under the GA05, that is the licensing committee can delegate functions to a sub-committee or to an officer, subject to three exceptions and amendment of the functions capable of delegation to officers.

3.0 STRUCTURE OF LICENSING DELEGATIONS

- 3.1 The proposed delegation of functions under the LA03 are listed in table form at Appendix 1. The proposed delegation of functions under the GA05 are listed in table form at Appendix 2. Identified are those matters that are matters for the Licensing Committee along with those that are matters for the Licensing Sub-Committee and those which are delegated to officers.
- 3.2 Primarily the delegations to officers are the administrative functions under both Acts and include the authority to approve full applications, variations, minor variations for premise licences as well as personal licences and temporary event notices (under the LA03). In some cases, these matters would automatically come before a sub-committee if objections are raised that cannot be mediated by officers. The occasions when matters will go before the Sub-Committee are set out in the relevant scheme and reflect both the law and adopted local policy framework.
- 3.3 It is important for both applicants, licence holders, responsible authorities and residents that the any scheme of delegation approved by this Committee is clear in its intent. These new proposed delegation schemes, laid out in table form, contain a

significant level of detail and provide absolute clarity about who is making decisions and on what legal basis.

- 3.4 Any functions delegated to an officer will be delegated by Licensing Committee to the Head of Community Services, who will further delegate as appropriate, this further delegation being recorded in the officers Specific Delegation document.

Policies and other considerations, as appropriate	
Council Priorities:	Communities and housing
Policy Considerations:	Licensing Act 2003 – Statement of Licensing Policy Gambling Act 2005 – Statement of Licensing Policy
Safeguarding:	Detail any safeguarding considerations made.
Equalities/Diversity:	Equalities issues are considered as part of the formulation of the Licensing and Gambling Policies. This report is seeking to ensure the appropriate governance arrangements are in place
Customer Impact:	Detail any impact the decision will have on customers
Economic and Social Impact:	Detail any economic or social impact as a result of the decision.
Environment, Climate Change and zero carbon:	It is not envisaged that the governance arrangements will have either a positive or negative impact on the environment
Consultation/Community Engagement:	No consultation has taken place.
Risks:	The only significant risk identified is not delegating functions in accordance with law. The legislation and thus the route to the Committee being able to consider / grant these delegations is set out in the legal implications section above
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