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## **LICENSING AND SAFETY COMMITTEE**

**21 OCTOBER 2021**

### **SUPPLEMENTARY PAPERS**

**TO: ALL MEMBERS OF THE LICENSING AND SAFETY COMMITTEE**

The following papers have been added to the agenda for the above meeting.

These were not available for publication with the rest of the agenda.

Kevin Gibbs  
Executive Director: Delivery

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<b>9. LICENSING ACT 2003 DELEGATIONS</b>	<b>3 - 18</b>

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## Appendix A: Delegation of Functions:

### Licensing Act 2003 & Regulations

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
Section 5	Creation of Statement of Licensing Policy	Council			
Section 5A	Consultation on possible Cumulative Impact Assessment and Subsequent Publication	Council			
Section 6	Creation of Licensing Committee	Council			
Section 8(1)	Maintaining a register				•
Section 8(3)	Providing facilities for inspecting register				•
Section 8(4)	Providing copies of entries in register				•
Section 8(5)	Determining a fee for providing copies of entries in register		•		
Section 10	Delegation of functions by Licensing Committee <sup>1</sup>		•	•	•
Various sections	Making representation as a responsible authority <sup>2</sup>				•
Section 18(2)	Grant of premises licence where no representations				•
Section 18(3)	Determination of application for premises licence following representations			•	
Section 18(6)	Decision as to whether any representation in relation to a premises licence application is relevant				•
Section 18(7)	Decision as to whether any representation in relation to a premises				• In consultation with Chairman or Vice Chairman of

<sup>1</sup> S10(1) allows the Licensing Committee to delegate functions to a sub-committee or an officer (subject to certain exceptions contained in subsection 10(4)). This scheme of delegations must be made by the Licensing Committee, not Full Council. A sub-committee can also delegate (and again this must be a decision of the sub-committee) its functions to an officer (again subject to the s10(4) exceptions).

<sup>2</sup> This power is available in a wide range of circumstances, and is exercised under regulation 22 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 SI 2005/42. It is suggested it should be an officer decision, but the Licensing Authority must give careful consideration to:

- i) which officer it will delegate the power to; and
- ii) what the Licensing Authority will expect the officer to say in any representations so made.

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
	licence application from a person is frivolous, vexatious or repetitious				Licensing Committee
Section 18(8)	Notification of decision that a representation in relation to a premises licence application from a person is frivolous, vexatious or repetitious				•
Section 23(1)&(2)	Notification of grant of premises licence and issue of premises licence following representations				•
Section 23(3)	Notification of refusal of application (rejection) of premises licence				•
Section 25(3)	Issue of copy premises licence				•
Section 31(2)	Grant of provisional statement where no representations				•
Section 31(3)	Determination of application for provisional statement following representations			•	
Section 31(3)(c) & (4)	Issue of provisional statement and copies following representations				•
Section 31(5)	Decision as to whether any representation in relation to a provisional statement is relevant				•
Section 31(7)	Decision as to whether any representation in relation to a provisional statement from a person is frivolous, vexatious or repetitious				• In consultation with Chairman or Vice Chairman of Licensing Committee
Section 31(7)	Notification of decision that a representation in relation to a provisional statement from a person is frivolous, vexatious or repetitious				•
Section 35(2)	Grant of variation of premises licence where no representations				•
Section 35(3)	Determination of application for variation of premises licence following representations			•	
Section 35(5)	Decision as to whether any representation in relation to a variation of				•

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
	a premises licence is relevant				
Section 35(6)(c)	Decision as to whether any representation in relation to a variation of a premises licence from a person is frivolous, vexatious or repetitious				● In consultation with Chairman or Vice Chairman of Licensing Committee
Section 36(5)	Notification of decision that a representation in relation to a variation of a premises licence from a person is frivolous, vexatious or repetitious				●
Section 36(1)	Notification of grant of variation of a premises licence and issue of premises licence following representations				●
Section 36(4)	Notification of refusal of application (rejection) for variation of a premises licence				●
Section 39(2)	Grant of variation of premises licence to specify new DPS where no representations				●
Section 39(3)	Determination of application for variation of premises licence to specify new DPS following representations			●	
Section 39(4)	Notification of grant or refusal (rejection) of application for variation of a premises licence to specify new DPS				●
Section 41B(3)	Determination of application for minor variation of premises licence (whether or not representations)				●
Section 41C(1)	Notification of grant of minor variation of premises licence				●
Section 41C(4)	Notification of refusal of application (rejection) for minor variation of premises licence				●
Section 44(2)	Grant of transfer of premises licence where no representations				●
Section 44(5)	Determination of application for transfer of			●	

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
	premises licence following representations				
Section 44(6)	Determination to exempt applicant for transfer from obtaining existing licensees consent				•
Section 44(7)	Notification of refusal to exempt applicant for transfer from obtaining existing licensees consent				•
Section 45	Notification of grant or refusal (rejection) of application for transfer of a premises licence				•
Section 47(7A)	Sending copy of interim authority notice sent by electronic facility to the police				•
Section 48(3)	Determination of interim authority notice following representations			•	
Section 48(4)	Notification of cancellation of interim authority notice				•
Section 48(5)	Sending copy of notification of cancellation of interim authority notice to police				•
Section 49(1)	Issue of certified copy of premises licence and summary to giver of interim authority notice				•
Section 51(4)(a)	Rejection of application for review of premises licence				•
Section 51(4)(b)	Rejection of application for review of premises licence from a person because it is frivolous, vexatious or repetitious				• In consultation with Chairman or Vice Chairman of Licensing Committee
Section 51(6)	Notification of decision to reject an application for review of premises licence from a person because it is frivolous, vexatious or repetitious				•
Section 52(2) & (3)	Determination of application for review of premises licence			•	
Section 52(7)	Decision as to whether any representation in relation to a review of a premises licence is relevant				•

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
Section 52(8)(c)	Decision as to whether any representation in relation to a review of a premises licence from a person is frivolous, vexatious or repetitious				● In consultation with Chairman or Vice Chairman of Licensing Committee
Section 52(9)	Notification of decision to reject any representation in respect of a review of premises licence from a person because it is frivolous, vexatious or repetitious				●
Section 52(10)	Notification of determination of a review of a premises licence				●
Section 53(2)	Application for review of a premises licence by a licensing authority				●
Section 53A(2)	Determination of application for summary review of premises licence			●	
Section 53B(5)	Notification of imposition of interim steps				●
Section 53B(6)	Consideration of representations relating to interim steps			●	
Section 53B(7)	Notification of summary review hearing				●
Section 53C(2)	Determination of review of premises licence following summary review			●	
Section 53C(7)	Decision as to whether any representation in relation to a review of a premises licence following a summary review is relevant				●
Section 53C(8)(c)	Decision as to whether any representation in relation to a review of a premises licence following a summary review from a person is frivolous, vexatious or repetitious				● In consultation with Chairman or Vice Chairman of Licensing Committee
Section 53C(9)	Notification of decision to reject any representation in respect of a review of premises licence following a summary review from a				●

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
	person because it is frivolous, vexatious or repetitious				
Section 53C(10)	Notification of determination of review of a premises licence following a summary review				•
Section 55A(1) & (3)	Suspension of premises licence for failure to pay annual fee				•
Section 55A(5)	Issue of receipt for payment and lifting of suspension of premises licence following payment of annual fee				•
Section 56(1)	Amendments to premises licence and issue of revised summary				•
Section 56(2)	Requiring production of premises licence				•
Section 63(3)	Notice to club that it is no longer a qualifying club				•
Section 72(2)	Grant of club premises certificate where no representations				•
Section 72(7)	Decision as to whether any representation in relation to a club premises certificate application is relevant				•
Section 72(8)	Decision as to whether any representation in relation to a club premises certificate application from a person is frivolous, vexatious or repetitious				• In consultation with Chairman or Vice Chairman of Licensing Committee
Section 72(9)	Notification of decision that a representation in relation to a club premises certificate application from a person is frivolous, vexatious or repetitious				•
Section 72(3)	Determination of application for club premises certificate following representations			•	



Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
Section 77(1)&(2)	Notification of grant of club premises certificate and issue of club premises certificate following representations				•
Section 77(3)	Notification of refusal of application (rejection) of club premises certificate				•
Section 79(3)	Issue of copy club premises certificate				•
Section 82 (4)	Amendment of club premises certificate				•
Section 83 (5)	Amendment of club premises certificate following notification of change of premises				•
Section 85(2)	Grant of variation of club premises certificate where no representations				•
Section 85(3)	Determination of application for variation of club premises certificate following representations			•	
Section 85(5)	Decision as to whether any representation in relation to a variation of a club premises certificate is relevant				•
Section 85(6)(c)	Decision as to whether any representation in relation to a variation of a club premises certificate from a person is frivolous, vexatious or repetitious				• In consultation with Chairman or Vice Chairman of Licensing Committee
Section 86(5)	Notification of decision that a representation in relation to a variation of a club premises certificate from a person is frivolous, vexatious or repetitious				•
Section 86(1)	Notification of grant of variation of a club premises certificate and issue of club premises certificate following representations				•
Section 86(4)	Notification of refusal of application (rejection) for variation of a club premises certificate				•

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
Section 86B(3)	Determination of application for minor variation of club premises certificate (whether or not representations)				•
Section 86C(1)	Notification of grant of minor variation of club premises certificate				•
Section 86C(4)	Notification of refusal of application (rejection) for minor variation of club premises certificate				•
Section 87(4)(a)	Rejection of application for review of club premises certificate				•
Section 87(4)(b)	Rejection of application for review of club premises certificate from a person because it is frivolous, vexatious or repetitious				• In consultation with Chairman or Vice Chairman of Licensing Committee
Section 87(6)	Notification of decision to reject an application for review of premises licence club premises certificate from a person because it is frivolous, vexatious or repetitious				•
Section 88(2) & (3)	Determination of application for review of club premises certificate			•	
Section 88(7)	Decision as to whether any representation in relation to a review of a club premises certificate is relevant				•
Section 88(8)(c)	Decision as to whether any representation in relation to a review of a club premises certificate from a person is frivolous, vexatious or repetitious				• In consultation with Chairman or Vice Chairman of Licensing Committee
Section 88(9)	Notification of decision to reject any representation in respect of a review of club premises certificate from a person because it is frivolous, vexatious or repetitious				•
Section 88(10)	Notification of determination of a				•

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
	review of a club premises certificate				
Section 89(2)	Application for review of club premises certificate by a licensing authority				•
Section 90(1)	Giving notice that club is no longer a qualifying club				•
Section 92A(1) & (3)	Suspension of club premises certificate for failure to pay annual fee				•
Section 92A(5)	Issue of receipt for payment and lifting of suspension of club premises certificate following payment of annual fee				•
Section 93(1)	Amendments to club premises certificate and issue of revised summary				•
Section 93(2)	Requiring production of club premises certificate				•
Section 100A(4)	Sending copy of temporary event notice sent by electronic facility to the police and environmental health				•
Section 102	Acknowledgement of temporary event notice				•
Section 104A	Issue of Counter notice				•
Section 105(2) & 106A(2)	Consideration of objection to temporary event notice and imposition of conditions (if possible under s106A)			•	
Section 105(3)(a)	Notice of decision following consideration of objection to temporary event notice where no counter notice issued				•
Section 105(3)(b)	Issue of counter notice following consideration of objection to temporary event notice				•
Section 106A(3)(b)	Issue of notice detailing conditions following consideration of objection to temporary event notice				•
Section 107(1)	Issue of counter notice where temporary event notice limits exceeded				•
Section 107(11)	Issue of copy counter notice where temporary				•

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
	event notice limits exceeded to relevant persons				
Section 110(4)	Issue of copy temporary event notice				•
Section 120(2) & (6)	Grant of personal licence where no representations				•
Section 120(3)	Refusal of application for personal licence where grant criteria not met				•
Section 120(4)	Giving notice to the police where applicant for personal licence has unspent relevant previous convictions				•
Section 120(7)	Determination of application for personal licence following police objections			•	
Section 121(2)	Giving notice to the police where applicant for renewal of personal licence has unspent relevant convictions since last grant or renewal				•
Section 121(5)	Grant of renewal of personal licence where no representations				•
Section 121(6)	Determination of application for renewal of personal licence following police objections			•	
Section 122(1) & (2)	Notification of grant or refusal (rejection) of personal licence				•
Section 124(2)	Giving notice to the police where applicant for personal licence (or renewal) has obtained a relevant conviction during the application process				•
Section 124(4)	Consideration of revocation of personal licence following notice from the police where applicant personal licensee has obtained a relevant conviction during the application process			•	

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
Section 124(5)	Notification of decision to revoke or not following police notice where conviction during application process for personal licence				•
Section 125(1)	Issue personal licence				•
Section 126(3)	Issue of duplicate personal licence				•
Section 132A(4) & (5)	Giving notice to personal licensee that licensing authority is considering whether to suspend or revoke the personal licence				•
Section 132A(8)	Decision to suspend or revoke personal licence			•	
Section 132A(10)	Giving notice to the police of decision not to revoke a personal licence and inviting representations as to whether the licence should be suspended or revoked				•
Section 132A(12)	Decision to suspend or revoke personal licence following police representations			•	
Section 132(13)	Notification of decision in relation to action against a personal licence				•
Section 134(2)	Endorsing personal licence following certain events				•
Section 134(4)	Requiring production of personal licence				•
Section 167(5)	Determination of review of premises licence following closure order			•	
Section 167(9)	Decision as to whether any representation in relation to a review of a premises licence following closure order is relevant or, if made by a person from a person is frivolous, vexatious or repetitious				• In consultation with Chairman or Vice Chairman of Licensing Committee
Section 167(11)	Notification of decision to reject any representation in respect of a review of premises licence following closure				•

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
	order because it is not relevant, or if made by a person because it is frivolous, vexatious or repetitious				
Section 167(12)	Notification of determination of a review of a premises licence following closure order				•
Section 172A(1)	Making, varying or revoking an Early Morning Alcohol Restriction Order EM(A)RO <sup>3</sup>	Council			
Section 172B(1)(a)	Advertising a proposal to introduce an Early Morning Alcohol Restriction Order (EM(A)RO)				•

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<sup>3</sup> Making an Early Morning Alcohol Restriction Order (EM(A)RO) is a Council function by virtue of s7(2)(aa) Licensing Act 2003, but other parts of the procedure e.g. advertising the proposal under s172B(1)(a) are licensing functions and fall to the licensing committee which can then delegate those functions to a sub committee or officer.

<b>Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005</b>	<b>Functions</b>	<b>Delegation - Licensing Authority</b>	<b>Delegation - Full Licensing Committee</b>	<b>Delegation - Licensing Sub Committee</b>	<b>Delegation - Officer</b>
Regs 26B & 26C	Advertising various applications on Council Website Policy				•
Reg 27(1)	Copying various electronic applications to responsible authorities				•
Reg 28(1)	Copying various electronic applications to police				•
Reg 36A	Notification of summary review of premises licence				•
Reg 37	Notification of review of premises licence following closure order				•
Reg 38	Advertising review of premises licence or club premises certificate				•
Reg 40	Provision of application etc forms				•

<b>Licensing Act 2003 (Personal Licences) Regulations 2005</b>	<b>Functions</b>	<b>Delegation - Licensing Authority</b>	<b>Delegation - Full Licensing Committee</b>	<b>Delegation - Licensing Sub Committee</b>	<b>Delegation - Officer</b>
Reg 10	Provision of application etc forms				•

Licensing Act 2003 (Hearings) Regulations 2005	Functions	Delegation - Licensing Authority	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
Reg 4	Arranging hearings				•
Reg 6	Giving notice of hearings				•
Reg 7	Provision of information accompanying notice of hearing				•
Reg 6	Power to dispense with a hearing				•
Reg 11(1)	Power to extend time limits for hearings				• In consultation with Chairman or Vice Chairman of Licensing Committee
Reg 11(2)	Notification of extension of period				•
Reg 12	Power to adjourn a hearing <sup>4</sup>			•	• In consultation with Chairman or Vice Chairman of Licensing Committee
Reg 12(2)	Notification of adjournment				•
Reg 14	Power to exclude the public from a hearing <sup>5</sup>		•	•	
Reg 20	Power to adjourn or continue a hearing in the absence of a party <sup>6</sup>		•	•	
Reg 20(4)	Notification of adjournment of hearing in the absence of a party				•
Reg 21	Determination of proceedings for hearings		•		
Reg 22	Explanation of proceedings for hearings and determination of request for another person to appear <sup>7</sup>		•	•	

<sup>4</sup> It will depend on the situation whether this can be considered before the hearing, in which case the delegation should be to an officer in consultation with Chairman or Vice Chairman of Licensing Committee. Once the hearing has commenced, it will need to be a Licensing Committee decision (in which case it directly exercises the power of the Licensing Authority under s7(1) and no delegation is required) or a sub-committee (dependant on which body is hearing the matter) in which case delegation is required.

<sup>5</sup> This will depend on whether the hearing is before the Licensing Committee (in which case it directly exercises the power of the Licensing Authority under s7(1) and no delegation is required) or a sub-committee.

<sup>6</sup> See footnote 6 above.

<sup>7</sup> See footnote 6 above.



<b>Licensing Act 2003 (Hearings) Regulations 2005</b>	<b>Functions</b>	<b>Delegation - Licensing Authority</b>	<b>Delegation - Full Licensing Committee</b>	<b>Delegation - Licensing Sub Committee</b>	<b>Delegation - Officer</b>
Reg 24	Allowing parties an equal period of time at a hearing <sup>8</sup>		•	•	
Reg 25	Requiring a party to leave a hearing <sup>9</sup>		•	•	
Reg 28	Notification of determination of hearing when not specified elsewhere				•
Reg 29	Details of rights of appeal to accompany notification of determination of hearing				•
Reg 30	Keeping record of hearings				•
Reg 32	Curing irregularities <sup>10</sup>		•	•	

<b>The Licensing Act (Early Morning Alcohol Restriction Orders) Regulations 2012</b>	<b>Functions</b>	<b>Delegation - Licensing Authority (Council or Executive – see notes)</b>	<b>Delegation - Full Licensing Committee</b>	<b>Delegation - Licensing Sub Committee</b>	<b>Delegation - Officer</b>
Reg 4	Advertising proposed Early Morning Alcohol Restriction Order (EM(A)RO)				•
Reg 14	Publication of EM(A)RO				•

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<sup>8</sup> See footnote 6 above.

<sup>9</sup> See footnote 6 above.

<sup>10</sup> See footnote 6 above.

<b>Police Reform and Social Responsibility Act 2011</b>	<b>Functions</b>	<b>Delegation - Licensing Authority (Council or Executive – see notes)</b>	<b>Delegation - Full Licensing Committee</b>	<b>Delegation - Licensing Sub Committee</b>	<b>Delegation - Officer</b>
Section 125(2) & 132	Decision to impose a Late Night Levy (LNL) <sup>11</sup> , and determination of levy year, late night supply period etc	Council			
Section 130(5) & (6)	Publication of statements of deductions and net levy				•
Section 131(2)	Payment of specified proportion of levy to police				•
Section 132	Determination of levy year, late night supply period etc	Council			
Section 133	Amendment of levy year, late night supply period etc	Council			
Section 133(2)	Determining exemption or reduction categories	Council			

<b>The Late Night Levy (Application and Administration) Regulations 2012</b>	<b>Functions</b>	<b>Delegation - Licensing Authority (Council or Executive – see notes)</b>	<b>Delegation - Full Licensing Committee</b>	<b>Delegation - Licensing Sub Committee</b>	<b>Delegation - Officer</b>
Reg 8(1)	Payment of specified proportion of levy to police				•
Reg 8(2) & (3)	Using the LNL proceeds <sup>12</sup>	Council			•
Reg 9	Consultation before introduction or variation	Council			

<sup>11</sup> The decision to introduce a Late Night Levy (LNL) is not a licensing function under the Licensing Act 2003 and therefore cannot be exercised by the Licensing Committee, and accordingly, the decision will lie with the Council.

<sup>12</sup> Whilst on a day to day basis, this will be an officer decision, the overall policy will need to be set by the Council or delegated by the Council to a Council committee, sub-committee or officer.