

TO: GOVERNANCE AND AUDIT COMMITTEE
25 SEPTEMBER 2012

**AMENDMENTS TO THE DELEGATED POWERS OF THE
DIRECTOR OF ENVIRONMENT, CULTURE AND COMMUNITIES
Director of Corporate Services – Legal**

1 PURPOSE OF REPORT

- 1.1 This report seeks authority to make two amendments to the delegated authority of the Director of Environment Culture and Communities set out in Table 1 Part 2 of the Council's Constitution. The first proposed amendment is to clarify that the Director has delegated authority for all Public Health protection functions. The second arises from an amendment to the Licensing Act made by the Police Reform and Social Responsibility Act 2011 which designates the Council as a "Responsible Authority", the consequence of which is that the Council may apply to the Licensing Committee for a review of a Premises Licence.

2 RECOMMENDATION

- 2.1 **That the Scheme of Delegation to officers set out in Table 1 of Part 2 of the Council's Constitution be amended as set out in Section 5 of this report.**

3 REASONS FOR RECOMMENDATION

- 3.1 To permit the Director of Environment, Culture and Communities (or officers authorised by him) to:-
- (a) discharge the Council's functions as regards public health protection, and
 - (b) discharge the Council's functions as a "responsible authority" under the Licensing Act 2003.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The alternative would be not to amend the Scheme of Delegation as proposed but that would entail officers not being able to effectively discharge the functions on behalf of the Council.

5 SUPPORTING INFORMATION

Public Health Protection

- 5.1 The delegations to the Director of Environment, Culture and Communities set out in the Council's Constitution in part reflect the historic evolution of legislation relating to public health protection. They include the specific delegations:-

"1.11 Relating to food safety and quality (including signing of certificates in respect of the export and import of food products)" and

“1.13 Relating to pest control, notifiable diseases and food poisoning”.

However, the delegations do not cover all those public health protection functions which are of a technical nature and which realistically can only effectively be discharged by officers under delegated powers. In particular, the delegations do not appear to cover the making of applications for a Magistrates Order pursuant to the Health Protection (Part 2A Orders) Regulations 2010. Those regulations cover the making of applications to a Magistrate for an Order where there is a risk of infection or contamination from persons, things or premises. As Members will be aware, responsibilities for Public Health under NHS legislation will transfer to the Council in April next and any amendment to the Scheme of Delegation should make clear that the functions delegated to the Director of Environment, Culture and Communities do not extend to functions which will fall to the Director of Public Health.

5.2 It is proposed that the delegations alluded to above be replaced by the following:-

“relating to public health protection (excluding any functions which are the responsibility of the Director of Public Health or otherwise fall to be discharged by the Council under legislation relating to the National Health Service) including food safety and quality (including signing of certificates in respect of the export and input of food products), pest control and notifiable diseases.

Licensing

5.3 The Police Reform and Social Responsibility Act 2011 added the Council in its capacity as licensing authority to the list of “Responsible Authorities” who may apply for a review of a Premises Licence. Guidance issued by central government indicates that the function should be discharged by officers but that those officers should not be the same as those who advise the Licensing Committee whether or not the application should be approved.

5.4 The Council’s Scheme of Delegation currently includes the following in the list of delegations to the Director of Environment, Culture and Communities:-

“1.7 Relating to licensing, registration and permits”.

It is proposed that the wording above be amended to read “Relating to licensing (including as responsible authority) registration and permits”. If approved the Director will need to ensure that the recommended separation of functions between the right to seek a review and the determination of any review is implemented.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 The Borough Solicitor is the author of this report.

Borough Treasurer

6.2 There are no financial implications directly arising.

Equalities Impact Assessment

6.3 Not required.

Strategic Risk Management Issues

6.4 None.

Other Officers

6.5 None.

7 CONSULTATION

Principal Groups Consulted

7.1 None.

Method of Consultation

7.2 Not applicable.

Representations Received

7.3 Not applicable.

Background Papers

None.

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