



Licensing Committee

Date: Friday, 26 July 2019
Time: 9.00 am
Venue: Committee Rooms C, South Walks House, South Walks Road, Dorchester, DT1 1UZ (DT1 1EE for sat nav)

Membership: (Quorum 3)

Emma Parker (Chairman), Jon Andrews (Vice-Chairman), Derek Beer, Piers Brown, Les Fry, Paul Harrison, Brian Heatley, Carole Jones, Cathy Lugg, David Morgan, Bill Pipe, Molly Rennie, Julie Robinson, David Taylor and Kate Wheller

Chief Executive: Matt Prosser, South Walks House, South Walks Road, Dorchester, Dorset DT1 1UZ (Sat Nav DT1 1EE)

For more information about this agenda please telephone Democratic Services on 01305 or Kate Critchel 01305 252234 kate.critchel@dorsetcouncil.gov.uk



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A G E N D A

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1 APOLOGIES

To receive any apologies for absence.

2 MINUTES

3 - 10

To confirm the minutes of the meeting held on 16 May 2019.

3 DECLARATIONS OF INTEREST

To receive any declarations of interest.

4 PUBLIC PARTICIPATION

To receive questions or statements on the business of the committee from town and parish councils and members of the public.

5 CONFIRMATION OF CONSTITUTION AND DELEGATED POWERS

11 - 18

To consider a report of the Licensing & Community Safety Manager.

6 URGENT ITEMS

To consider any items of business which the Chairman has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The reason for the urgency shall be recorded in the minutes.

7 EXEMPT BUSINESS

There is no exempt business to report.



DORSET COUNCIL - LICENSING COMMITTEE

MINUTES OF MEETING HELD ON THURSDAY 16 MAY 2019

Present: Cllrs Jon Andrews, Derek Beer, Piers Brown, Les Fry, Paul Harrison, Brian Heatley, Carole Jones, Cathy Lugg, David Morgan, Emma Parker, Bill Pipe, Julie Robinson, David Taylor and Kate Wheller

Apologies: Cllr M Rennie

Also present: Cllr A Alford

Officers present (for all or part of the meeting):

Kate Critchel (Senior Democratic Services Officer) and Roger Greene (Solicitor, Legal Services)

1. Declarations of Interest

There were no declarations of interest to report.

2. Public Participation

There was no public participation to report.

3. Confirmation of Constitution, Delegated Powers and Appointment of Licensing Sub-Committees

The Chairman of the meeting welcomed all members to the first meeting of the committee and asked the Legal advisor to set out the purpose of the report.

The committee was advised that in order to meet the requirements of the Constitution, it needed to appoint five sub-committee consisting of three members each for the consideration of matter relating the Licensing Act 2003 and the Gambling Act 2005. The sub-committee would also undertake functions in relation to hackney carriage and private hire vehicles, drivers and operators licences. Members of the committee also noted that every member of the licensing committee could act as a substitute on all of the sub-committees. The report also set their delegation of powers as set out in Article 8 of the Constitution and in the officer's scheme of delegation.

Decision

- (a) That in relation to Licensing & Gambling functions of the Council; the committee adopt the delegations of powers in respect of its sub-committees and officers as set out in the report and at Appendix 1 .

- (b) That the Constitution in so far as it contains matters relating to such functions as provided in the constitution, be approved.
- (c) That five sub-committees be appointed consisting of three councillors' each for consideration of matters relating to the Licensing Act 2003, gambling Act 2005 and to undertaken functions in relation to hackney carriage and private hire vehicles, drivers and operators licences. As set out at Appendix 2 to these minutes.

4. Urgent items

There were no urgent items to report.

Appendix 1

Appendix 2

Duration of meeting: 1.20 - 1.30 pm

Chairman

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APPENDIX 1 –

This Appendix sets out to explain

1.The Role and Powers of the Licensing Committee and Sub Committees.

2.The Role of The Officers under the Councils scheme of Delegation.

1.Article 8 of The Councils Constitution states.

8.15 Role/Terms of Reference and Membership

- (a) The Licensing Committee shall have primary responsibility for:
 - (i) the discharge of the Council's licensing, certification and registration functions; and
 - (ii) the determination of any application relating to the manufacture and/or storage of explosives;

that is not dealt with through the use of any other mechanism.

- (b) The Licensing Committee shall be the licensing committee of the Council for the purposes of exercising any functions expressly referred to a licensing committee by any legislation (e.g. the Licensing Act 2003 and the Gambling Act 2005). In such cases, the Licensing Committee may arrange for the discharge of any of those functions as it sees fit provided it is in accordance with the law. Where the Licensing Committee makes arrangements for the discharge of its functions it shall without delay seek to notify the Head of Paid Service. The Constitution sets out the current position with regard to such matters.
- (c) The Licensing Committee may also deal with certain other matters which are referred to it having regard to provisions in the Licensing Act 2003 by a person or body possessing the power to make that determination.
- (d) The Licensing Committee will consist of 15 Members appointed by Full Council.
- (e) The quorum of the Licensing Committee shall be 3.

8.16 Appointment of Chairman and Vice-Chairman

The Chairman and Vice-Chairman of the Licensing Committee shall be appointed by Full Council unless Full Council otherwise determines.

8.17 Meetings

- (a) The number of ordinary meetings of the Licensing Committee each year will normally be determined by Full Council.
- (b) The Chairman of Licensing Committee shall have the power to call one or more special meeting(s) of the Licensing Committee.
- (c) The Chairman of Licensing Committee may determine that a meeting should be cancelled for insufficient business.
- (d) No Member shall sit as a member of the Licensing Committee unless s/he has received licensing training provided to that Member for this purpose.
- (e) There shall be no power to appoint substitutes to the Licensing Committee.

8.18 Licensing Sub-Committees

- (a) At its first meeting after each Annual Council the Licensing Committee shall review and appoint such Sub-Committees as it considers appropriate for the effective operation of the Council's licensing duties.
- (b) Where more than one Licensing Sub-Committee has been appointed they shall sit in rotation. Each Licensing Sub-Committee shall consist of only 3 members and the quorum of each Sub-Committee shall be 3.
- (c) Substitutes may only be appointed to a Licensing Sub-Committee from the membership of the Licensing Committee.
- (d) For the avoidance of doubt, all Licensing Sub-Committees may exercise any powers given to them concurrently and independently of each other.

Further Clarity is provided as follows.

The Licensing Committee shall have the following delegated Powers.

a. to determine any application or other matter pursuant to the Licensing Act 2003 or Gambling Act 2005.

That the Licensing Committee has the power to determine including without prejudice to the generality of the following

(i) the holding and determination of any hearing as a consequence of any application or any other matter under the two Statutes

(ii) the determination as to whether a hearing needs to be held.

(iii)the determination as to whether a representation is a relevant representation and

(iv)the determination of the appropriate procedure to follow in relation to the determination of any matter provided that regard is had to any procedure that may have been adopted by the Licensing Committee.

b.to determine any application or other matter arising in relation to private hire and hackney carriage functions of the Council that the Licensing Committee has power to determine including without prejudice to the generality of the following

(i)any driver vehicle operator or proprietor licence

(ii)power to determine any action in relation to any actual or alleged breach of any legislation provision relating to such functions including in particular whether to suspend or revoke any licence and any issue relating to any such suspension or revocation and

(iii)any application for a private hire plate exemption.

2.Delegated powers and powers to recommend from the Licensing Committee

- (a) The Licensing Committee shall have the powers as set out in Functions of the Council - Part 3(1) of the Constitution.
- (b) To delegate the following provisions under the two Statutes to The Chief Executive who will if required delegate to the Director of Place or the Head of Licensing.
- (c) Licensing Act 2003
 - (i) Approval of all applications except where valid representations are received.
 - (ii) To determine thereafter if representations or requests for reviews or any other relevant matter are frivolous or vexatious or not in accordance with the required processes and policies.
 - (iii) To consider and submit if relevant applications for reviews where the Council is a responsible authority.
 - (iv) To oversee apply and implement all licensing functions and compliance with both The Licensing Act 2003 and any subsequent amendments or Regulations.
- (d) The Gambling Act 2005.
 - (l) the approval of all applications under The Gambling Act 2005 except where there may be objections or cancellations/revocations of a licence (whereupon the matter is referred to a Sub Committee)

(II) to set fee levels for applications under The Gambling Act 2005.

Appendix 2

Licensing Committee – Sub-committees for 2019/2020

Sub-committee A	
Political Group	Committee member
Conservative	Emma Parker
Conservative	Piers Brown
Liberal Democrat	Molly Rennie

Sub-committee B	
Political Group	Committee member
Conservative	Bill Pipe
Conservative	Carole Jones
Liberal Democrat	David Taylor

Sub-committee C	
Political Group	Committee member
Conservative	Julie Robinson
Liberal Democrat	Derek Beer
All	Les Fry

Sub-committee D	
Political Group	Committee member
Conservative	Cathy Lugg
Liberal Democrat	David Morgan
Green	Brian Heatley

Sub-committee E	
Political Group	Committee member
Conservative	Paul Harrison
Liberal Democrat	Jon Andrews
Labour	Kate Wheller

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Licensing Committee

Confirmation of Constitution and Delegated Powers

Date of Meeting: 26 July 2019

Lead Member: Cllr. Anthony Alford

Local Member(s): All Members of Council

Lead Officer: Peter Davies, Licensing and Community Safety Manager

Executive Summary:

The Licensing Committee is asked to confirm the new sub-committee(s) and their delegations of powers as set out in Article 8 of the Constitution and in the officer's scheme of delegations.

Equalities Impact Assessment:

There are no implications to consider.

Budget:

There are no associated costs with this decision.

Risk Assessment:

Should the committee not confirm the sub-committees and their delegation, it may mean that this part of the council's constitution and delegations to officers is out of date and this could lead to legal challenge.

Climate implications:

N/A

Other Implications:

There are no other implications.

Recommendation:

- (a) That members of the Committee resolve to amend Part 3 (1) of the Constitution – Committees and boards, as set out in appendix 1; and
- (b) amend Part 3 (2) of the Constitution – Officer Scheme of Delegations, as set out in appendix 1.

Reason for Recommendation:

To ensure compliance with the Constitution, delegations of powers and to mitigate any legal action against the Council.

Appendices:

Appendix 1 – Amendments required to the Constitution to reflect the decision of the Committee on 16 May.

Background Papers:

Licensing Committee Report 16th May, Confirmation of Constitution, Delegated Powers and Appointments of the Licensing Sub Committee.

Officer Contact:

Name: Peter Davies
Tel: 01258 484 141
Email: pdavies@dorsetcouncil.gov.uk

Background Information and Reason Decision is Needed

1. At the first meeting of the Licensing Committee, the members appointed the Sub-Committees they considered appropriate for the effective operation of the Council's Licensing Functions.
2. Following the appointment of the members to the Sub-Committees, the members then confirmed the delegations of the Licensing Committee to the Sub-Committee and Officers. This was done to ensure the Sub-Committee and Officers had the relevant delegated powers required to act on behalf of the Licensing Authority so far as they are authorised to do so.
3. Appendix 1 is designed to make the necessary amendments to the Council's constitution, to reflect the decision of the Licensing Committee to delegate some of its powers to the Licensing Sub-Committee and Officers to allow for the effect function of the Licensing Authority.
4. Should the members of the committee resolve to amend the Constitution as set out in appendix 1, and providing the monitoring officer considers it appropriate to do so, the Constitution can be changed to reflect the

Committee's decision without referral to any other body of the Council.

5. Should members of the Committee decided that this report and appendix does not reflect what they intended, a further report will be required for members to consider what delegations they would like to make to the Sub-Committee and Officers. This could have an impact on the effective operation of the Licensing Functions and require applications or any other matter arising pursuant to the Licensing Act 2003, Gambling Act 2005 and Hackney Carriage or Private Hire licensing to be heard by the Full Licensing Committee.

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Appendix 1

Licensing Delegations

Amendments to licensing delegations

- That Part 3 (1) of the Constitution – Committees and Boards be amended, by adding after section 6 Licensing Committee and renumbering all current existing references thereafter accordingly, as follows:

No.			No.	POWER TO RECOMMEND
7.	Every Licensing Sub-Committee	1. With the exceptions of determining proposed policy and determining any fee payable, power to determine any application or any other matter arising pursuant to: <ul style="list-style-type: none"> (i) the Licensing Act 2003; and /or (ii) the Gambling Act 2005, that the Licensing Committee has power to determine and which can be lawfully delegated to a Sub-Committee, including: <ul style="list-style-type: none"> (a) the holding and determination of any hearing arising as a consequence of any application or other matter pursuant to the Licensing Act 2003 or the Gambling Act 2005; (b) the determination as to whether a hearing needs to be held; (c) the determination as to whether a representation is a relevant representation; (d) power to determine any action in relation to any actual or alleged breach of any legislative provision relating to such functions; and (e) the determination of the appropriate procedure to follow in relation to the determination of any matter, provided that regard is had to any procedure that may have been adopted by the Licensing Committee. 		
		2. With the exceptions of determining proposed policy and determining any fees payable, power to determine any application or other matter arising in relation to the private hire and hackney carriage and functions of the Council that the Licensing Committee has		

		<p>power to determine and which can be lawfully delegated to a Sub-Committee, including:</p> <p>(a) any driver, vehicle, operator or proprietor licence;</p> <p>(b) power to determine any action in relation to any actual or alleged breach of any legislative provision relating to such functions including in particular whether to suspend or revoke any licence and any issue relating to any such suspension or revocation; and</p> <p>(c) any application for a private hire plate exemption.</p>		
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2. Part 3 (2) of the Constitution – Officer Scheme of Delegations be amended as follows:

- (a) add the following delegations to the section “**Additional delegations to the Executive Director, Place**” and renumbering all remaining delegations accordingly:

160	To undertake all action in connection with any application (including any application to grant, review, transfer, vary remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Licensing Act 2003 including power to determine whether a representation is a “relevant representation” for the purposes of the Act, but excluding any matter whether by virtue of section 10 Licensing Act 2003 or otherwise cannot be discharged by an Officer.*
161	To undertake all action in connection with the submission of any scheme, details and/or other matter pursuant to any licence, notice, permission, consent, approval or other determination issued by or on behalf of the Council pursuant to the Licensing Act 2003 or the Gambling Act 2005.*
162	To prepare and issue reports on behalf on the Licensing Committee where a matter relates to a licensing function under the Licensing Act 2003 or the Gambling Act 2005 and is necessary to facilitate the exercise of another function of the Council.*
163	To undertake all action in connection with any application (including any application to grant, review, transfer, vary remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Gambling Act 2005 including power to determine whether a representation is a “relevant representation” for the purposes of the Act, but excluding any matter whether by virtue of section 154 Gambling Act 2005, section 10 Licensing Act 2003 (as it applies to the Gambling Act) or otherwise cannot be discharged by an Officer.*
	<p>* Delegations to Officers in relation to the Licensing Act 2003 and the Gambling Act 2005 rest with the Licensing Committee. For the avoidance of doubt:</p> <p>(a) references to the Licensing Act 2003 and the Gambling Act 2005 include any regulations, directions and/or other orders made pursuant to either of them; and</p>

	(b) all interpretation and other provisions set out in the Introduction and General provisions sections at the start of the Officer Scheme of Delegations shall apply equally to these delegations including powers relating to nomination.
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- (b) add a new section to the end of the Officer Scheme of Delegations after “Additional delegations to Shared Director of Public Health” as follows and number delegations accordingly:

Delegations to Service Manager for Licensing and Community Safety	
Ref	Power
	To undertake all action in connection with any application (including any application to grant, review, transfer, vary remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Licensing Act 2003 including power to determine whether a representation is a “relevant representation” for the purposes of the Act, but excluding any matter whether by virtue of section 10 Licensing Act 2003 or otherwise cannot be discharged by an Officer.*
	To undertake all action in connection with the submission of any scheme, details and/or other matter pursuant to any licence, notice, permission, consent, approval or other determination issued by or on behalf of the Council pursuant to the Licensing Act 2003 or the Gambling Act 2005.*
	To prepare and issue reports on behalf on the Licensing Committee where a matter relates to a licensing function under the Licensing Act 2003 or the Gambling Act 2005 and is necessary to facilitate the exercise of another function of the Council.*
	To undertake all action in connection with any application (including any application to grant, review, transfer, vary remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Gambling Act 2005 including power to determine whether a representation is a “relevant representation” for the purposes of the Act, but excluding any matter whether by virtue of section 154 Gambling Act 2005, section 10 Licensing Act 2003 (as it applies to the Gambling Act) or otherwise cannot be discharged by an Officer.*
	* Delegations to Officers in relation to the Licensing Act 2003 and the Gambling Act 2005 rest with the Licensing Committee. For the avoidance of doubt: (a) references to the Licensing Act 2003 and the Gambling Act 2005 include any regulations, directions and/or other orders made pursuant to either of them; and (b) all interpretation and other provisions set out in the Introduction and General provisions sections at the start of the Officer Scheme of Delegations shall apply equally to these delegations including powers relating to nomination.

