

# CHESHIRE EAST COUNCIL

## LICENSING COMMITTEE

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**Date of meeting:** 19 December 2008  
**Report of:** Kate Khan  
**Title:** Delegation of Licensing Functions

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### **1.0 Purpose of Report**

- 1.1 The purpose of the report is seek approval for the delegation of certain licensing functions from the Licensing Committee to Licensing Sub-Committees and officers.

### **2.0 Decision Required**

- 2.1 The Licensing Committee is requested to make the delegations set out within Appendix 2 of the report subject to the proviso:
- 2.1.1 that officers have discretion to refer any issue to the Licensing Committee or Sub-Committee if the matter is significant or controversial in nature;
- 2.1.2 that Sub-Committees have discretion to refer matters to the full Licensing Committee if the item is significant or controversial in nature.

### **3.0 Financial Implications for Transition Costs**

- 3.1 None

### **4.0 Financial Implications 2009/10 and beyond**

- 4.1 None

### **5.0 Legal Implications**

- 5.1 The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 prescribe that the functions set out within Appendix 1 are not to be the responsibility of the Executive. These Council functions have been delegated to the Licensing Committee by full Council; further delegation to sub-committees and officers is required in order to facilitate the efficient provision of a licensing service for Cheshire East. A clear scheme of delegation is required to ensure that all licensing decisions are made lawfully and the authority of sub-committees and officers is not open to legal challenge.

## **6.0 Risk Assessment**

- 6.1 There is a risk of legal challenge to decisions taken by the licensing authority if the scheme of delegation is not robust.

## **7.0 Background and Options**

### **Background**

- 7.1 At its meeting on 9<sup>th</sup> December, Council resolved to delegate to the Licensing Committee those licensing functions which are the responsibility of Council set out in Appendix 1. This delegation was made subject to the proviso that before any Councillor who is a member of the Licensing Committee can attend a meeting and participate in the determination of an application or appeal by any individual or body, that Councillor must have attended a suitable training course dealing with the quasi-judicial nature of the role of the Committee.
- 7.2 Due to the volume of applications which will require determination from 1 April 2009, it would not be practicable for the full Licensing Committee to consider such matters. For this reason the Licensing Committee is requested to delegate the functions to sub-committees and officers in accordance with the scheme of delegation set out at Appendix 2.
- 7.3 The scheme of delegation within Appendix 2 draws on current practices within the three existing licensing authorities of Congleton, Crewe & Nantwich and Macclesfield Borough Councils.
- 7.4 It is suggested that the scheme would be subject to the proviso that officers would have discretion to refer any issue to the Licensing Committee or Sub-Committee if the matter was significant or controversial in nature. In addition Sub-Committees would have discretion to refer matters to the full Licensing Committee in similar circumstances.

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

- 8.1 The requirement to have a scheme of delegation in place is a Day One requirement.

## **9.0 Reasons for Recommendation**

- 9.1 The recommendations are made to ensure that there is a robust scheme of delegation to sub-committees and officers in place which will facilitate the provision of an efficient licensing service.

***For further information:***

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***Background Documents:***

None

**Licensing functions which are the responsibility of Council**

(as set out within Schedule 1 of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000)

Power to license hackney carriages and private hire vehicles (including the power to set fees); (Town Police Clauses Act 1847 & Local Government (Miscellaneous Provisions) Act 1976)

Power to license drivers of hackney carriages and private hire vehicles (including the power to set fees); (Town Police Clauses Act 1847 & Local Government (Miscellaneous Provisions) Act 1976)

Power to license operators of hackney carriages and private hire vehicles (including the power to set fees); (Town Police Clauses Act 1847 & Local Government (Miscellaneous Provisions) Act 1976)

Functions in relation to licensing (under the Licensing Act 2003 - with the exception of approval of Statement of Licensing Policy);

Duty to comply with requirement to provide information to the Gambling Commission (Gambling Act 2005);

Functions relating to exchange of information (under the Gambling Act 2005);

Functions relating to occasional use notices (under the Gambling Act 2005);

Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises (Gambling Act 2005);

Power to make order disapplying section 279 or 282(1) of the Gambling Act 2005 in relation to specified premises (Gambling Act 2005);

Power to institute criminal proceedings (under the Gambling Act 2005);

Power to exchange information (under the Gambling Act 2005);

Functions relating to the determination of fees for premises licences (under the Gambling Act 2005);

Functions relating to the registration and regulation of small society lotteries (Gambling Act 2005);

Power to license sex shops and sex cinemas (including the power to set fees) (Local Government (Miscellaneous Provisions) Act 1982);

Power to license performances of hypnotism (Hypnotism Act 1952);

Power to license pleasure boats and pleasure vessels (Public Health Acts Amendment Act 1907);

Power to license market and street trading (Local Government (Miscellaneous Provisions) Act 1982);

Power to issue, amend or replace safety certificates (whether general or special) for sports grounds (The Safety of Sports Grounds Act 1975);

Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds (Fire Safety and Safety of Places of Sport Act 1987);

Power to license persons to collect for charitable and other causes (Police Factories etc (Miscellaneous Provisions) Act 1916 & House to House Collections Act 1939);

Power to sanction use of parts of buildings for storage of celluloid (Celluloid and Cinematograph Film Act 1922);

Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption (Section 13 Criminal Justice and Police Act 2001);