



## Appendix A to P&L minutes 15 November 2016

### Licensing: Current vs. Proposed constitution arrangements

#### Responsibilities

To be responsible for all of the Council's licensing functions

Current	Proposed	Reason
<ul style="list-style-type: none"> <li>• To review and recommend to Council:                             <ul style="list-style-type: none"> <li>○ the Licensing Statement of Policy</li> <li>○ the Gambling Statement of Principles</li> <li>○ the Policy not to permit casinos</li> </ul> </li> <li>• To determine the revocation of any licence</li> </ul>	<ul style="list-style-type: none"> <li>• To review and recommend to Council:                             <ul style="list-style-type: none"> <li>○ the Licensing Statement of Policy</li> <li>○ the Gambling Statement of Principles</li> <li>○ the Policy not to permit casinos</li> </ul> </li> </ul>	<p>No change</p> <p>Responsibility for revocation now with COP Lead Environmental Health for Taxi Driver/Hackney Carriage Licences</p>
<ul style="list-style-type: none"> <li>• To review and be responsible for all other Licensing Policies</li> </ul>	<ul style="list-style-type: none"> <li>• To review and be responsible for all other Licensing Policies</li> </ul>	<p>No change</p>
<ul style="list-style-type: none"> <li>• To determine the revocation and suspension of Hackney Carriage / Private Hire Driver or Vehicle Licences</li> </ul>	<ul style="list-style-type: none"> <li>• To determine to revoke or suspend a Hackney Carriage/Private Hire Driver or Private Hire Operator Licence.</li> </ul>	<p>Slight wording change and removed mention of vehicles as this is proposed to be dealt with by officers.</p>
<ul style="list-style-type: none"> <li>• To determine all licensing applications for all licensing functions (except in relation to the licensing functions under the Licensing Act 2003 and the Gambling Act 2005 see below) to which an objection has been received and not withdrawn or satisfactorily addressed by the applicant;</li> </ul>	<ul style="list-style-type: none"> <li>• To determine whether to refuse to grant a licence for the following licensing functions ;                             <ul style="list-style-type: none"> <li>• Street Trading Licence (South Hams)</li> <li>• Zoo Licensing</li> <li>• Sex Establishments</li> <li>• Houses in Multiple Occupation</li> </ul> </li> </ul>	<p>Removes ambiguity about applications where there is no remit for a member of the public to object but may need to be refused based on failing to meet specified criteria. These types of applications are listed due to their political, financial and social impact.</p>
	<ul style="list-style-type: none"> <li>• To determine such other applications as referred to the P&amp;L Committee by the Community of Practice Lead for Environmental Health</li> </ul>	<p>Due to the delegation of powers to CoP Lead it was felt appropriate to introduce this measure to allow applications which become contentious to be brought to the committee.</p>

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Licensing sub-committee

Current	Proposed	Reason
<p>a) Licensing sub-committees have the following responsibilities in relation to functions under the <b><u>Licensing Act 2003:</u></b></p> <ul style="list-style-type: none"> <li>• Applications for personal licences - if there is a police objection</li> <li>• Applications for personal licences with unspent convictions – all cases</li> <li>• Review of personal licences – if there is a police objection</li> <li>• Applications for premises licence/club premises certificate – if a relevant representation is made</li> <li>• Applications for provisional statement – if a relevant representation is made</li> <li>• Application to vary premises licence/club premises certificate - if a relevant representation is made</li> <li>• Applications to vary designated premises supervisor – if police objection made</li> <li>• Applications for transfer of premises licence – if police objection</li> <li>• Applications for interim authorities – if a police objection</li> <li>• Applications to review premises licence/club premises certificate – all cases</li> <li>• Decision to object when Council is a consultee and not relevant authority - all cases</li> </ul>	<p>a) Licensing sub-committees have the following responsibilities in relation to functions under the <b><u>Licensing Act 2003:</u></b></p> <ul style="list-style-type: none"> <li>• Applications for personal licences - if there is a police objection</li> <li>• Applications for personal licences with unspent convictions – all cases</li> <li>• Review of personal licences – if there is a police objection</li> <li>• Applications for premises licence/club premises certificate – if a relevant representation is made</li> <li>• Applications for provisional statement – if a relevant representation is made</li> <li>• Application to vary premises licence/club premises certificate - if a relevant representation is made</li> <li>• Applications to vary designated premises supervisor – if police objection made</li> <li>• Applications for transfer of premises licence – if police objection</li> <li>• Applications for interim authorities – if a police objection</li> <li>• Applications to review premises licence/club premises certificate – all cases</li> <li>• Decision to object when Council is a consultee and not relevant authority - all cases</li> </ul>	<p>No changes proposed</p>

<ul style="list-style-type: none"> <li>• Determination of a police or Environmental Health objection to a temporary event notice - all cases</li> </ul>	<ul style="list-style-type: none"> <li>• Determination of a police or Environmental Health objection to a temporary event notice - all cases</li> </ul>	
<p>b) Licensing sub-committees have the following responsibilities in relation to the <b><u>Gambling Act 2005</u></b>:</p> <ul style="list-style-type: none"> <li>• Application for <b>premises licence</b>: if a relevant representation has been made and not withdrawn</li> <li>• Application for a <b>variation</b> to a licence: if a representation has been made and not withdrawn</li> <li>• Application for a <b>transfer</b> of a licence: where representations have been received from the Gambling Commission</li> <li>• Application for a <b>provisional statement</b>: if a representation has been made and not withdrawn</li> <li>• <b>Review</b> of a premises licence</li> <li>• Application for <b>club gaming/club machine permits</b>: where objections have been made and not withdrawn, or where refusal proposed</li> <li>• <b>Temporary use notice</b>: Decision to give a counter notice, or where objection notice received</li> <li>• <b>Fees</b></li> </ul>	<p>b) Licensing sub-committees have the following responsibilities in relation to the <b><u>Gambling Act 2005</u></b>:</p> <ul style="list-style-type: none"> <li>• Application for <b>premises licence</b>: if a relevant representation has been made and not withdrawn</li> <li>• Application for a <b>variation</b> to a licence: if a representation has been made and not withdrawn</li> <li>• Application for a <b>transfer</b> of a licence: where representations have been received from the Gambling Commission</li> <li>• Application for a <b>provisional statement</b>: if a representation has been made and not withdrawn</li> <li>• <b>Review</b> of a premises licence</li> <li>• Application for <b>club gaming/club machine permits</b>: where objections have been made and not withdrawn, or where refusal proposed</li> <li>• <b>Temporary use notice</b>: Decision to give a counter notice, or where objection notice received</li> <li>• <b>Fees</b></li> </ul>	<p>No changes proposed</p>
<p>c) Licensing sub-committees have the following responsibilities in relation to the <b>Hackney Carriage / Private Hire Driver or Vehicle</b> Licences:</p> <ul style="list-style-type: none"> <li>• Review, revocation or suspension of licences</li> <li>Refusal to renew licences</li> </ul>		<p>Deleted as replicates provisions in Licensing Committee and CoP responsibilities</p>

d) To <b>determine appeals from officers' decisions</b> where required.		Deleted as this is not appropriate, appeals from officer decisions should be to the magistrates or other court as specified by the legislation.
e) Officers shall have delegated authority to <b>suspend licences</b> in situations of urgency where there are reasonable grounds to do so		This has now been moved to the new paragraphs in relation to delegation to CoP lead.

#### Community of Practice Lead for Environmental Health

Current	Proposed	Reason
This is the responsibility of Licensing Committee	Shall have the delegated authority: <ul style="list-style-type: none"> <li>To determine whether to refuse to grant an application for Hackney Carriage or Private Hire Vehicle Licence.</li> </ul>	Determinations of whether a vehicle meets our policy are technical in nature and do not require a quasi-judicial process to assess the acceptability.
Not in current constitution. All revocations must go through committee.	<ul style="list-style-type: none"> <li>To determine in consultation with the Chair and Vice-chair of the P&amp;L Committee whether to revoke a Hackney Carriage or Driver licence in situations of urgency ('urgency' to be determined by the Community of Practice Lead for Environmental Health).</li> </ul>	Recently we had to revoke a licence in urgency due to concerns over the safety of the public. This had to be done by the Head of Paid Service using his emergency powers, otherwise the driver would have had to be brought in front of committee, possibly many weeks after the concerns were first raised.
Not in current constitution	<ul style="list-style-type: none"> <li>To refer such applications which, in the opinion of the Community of Practice Lead for Environmental Health, should be determined by the Licensing Committee.</li> </ul>	Due to the delegation of powers to CoP Lead it was felt appropriate to introduce this measure to allow applications which become

		contentious to be brought to the committee
Not in current constitution	<ul style="list-style-type: none"> <li>• To determine applications for Licences under the following areas of work not previously delegated to other committees or individuals; <ul style="list-style-type: none"> <li>○ Public Health (e.g. Animal Boarding Establishments, Dangerous Wild Animals, Pet Shop, Riding Establishments, Skin Piercing and other special treatments).</li> <li>○ Public Safety (e.g. Alcohol and entertainment licences, personal licences, club premises certificates, Hypnotism licences, Gambling licences etc.)</li> <li>○ Housing (e.g. Selective licensing of residential accommodation, Licensing of houses in multiple occupation, Licensing of camping sites, Licensing of caravan sites)</li> <li>○ Environmental (e.g. Environmental Permits, Licensing of scrap metal dealers)</li> </ul> </li> </ul>	These changes are necessary to clarify which applications can be determined by the CoP lead without referring to Committee. The current constitution is not clear on whether an officer can refuse an application where no objection has been received but it would be contrary to policy.
Contained in next section of constitution on delegation to Senior Officers	<ul style="list-style-type: none"> <li>• To investigate complaints relating to licensed and licensable activities with the relevant powers of entry in order to undertake these investigation</li> </ul>	Sets service standards expected of the Environmental Health Community of Practice.
Contained in next section of constitution on delegation to Senior Officers	<ul style="list-style-type: none"> <li>• To instigate informal or formal action in order to resolve complaints or unlicensed activities and take appropriate action or remedy</li> </ul>	Not explicitly shown in the current constitution.
Contained in next section of constitution on delegation to Senior Officers	<ul style="list-style-type: none"> <li>• To undertake formal consultations on amendments to policy, (or fares in accordance with the Maximum Chargeable Fare setting policy South Hams only)</li> </ul>	Not explicitly shown in the current constitution.

<p>Taken from Licensing Sub-Committee section above: “e) Officers shall have delegated authority <b>to suspend licences</b> in situations of urgency where there are reasonable grounds to do so”</p>	<ul style="list-style-type: none"><li>• Authority <b>to suspend licences</b> in situations of urgency where there are reasonable grounds to do so (where urgency is determined by the Community of Practice Lead for Environmental Health</li></ul>	<p>Moved from Committee delegation section to delegation to Community of Practice Lead, with slight rewording.</p>
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