



AGENDA ITEM: 8

SUMMARY

Report for:	Licensing, Health & Safety and Enforcement Committee
Date of meeting:	29 April 2014
PART:	1
If Part II, reason:	

Title of report:	Delegation of Powers to Sub-Committees and Officers
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To propose changes to the current scheme of delegations from the Committee to its Sub-Committees and officers.
Recommendations	That the Licensing, Health & Safety and Enforcement Committee delegate responsibility for the exercise of those powers listed in Annex A of this report to the Council's Assistant Director (Chief Executive's Unit).
Corporate objectives:	Dacorum Delivers <ul style="list-style-type: none"> • Efficiencies • Reputation and profile delivery
Implications:	<u>Risk Implications</u> Failure to ensure a correct scheme of delegation may result in successful legal challenges against the authority's decisions, with the risk of reputational damage and significant costs awards against the council. <u>Financial / Value for Money / Equalities / Health & Safety</u> None.
Consultees:	None
Background papers:	Dacorum Borough Council Constitution
Glossary of acronyms and any other abbreviations used in this report:	LHSE: Licensing, Health & Safety and Enforcement [Committee / Sub-Committee] LAG: Licensing of Alcohol and Gambling Sub-Committee

1. BACKGROUND

- 1.1. Many of the Council's powers in respect of licensing and regulatory activities have been delegated to the Licensing, Health & Safety and Enforcement Committee to exercise. Where appropriate to do so and permitted by law, the Committee has then further delegated many of the more regularly used powers either to its Sub-Committees or to officers. The scheme of delegation is set out in part 3 of the Council's Constitution.
- 1.2. These delegations are periodically reviewed to ensure that they remain appropriate, and to take account of any change to the legislative provisions which empower the Council to act or carry out certain functions.
- 1.3. A first report, covering delegations for alcohol, entertainment, late night refreshment, gambling, sex establishment and hypnotism licences, was considered by the Committee on 4 February 2014.
- 1.4. This report deals with several further licensing areas, including animal licences, charity collection licences, and skin piercing registrations.

2. CURRENT POSITION

- 2.1. At present, the Committee has delegated many of its powers relating to the determination of individual applications to its two Sub-Committees and to officers.
- 2.2. The Licensing, Health & Safety and Enforcement (LHSE) Sub-Committee may currently carry out any of the functions of the full Committee in respect of the determination of individual applications (policy matters remain with the full Committee), with the exception of functions otherwise delegated to the Licensing of Alcohol and Gambling (LAG) Sub-Committee.
- 2.3. The LAG Sub-Committee may determine individual applications and notices under the Licensing Act 2003 and the Gambling Act 2005. The format and procedures for Sub-Committees exercising functions under this legislation and their meetings is prescribed in Regulations.
- 2.4. Officers have been granted delegated powers from the full Committee to exercise many functions in respect of uncontested applications or which are time-limited.

3. PROPOSED CHANGES

- 3.1. Officers are now reviewing all applicable legislation utilised when exercising the Council's functions, comparing the statutory provisions and powers to that currently listed in the scheme of delegation. Where powers are currently omitted or incorrectly reflect the terminology of the statutory provision, updates have been proposed. A list of all of the proposed revised delegations is included at Annex A (for delegation to Sub-Committees) and Annex B (for delegation to officers).

- 3.2. Where a proposed delegation would duplicate a power currently listed in the scheme of delegation (which may be due to a rephrasing of a statutory power), it is intended that the existing delegation will be deemed rescinded upon the commencement of the new delegation.
- 3.3. One Licensing Act 2003 matter is included in the proposals, which was inadvertently omitted from the previous report. As part of its functions as a licensing authority, the Council may set binding recommendations in respect of the admission of children to film exhibitions. While the British Board of Film Classification (BBFC) issue age ratings for mainstream theatrical releases, it may not be cost-effective for some independent or foreign films with limited UK distribution to be rated by the BBFC. In such circumstances, licensing authorities are able to issue a local recommendation, effective within that council's area only, and the proposed delegation will enable officers to issue these. Licensing authorities may also overrule a rating made by the BBFC if a particular film gives rise to local concerns. This power will not be passed to officers under the proposed delegation, remaining with the full Committee.

4. RECOMMENDATION

- 4.1. That the Licensing, Health & Safety and Enforcement Committee delegate responsibility for the exercise of those powers listed in Annex A of this report to the Council's Assistant Director (Chief Executive's Unit).

PROPOSED DELEGATIONS TO OFFICERS

Delegation of the following powers to the **Assistant Director (Chief Executive's Unit)** is proposed, with a view to onward authorisation as appropriate:

1. Licensing Act 2003

- oo. To make recommendations and notifications on behalf of the licensing authority in respect of the admission of children to films which have not already been assessed by a film classification body (s.20)

2. Animal licences

- a. Defence of appeals brought against decisions made by the authority
- b. To institute proceedings in respect of contraventions under the following legislation

Animal Boarding Establishments Act 1963

- c. To grant licences to keep an animal boarding establishment
- d. To authorise officers, veterinary surgeons or veterinary practitioners to enter and inspect animal boarding establishments

**Breeding of Dogs Acts 1973 and 1991;
Breeding and Sale of Dogs (Welfare) Act 1999**

- e. To grant licences to keep a breeding establishment for dogs
- f. To authorise officers, veterinary surgeons or veterinary practitioners to enter and inspect dog breeding establishments, licensed or otherwise

Dangerous Wild Animals Act 1976

- g. To grant and renew licences to keep dangerous wild animals
- h. To vary licences to keep dangerous wild animals by specifying new conditions, or varying or revoking existing conditions
- i. To authorise veterinary surgeons, veterinary practitioners or other competent persons to enter and inspect premises where dangerous wild animals are, or are proposed to be, kept.

Pet Animals Act 1951

- j. To grant licences to keep a pet shop
- k. To authorise officers, veterinary surgeons or veterinary practitioners to enter and inspect pet shops

Riding Establishments Acts 1964 and 1970

- l. To grant licences to keep a riding establishment
- m. To grant and extend provisional licences to keep a riding establishment

- n. To authorise officers, veterinary surgeons or veterinary practitioners to enter and inspect riding establishments, licensed or otherwise

Zoo Licensing Act 1981

- o. To grant, renew, alter and transfer licences to operate a zoo
- p. To appoint inspectors for periodic inspections of zoos
- q. To carry out special inspections of zoos, including closed zoos, and authorise persons to conduct such inspections
- r. To carry out informal inspections of zoos, and appoint inspectors to conduct such inspections

3. Skin piercing, electrolysis, etc

(Local Government (Miscellaneous Provisions) Act 1982, as amended)

- a. To register persons to carry on the practice of acupuncture
- b. To register premises for the practice of acupuncture
- c. To register persons to carry on the business of tattooing, ear-piercing or electrolysis
- d. To register premises for the business of tattooing, ear-piercing or electrolysis
- e. To authorise officers to enter premises
- f. To institute proceedings in respect of contraventions under the Act

4. Charitable collections

- a. Defence of appeals brought against decisions made by the authority
- b. To institute proceedings in respect of contraventions under the following legislation

House to House Collections Act 1939

- c. To grant licences for house to house collections

Police, Factories, &c. (Miscellaneous Provisions) Act 1916 and regulations made thereunder

- d. To issue permits for street collections, and to exercise the Council's other powers under relevant regulations