



Democratic Services
White Cliffs Business Park
Dover
Kent CT16 3PJ

Telephone: (01304) 821199
Fax: (01304) 872300
DX: 6312
Minicom: (01304) 820115
Website: www.dover.gov.uk
e-mail: democraticservices@dover.gov.uk

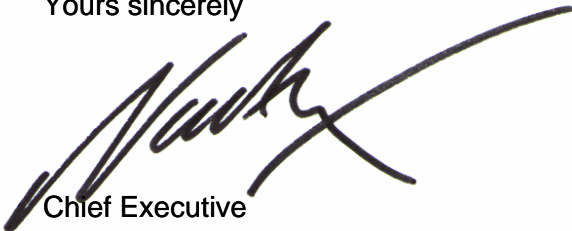
14 March 2011

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **LICENSING** Committee will be held at these Offices on Wednesday 23 March 2011 at 4.30 pm when the following business will be transacted.

Members of the public who require further information are asked to contact Pauline Hodding on (01304) 872305 or by e-mail at paulinehodding@dover.gov.uk.

Yours sincerely



Chief Executive

Licensing Committee Membership:

Councillor P S Le Chevalier	(Chairman)	Councillor V J Revell
Councillor B W Butcher	(Vice-Chairman)	Councillor D G Smallwood
Councillor C M Edwards		Councillor A R Smith
Councillor A Friend		Councillor C J Smith
Councillor C E Kirby		Councillor J M Smith (Spokesperson)
Councillor S M Le Chevalier		Councillor R J Thompson
Councillor P A Lodge		Councillor R S Walkden
Councillor S C Manion		

AGENDA

1. **APOLOGIES**
2. **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

3. **DECLARATIONS OF INTEREST**

Members are required to disclose the existence and nature of a personal interest under this item of business or when the interest becomes apparent. An explanation in general terms of the interest should also be given to the meeting. If the interest is

also a prejudicial interest, the Member should then withdraw from the room or chamber.

4. **MINUTES** (Page 3)

To consider the attached Minutes of the meeting of the Committee held on 15 February 2011.

5. **LICENSING ACT 2003 AND GAMBLING ACT 2005 – RE-DELEGATION OF FUNCTIONS** (Pages 4-8)

To consider the attached report of the Solicitor to the Council.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes are normally published within five working days of each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting. Basic translations of specific reports and the Minutes are available on request in 12 different languages.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Pauline Hodding, Senior Democratic Support Officer, telephone: (01304) 872305 or email: paulinehodding@dover.gov.uk for details.

Large print copies of this agenda can be supplied on request.

Minutes of the meeting of the **LICENSING** Committee held at the Council Offices, Whitfield on Tuesday 15 February 2011 at 9.30 am.

Present:

Chairman: Councillor P S Le Chevalier

Councillors: B W Butcher
C M Edwards
A Friend
P A Lodge
D G Smallwood
A R Smith
J M Smith
R J Thompson

Officers: Senior Solicitor
Licensing Manager
Senior Democratic Support Officer

Apologies for absence were received from Councillors C E Kirby, S M Le Chevalier, S C Manion, C J Smith and R S Walkden.

438 MINUTES

The Minutes of the meeting of the Committee held on 16 November 2010 were approved as a correct record and signed by the Chairman.

439 MINUTES OF LICENSING SUB-COMMITTEES

RESOLVED: That the Minutes of the Sub-Committees held on 1 December and 14 December 2010, 4 January, 6 January and 20 January 2011 be received.

The meeting ended at 9.35 am.

REPORT OF THE SOLICITOR TO THE COUNCIL

LICENSING COMMITTEE – 23 MARCH 2011

LICENSING ACT 2003 AND GAMBLING ACT 2005 – RE-DELEGATION OF FUNCTIONS

Recommendation

That the functions of the Licensing Committee be delegated in accordance with the scheme of officer delegations set out in Appendix 1 to this report

Contact Officer: Louise May, extension 2328.

Reasons why a decision is required

1. Section 7 Licensing Act 2003 automatically refers all functions of the Council, as Licensing Authority under the Act, to the Licensing Committee. The only exception to this is the determination of the Statement of Licensing Policy, which is a function that must be performed by the full Council. Section 154 Gambling Act 2005 makes similar provision but reserves the determination of the Statement of Policy and the option to resolve not to issue casino licences to the full Council.
2. In order to enable the Licensing Committee to discharge its functions under both Acts, it was necessary for the Committee to decide how to delegate its functions between its sub-committees and officers since it was not practical for the Licensing Committee itself to discharge all the functions referred to it. This was done on 8 February 2005 (Licensing Act 2003) and 18 May 2007 (Gambling Act 2005).
3. The functions are currently delegated to the Democratic Services Manager and the Licensing Manager. In view of the fact that responsibility for the operational management of the Council's licensing functions is to be transferred from Democratic Services within the Governance Division to Environmental Enforcement Protection within the Environment & Corporate Assets Division, with effect from 4 April 2011, it is now necessary for the Committee to re-delegate its functions under both Acts. Members are therefore asked to delegate the functions to each of the officers mentioned in Appendix 1.

Evaluation of options available to the Council

4. In order to achieve a smooth transition in line with the new organisational structure, the only real option available to the Committee is to re-delegate the functions as is proposed in Appendix 1. Failure to do so would result in delegations sitting with officers who are no longer responsible for the delivery of the service. Problems may also arise if the Council were challenged and officers were subsequently found to be acting outside of the scheme of officer delegations.

Information to be considered in taking the decision

5. The delegations set out in the Appendix reflect the exact delegations as they currently stand, save for the officers they are to be delegated to. These delegations also reflect the requirements of both Acts and take into account the provisions of the

Guidance issued under section 182 of the Licensing Act 2003 (October 2010 issue) and the Guidance to Licensing Authorities issues by the Gambling Commission under section 25 of the Gambling Act 2005 (May 2009 issue).

Background Papers

None.

Resource Implications

None.

Consultation Statement

None.

Impact on Corporate Objectives

The recommendations in this report support the implementation of the new organisational structure with effect from 4 April 2011

Attachments

Appendix 1 – Amended Scheme of Officer Delegations in relation to licensing.

HARVEY RUDD

Solicitor to the Council

Pursuant to section 10(1)(b) of the Licensing Act 2003, applied by section 154(3)(b) of the Gambling Act 2005 the functions of the Council as Licensing Authority set out below are delegated to each of the following officers:

**Delegation to: Environmental Enforcement & Protection Manager
 Licensing Team Leader**

Council Functions

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
38. Licensing Act 2003 and Gambling Act 2005 and any Regulations and Orders made or having effect thereunder	To exercise all functions of the Council as Licensing Authority.	Those which are either reserved to or conferred upon either the full Council or the Licensing Committee (or a Sub-Committee thereof) either by law, or by virtue of this or any other scheme of officer delegations made by the Licensing Committee from time to time
39. Licensing Act 2003 and Gambling Act 2005 (Sections 18, 31, 35, 39, 44, 72, 85, 120 and 121)	By way of example (and not by way of limitation) the delegations effected by the above paragraph include power to discharge the following functions: (a) The functions under Section 18 relating to determining applications for premises licences where there are no relevant representations. (b) The functions under Section 31 relating to determining applications for provisional statements where there are no relevant representations. (c) The functions under Section 35 relating to determining applications for variations to premises licences where there are no relevant representations. (d) The functions under Section 39 relating to determining applications	

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>to vary the designated premises supervisor where there is no police objection.</p> <p>(e) The functions under Section 44 relating to determining applications for the transfer of a premises licence where there is no police objection.</p> <p>(f) The functions under Section 72 relating to determining applications for club premises certificates where there are no relevant representations.</p> <p>(g) The functions under Section 85 relating to determining applications to vary club premises certificates where there are no relevant representation.</p> <p>(h) The functions under Section 120 relating to determining applications for personal licences where there is neither a police objection and the applicant does not have unspent convictions.</p> <p>(i) The functions under Section 121 relating to determining applications for the renewal of personal licences where there is neither a police objection and the applicant does not have unspent convictions.</p> <p>(j) To determine whether any complaint, representation etc is irrelevant, frivolous, vexatious or is a repetition etc.</p> <p>(k) To discharge the administrative and managerial functions of the Licensing Authority under the Act and, in particular, to issue, sign or authenticate any notice, order, determination, or document required or authorised to be given under the Act or any Regulations and Orders made or having effect</p>	

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	thereunder.	
40. Authorise experienced officers to exercise functions	To authorise appropriately experienced officers to exercise any powers or functions delegated to them.	
41. Licensing Act 2003	No officer shall authorise or bring or defend any legal proceedings (including criminal proceedings for the breach of any requirement arising under the Licensing Act 2003 or any Regulations or Orders made or having effect thereunder) otherwise than in consultation with the Solicitor to the Council.	