

# CHESHIRE EAST COUNCIL

## LICENSING COMMITTEE

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**Date of meeting:** 10<sup>th</sup> January 2010  
**Report of:** Legal Team Leader (Regulatory)  
**Title:** Amendments to Licensing Delegations

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### **1.0 Report Summary**

- 1.1 The report provides background information in relation to the licensing delegations and requests that the Licensing Committee makes recommendations to the Constitution Committee in relation to certain proposed amendments.

### **2.0 Recommendations**

- 2.1 The Licensing Committee is requested to recommend to the Constitution Committee that Council be requested to amend the Constitution as follows:
- 2.1.1 to amend references to the Licensing Sub-Committee within paragraph 25.3 of the Officer Management Arrangements within Part III of the Constitution to “the General Licensing Sub-Committee;” and
- 2.1.2 to amend references to the Licensing Sub-Committee within paragraph 25.4 of the Officer Management Arrangements within Part III of the Constitution to “the Licensing Act Sub-Committee.”
- 2.1.3 to amend references to the Licensing Sub-Committee within sub-paragraphs (i) to (iii), (v) and (vi) in relation to the General Licensing Functions at pages 160 and 161 of the Constitution to “the General Licensing Sub-Committee;” and
- 2.1.4 to amend references to the Licensing Sub-Committee within sub-paragraphs (ii) to (xi) in relation to licensing functions under the Licensing Act 2003 and Gambling Act 2005 at page 161 of the Constitution to “the Licensing Act Sub-Committee.”

### **3.0 Reasons for Recommendations**

- 3.1 The current delegations need to be amended to clarify those functions which stand referred to the General Licensing Sub-Committee and those which stand referred to the Licensing Act Sub-Committee.

### **4.0 Wards Affected**

- 4.1 All

## **5.0 Local Ward Members**

5.1 All

## **6.0 Policy Implications including - Climate change - Health**

6.1 None.

## **7.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)**

7.1 None.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 Section 9 of the Licensing Act 2003 provides that a Licensing Committee established under the 2003 Act may establish one or more sub-committees consisting of three members of the committee.

8.2 Section 101(1) of the Local Government Act 1972 provides that, subject to any express provision contained in the 1972 Act or any act passed after it, a local authority may arrange for the discharge of any of their functions by a committee, a sub-committee or an officer of the authority.

8.3 The implications in terms of the Constitution are set out within the report.

## **9.0 Risk Management**

9.1 There is a risk of legal challenge to decisions taken by the licensing authority if the individual/body taking such decisions does not have the correct delegation to do so. The decision requested seeks to ensure clarity in the scheme of delegation as it relates to decision-making by Sub-Committees.

## **10.0 Background and Options**

10.1 As Members are aware, the Council's Constitution makes provision for the delegation of certain licensing functions to the Head of Safer and Stronger Communities. These delegations are subject to exceptions which, if applicable, require functions to be referred to a meeting of the Licensing Sub-Committee. An extract from the Constitution setting out the existing delegations is attached as Appendix A.

10.2 As Members are also aware two Sub-Committees have been established, the General Licensing Sub-Committee and the Licensing Act Sub-Committee. The decisions requested within 2.0 above seek to ensure that the scheme of delegation is clear as to the functions which stand referred to each of the Sub-Committees.

## **11.0 Overview of Day One, Year One and Term One Issues**

- 11.1 It is advantageous to make these changes as soon as possible to ensure clarity.

## **12.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

### ***For further information:***

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### ***Background Documents:***

Appendix A – Extract from the Council's Constitution.