

Notice of Meeting



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Governance and Ethics Committee

Monday, 27th September, 2021 at 6.30pm
in the Council Chamber, Council Offices,
Market Street, Newbury

This meeting can be streamed live here:

[Governance and Ethics Committee - Monday 27 September 2021 - YouTube](#)

Date of despatch of Agenda: Friday, 17 September 2021

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Stephen Chard on 01635 519462
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Further information and Minutes are also available on the Council's website at www.westberks.gov.uk



Agenda - Governance and Ethics Committee to be held on Monday, 27 September 2021
(continued)

To: Councillors Jeff Beck, Jeremy Cottam (Vice-Chairman), Graham, Rick Jones, Tony Linden, Thomas Marino (Chairman), David Marsh, Geoff Mayes, Andy Moore, Claire Rowles and David Southgate

Substitutes: Councillors Adrian Abbs, Anne Budd,Carolyn Culver, John Downe, Owen Jeffery, Steve Masters, Graham Pask and Garth Simpson

Agenda

Part I		Page No.
1	Apologies To receive apologies for inability to attend the meeting (if any).	1 - 2
2	Minutes To approve as a correct record the Minutes of the meeting of this Committee held on 26 July 2021.	3 - 6
3	Declarations of Interest To remind Members of the need to record the existence and nature of any personal, disclosable pecuniary or other registrable interests in items on the agenda, in accordance with the Members' Code of Conduct .	7 - 8
4	Forward Plan Purpose: To consider the Forward Plan for the next 12 months.	9 - 10

Governance Matters

5	Internal Audit Interim Report 2021/22 Q1 (GE4091)	11 - 22
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Agenda - Governance and Ethics Committee to be held on Monday, 27 September 2021

(continued)

Purpose: The report sets out to update the Committee on the outcome of Internal Audit work carried out during quarter one of 2021/22. The Public Sector Internal Audit Standards (PSIAS), as adapted by CIPFA's "Local Government Application Note", require the Audit Manager to provide periodic updates to senior officers and members on performance against the Audit Plan. As stated in the Council's approved Internal Audit Charter, quarterly updates are required to be presented to the Committee. The periodic reports aim to provide a progress update against the work in the Audit Plan together with highlighting any emerging significant issues/risks that are of concern.

6 Licensing Act 2003 and Gambling Act 2005 Delegations (LC4141) 23 - 50

Purpose: The report sets out to seek approval for updated delegations under the Licensing Act 2003 and Gambling Act 2005.

Sarah Clarke
Service Director: Strategy and Governance

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Agenda Item 1

Governance and Ethics Committee – 27 September
2021

Item 1 – Apologies for absence

Verbal Item

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Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

GOVERNANCE AND ETHICS COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 26 JULY 2021

Councillors Present: Jeremy Cottam (Vice-Chairman), Tony Linden, Thomas Marino (Chairman), Andy Moore and Graham Pask (Substitute) (In place of Rick Jones)

Also Present: Catalin Bogos (Performance Research Consultation Manager), Sarah Clarke (Service Director (Strategy and Governance)), Shannon Coleman-Slaughter (Chief Financial Accountant), Julie Gillhespey (Audit Manager), Joseph Holmes (Executive Director - Resources), Gary Lugg (Head of Development & Planning), Bryan Lyttle (Planning & Transport Policy Manager), Councillor Jeff Beck, Stephen Chard (Democratic Services Manager), Bill Graham (Parish Council Representative), Jack Karimi (Democratic Services Officer), Councillor Claire Rowles and David Southgate (Parish Council Representative)

Apologies for inability to attend the meeting: Councillor Rick Jones and Councillor David Marsh

PART I

3 Minutes

The Minutes of the meeting held on 19 April 2021 were approved as a true and correct record and signed by the Chairman, subject to the following amendments:

Item 28 - Minutes

Councillor Tony Linden confirmed that he was present at the meeting held on 1 February 2021, but was late in arriving.

Item 33 – Revised Audit Findings for West Berkshire Council

It was noted that Councillor Linden's name had been misspelt.

The Minutes of the meeting held 4 May 2021 were approved as a true and correct record and signed by the Chairman.

4 Declarations of Interest

There were no declarations of interest received.

5 Forward Plan

The Committee considered the Governance and Ethics Committee Forward Plan (Agenda Item 4).

Julie Gillhespey raised that GE4093 should state Quarter 3 rather than Quarter 4.

RESOLVED that the Governance and Ethics Committee Forward Plan be noted.

6 Annual Governance Statement 2020-21 (GE4031)

Joseph Holmes introduced the Annual Governance Statement for the 2020/21 financial year, noting that approval of the report was an important annual requirement, and that it set out key areas of governance to focus on in the following year, as well as noting

GOVERNANCE AND ETHICS COMMITTEE - 26 JULY 2021 - MINUTES

progress on the key areas from 2019/20. Joseph Holmes noted that some areas such as Asset Management were retained, as well as new issues for governance.

The Chairman proposed to suspend Standing Orders in order to allow the External Auditor, Iain Murray, to speak. This was approved.

Councillor Jeremy Cottam asked what remained to be done to improve the issue of Asset Management. Joseph Holmes responded that there was an update to the previous committee, and some of the internal audit actions were due for completion.

Councillor Cottam asked about the monitoring of the current portfolio, and whether there would be a mechanism in place to monitor the position of the purchased assets. Joseph Holmes responded that the Property Investment Board met quarterly to assess the investments and monitor their success. Joseph Holmes noted that the audit referenced was a one-off as part of the internal audit arrangement, but the Committee now had Treasury Management within its remit, and commercial properties would form part of its strategy. A report on the portfolio could come to the Committee if requested.

Councillor Graham Pask noted that it was important that the Committee continued to be informed.

The Chairman noted some typographical errors, and Joseph Holmes agreed to amend the report.

The Chairman noted that some points had been removed from the Annual Governance Statement, and asked who had signed off on that decision and whether it would be open to public scrutiny. Joseph Holmes noted that the decision was made based on where the report could be best used, but assured that items could be added at a later stage.

RESOLVED that the Annual Governance Statement be approved.

7 **Going Concern Assessment as at 31 March 2021 (GE4030)**

Shannon Coleman-Slaughter introduced the report which outlined the assessment of the Section 151 Officer on whether the Council could fulfil all of its financial obligations. In its conclusion, the Council could meet those obligations as a Going Concern.

RESOLVED that the report be noted.

8 **2020/21 Draft Financial Statements Highlight Report (GE3820)**

Shannon Coleman-Slaughter introduced the report, particularly noting the pension liability and the reasons why it had increased.

Councillor Tony Linden asked whether the suburban population of Reading West within West Berkshire should be included on future versions of reports such as this. Joseph Holmes responded that it could be added in future.

Councillor Linden noted that the report stated the Council had been created as a unitary district council after the dissolution of Newbury District Council. Councillor Linden asked whether that was the case, or whether it was simply renamed in 1998 on assuming more powers. Joseph Holmes stated that he would check to see whether it was correct.

David Southgate asked for further clarification on the summary and the seven negative points that had been highlighted. Joseph Holmes stated that this was reference to two separate reports, one of which had already been considered by the Committee.

Councillor Andy Moore asked whether the pension fund deficit was likely to improve, and whether there were actions prepared in case it did not. Joseph Holmes stated that it was difficult to assess whether it would further worsen or improve, but the overall pension fund would be due an overall review and valuation where decisions on actions would be

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taken. Councillor Moore asked when the next review would be. Mr Holmes stated that it was in 2022.

Councillor Linden stated that the Berkshire Pension Fund had been late, but that it would be improved to allow for better reporting.

The Chairman noted that the report had to be produced by 31 July 2021, and asked whether that had been completed. Joseph Holmes responded that it had.

The Chairman noted that there were £4.2 million worth of assets marked as unable to be substantiated, and asked if there were any clear examples of that. Ms Coleman-Slaughter noted that it was predominately old ICT equipment which had remained on the register and required being written off, and some duplicate items. This was part of a review into the fixed asset management which had been undertaken.

RESOLVED that the report be noted.

9 Internal Audit Annual Assurance Report 2020/21 (GE4029)

The Committee considered a report (Agenda Item 8) concerning the Internal Audit Annual Assurance Report 2020/21.

Julie Gillhespey introduced the report. She noted that the report's conclusion stated that the Control Framework was still robust and effective, and noted the large number of areas which were marked as 'satisfactory'. A number of 'weak' opinions had been reported to Committee and since worked on. Grounds Contract Management had been 'very weak', and while this had not been improved to 'satisfactory' there had been improvement. Additionally, there were three follow-up reports which had returned unsatisfactory reports, and had been reported to the Committee and followed up on.

Joseph Holmes noted that Capital Strategy Group had seen reports on available contributions and whether they were being managed effectively.

Bryan Lytle noted that there was a new government requirement to report back on Section 106 and CIL by the December of each year. The Council had been successful on that deadline and the report was published. Section 106 agreements had gone down from 106 in 2013/14 to just eleven in the previous year, and one this year. Most information requests were being managed through the Freedom of Information Act, which were free of charge.

Councillor Jeff Beck noted that the Maintenance Contract was marked as 'very weak', and that it was a joint contract between West Berkshire Council, Newbury Town Council and an external contractor. He asked why this was suddenly 'very weak'. Julie Gillhespey noted that the report was not 'out of the blue', as there had been issues throughout, due to the failure to establish a database. An agreement had been reached on actions to improve on the audit, and these were promising.

Councillor Tony Linden noted that the Development and Planning Capital Programme Board had been marked as 'weak', and asked what actions would be taken. Julie Gillhespey stated that the Committee could request a second stage follow-up, but that the main issue, reports going to the Capital Strategy Group, had been addressed by Joseph Holmes and acted on.

Councillor Claire Rowles asked for reassurance that the Council was able to benchmark themselves against other authorities, and that the Audit Team was following the statutory requirement to be externally audited. Julie Gillhespey responded that the external assessment was a benchmark, as it was comparing the Council with other local authorities. The audit reports were additionally externally audited, and that would have raised any issues. Councillor Rowles asked how an external audit worked. Julie

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Gillhespey responded that external audits had a set of criteria to work on and that the Council had been marked as fully conforming to the standards set out.

David Southgate noted that in 5.9 there was a mention of a new process being set up in 2018/19, and in 5.21 there was an external audit in March 2018. He asked whether the process was still relevant considering there was a new process. Julie Gillhespey responded that the new process was a risk management process, and was not related to the external audit.

Councillor Rowles asked Bryan Lyttle to clarify his statements on Section 106 and CIL. Bryan Lyttle responded that the government brought in legislation requiring councils to produce reports on Section 106 and CIL spending each December. The Council has issued these reports since 2018.

Councillor Andy Moore noted that Covid-19 related work was marked as something that came in new, and asked for an overview of what that involved. Julie Gillhespey responded that the Council asked for help for business grants and community support, and a range of later grants. Each grant was signed off after a check for fraud. Additionally, there were grants with no sign-off requirement that presented a risk and were checked in order to prevent fraud.

The Chairman noted that there was an 81% score and asked whether this would return to a 90% score. Julie Gillhesey responded that she hoped that it would, although it depended on the level and nature of work, and that the Council should expect between 80% and 90%.

RESOLVED that the report be noted.

10 Exclusion of Press and Public

RESOLVED that members of the press and public be excluded from the meeting for the under-mentioned item of business on the grounds that it involves the likely disclosure of exempt information as contained in Paragraphs 3, 5 and 6 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information)(Variation) Order 2006. Rule 8.10.4 of the Constitution also refers.

11 Risk Management Q4 2020/21 Report (GE4028)

The Committee considered an exempt report (Agenda Item 10) concerning the Risk Management Q4 2020/21 Report.

RESOLVED that the exempt report be noted.

(The meeting commenced at 6.30pm and closed at 7.20pm)

CHAIRMAN

Date of Signature

Agenda Item 3

Governance and Ethics Committee – 27 September
2021

Item 3 – Declarations of Interest

Verbal Item

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Governance and Ethics Committee Forward Plan 15 November 2021 – July 2022

15 November 2021						
1.	GE4116	Update Report – Review of the Effectiveness of the Governance and Ethics Committee	To update G&E Committee on progress made on the outstanding recommendations from the Internal Audit review of The Effectiveness of the Governance and Ethics Committee.	Julie Gillhespey	Councillor Howard Woollaston Internal Governance, Leisure and Culture	Audit
2.	C4147	External audit appointment process – 2023/24 – 2028/29	To approve the process for appointing external auditors to the Council from 2023-29	Shannon Coleman-Slaughter	Councillor Howard Woollaston Internal Governance, Leisure and Culture	Audit
17 January 2022						
3.	GE3891	Annual Audit Letter	To present the Annual Audit Letter.	Joseph Holmes	Councillor Ross Mackinnon Finance and Economic Development	Audit
4.	GE4023	Strategic Risk Register Update Q2 2021/22	To provide an update on the Strategic Risk Register as at Q2 of 2021/22.	Catalin Bogos	Councillor Howard Woollaston Internal Governance	Audit
5.	GE4092	Internal Audit Interim Report 2021/22 Q2	To update the Committee on the outcome of Internal Audit work	Julie Gillhespey	Councillor Howard Woollaston Internal Governance, Leisure and Culture	Audit
6.	GE4123	Treasury Management - Mid Year Report		Shannon Coleman-Slaughter	Councillor Ross Mackinnon Finance and Economic Development	Finance

25 April 2022

7.	GE4093	Internal Audit Interim Report 2021/22 Q3	To update the Committee on the outcome of Internal Audit work	Julie Gillhespey	Councillor Howard Woollaston Internal Governance, Leisure and Culture	Audit
8.	GE4094	Internal Audit Plan 2022/23	To outline the proposed audit work programme for the next three years	Julie Gillhespey	Councillor Howard Woollaston Internal Governance, Leisure and Culture	Audit

July 2022 Date TBC

9.	GE4024	Strategic Risk Register Update Q4 2021/22	To provide an update on the Strategic Risk Register as at Q4 of 2021/22.	Catalin Bogos	Councillor Howard Woollaston Internal Governance	Audit
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Internal Audit Update Report

Committee considering report:	Governance and Ethics Committee
Date of Committee:	27 September 2021
Portfolio Member:	Councillor Howard Woollaston
Date Head of Service agreed report:	20th July 2021
Report Author:	Julie Gillhespey (Audit Manager)
Forward Plan Ref:	GE4091

1 Purpose of the Report

- 1.1 To update the Committee on the outcome of Internal Audit work carried out during quarter one of 2021/22.
- 1.2 The Public Sector Internal Audit Standards (PSIAS), as adapted by CIPFA's "Local Government Application Note", require the Audit Manager to provide periodic updates to senior officers and members on performance against the Audit Plan. As stated in the Council's approved Internal Audit Charter, quarterly updates are required to be presented to the Committee.
- 1.3 The periodic reports aim to provide a progress update against the work in the Audit Plan together with highlighting any emerging significant issues/risks that are of concern.

2 Recommendation

To note the content of the report.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	None
Human Resource:	None
Legal:	None

Risk Management:	Internal Audit work helps to improve risk management processes by identifying weaknesses in systems and procedures and making recommendations to provide mitigation. The aim of which is to help ensure that services and functions across the Council achieve their goals and targets, and the organisation as a whole meets its plans and objectives.			
Property:	None			
Policy:	None			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
Environmental Impact:		X		
Health Impact:		X		
ICT Impact:		X		

Digital Services Impact:		X		
Council Strategy Priorities:		X		
Core Business:		X		
Data Impact:		X		
Consultation and Engagement:	None			

4 Executive Summary

- 4.1 To update the Committee on the outcome of Internal Audit work completed during quarter one of 2021/22.
- 4.2 The Public Sector Internal Audit Standards (PSIAS), as adapted by CIPFA's "Local Government Application Note", require the Audit Manager to provide periodic updates to senior officers and members on performance against the Audit Plan. As stated in the Council's approved Internal Audit Charter quarterly updates are required to be presented to Committee.
- 4.3 The periodic reports aim to provide a progress update against the work in the Audit Plan together with highlighting any emerging significant issues/risks that are of concern.
- 4.4 For the work completed during the quarter there were no corporate audits given a less than satisfactory opinion. There was one school given a weak opinion. Details are set out in the main body of the report.
- 4.5 There are no significant issues of concern identified through audit work during the period that need to be highlighted to senior officers/members.

5 Supporting Information

Introduction/Background

- 5.1 A list of audit work completed is set out in Appendix A. The following table summarises the results of the audit work where an opinion was given.

Audit Type	Very weak	Weak	Satisfactory	Well Controlled	Very Well Controlled
Key Financial Systems					
Other Systems			2	1	
Schools		1	2	3	

- 5.2 For this reporting period there were no corporate audits which were given a less than satisfactory opinion. There was one school given a weak opinion, the main reason for this opinion was the need to strengthen the processes for income collection, recording and monitoring.
- 5.3 Details of the audit work in progress and the stage reached is set out at Appendix B. Progress made against the Anti-Fraud Work Plan is set out at Appendix C.
- 5.4 The number of school visits planned for last year was severely impacted by the Covid pandemic, with visits being either cancelled or postponed. This resulted in a backlog of school visits which was then prioritised to be undertaken in the first quarter of the current year, this is reflected in the number of schools listed in Appendix B.
- 5.5 The Audit Manager has mentioned in previous update reports that she would provide the Committee with updates regarding any COVID related audit work which would impact on the Audit Plan. As at the end of June the team has spent 53 days on Covid related grant assurance work, this level of work is likely to continue during the second quarter of the year.

Proposals

Members note the outcome of audit work.

6 Other options considered

Not applicable, the report is for information only.

7 Conclusion

There were no corporate audits given a less than satisfactory opinion in this reporting period. There was one school given a weak opinion. The Audit Team continues to undertake COVID grant assurance work which impacts on the level of planned work that can be achieved, although the impact to date is not at a significant level.

8 Appendices

- 8.1 Appendix A – Completed Audit Work
- 8.2 Appendix B – Current Audit Work
- 8.3 Appendix C – Anti-Fraud Work Plan Update.

Background Papers:

Attached

Subject to Call-In:

Yes: No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

Wards affected: All

Officer details:

Name: Julie Gillhespey
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Document Control

Document Ref:		Date Created:	19/07/2021
Version:	01	Date Modified:	
Author:	Julie Gillhespey (Audit Manager)		
Owning Service	Strategy and Governance		

Change History

Version	Date	Description	Change ID
1			
2			

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1) COMPLETED AUDITS

Directorate/Dept/Service	Audit Title	Overall Opinion
Corporate		
Corporate/Strategy and Governance	Risk Management	Satisfactory
Resources		
People		
Education	Mrs Bland's School	Satisfactory
Education	St Nicolas's School	Well Controlled
Education	Kennet Valley School	Satisfactory
Education	Brightwalton School	Well Controlled
Education	i-college	Weak
Education	The Winchcombe School	Well Controlled
Place		
Public Protection	Licensing	Satisfactory
Environment	Concessionary Fares	Well Controlled

NOTE

The overall opinion is derived from the number/significance of recommendations together with using professional judgement. The auditor's judgement takes into account the depth of coverage of the review (which could result in more issues being identified) together with the size/complexity of the system being reviewed.

2) COMPLETED FOLLOW UPS

<u>Directorate/Service</u>	<u>Audit Title</u>	<u>Overall Opinion - Report</u>	<u>Opinion - Implementation progress</u>
None			

3) COMPLETED ADVISORY REVIEWS/OTHER WORK

Directorate/Dept/Service	Review Title
Corporate	IR35 Advice regarding changes in legislation
Public Protection	Covid Compliance and Enforcement Grant Sign Off

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1) CURRENT AUDITS

Corporate/Directorate/Service	Audit Title	Current Position of Work	Audit Plan Year
Corporate	National Fraud Initiative	Data matches being reviewed	2021/22
Resources			
Finance and Property	Treasury Management	Testing	2021/22
Finance and Property	Fixed Asset Register	Testing	2021/22
Strategy and Governance	Disclosure and Barring Service	Testing	2021/22
Strategy and Governance	Service Planning/Performance Management	Background	2021/22
ICT	Security of Systems	Background	2021/22
Finance and Property	Building Maintenance	Testing	2020/21
Strategy & Governance	Members Expenses	Draft report Issued	2020/21
People			
Education	Kintbury St Mary's School	Draft report issued	2021/22
Education	Burghfield St Mary's School	Draft report issued	2021/22
Education	The Willows School	Draft report issued	2021/22
Education	Basildon School	Draft report issued	2021/22
Education	Enborne School	Draft report issued	2021/22
Education	Pangbourne school	Visit undertaken	2021/22
Education	Chieveley School	Visit undertaken	2021/22
Adult Social Care	Shared Lives Placements	Testing	2020/21
Children and Families	Turnaround Families Grant Claim work	Ongoing	2021/22

Corporate/Directorate/ Service	Audit Title	Current Position of Work	Audit Plan Year
Children and Families	Foster Carer Payments	Testing	2020/21
Adult Social Care	Carers Assessments/Payments	Ready for Review	2020/21
Place			
Environment	Waste Management Contract	Testing	2020/21
Development and Planning	Purchase and Utilisation of Council Properties	Ready for Review	2019/20

2) CURRENT ADVISORY REVIEWS/OTHER WORK

Audit/Review Title	Current position of work
General Grants sign off work	Ongoing
Covid Grants – payments assurance work	Ongoing
COVID Business Grants –payment assurance work	Ongoing

3) CURRENT FOLLOW-UPS

Directorate/Service	Audit title
Resources	
Corporate/Strategy and Governance	Digitalisation Agenda
People	
Education Service	Early Years Grant
Place	

Anti-Fraud Work Plan**(Drawn together from entries in the Audit Plan for 2021/22**

<u>Audit Name</u>	<u>Work Focus</u>	<u>Update Position 30/06/2021</u>
NFI Investigation Work	Review of data matches to assess whether fraudulent.	Ongoing
Covid Grant Assurance Work (Non-business)	Review of appropriateness/accuracy of grant payments made to third parties/use of grants the Council has received.	Completed Compliance and Enforcement Grant Assurance. Testing of Test and Trace Support Grant and Infection Control Grant.
Covid Business Grants Assurance	Review of payments to assess whether inaccurate or fraudulent.	Ongoing
Contract letting - Other than Care Packages	Check for compliance with Contract Rules of Procedure/legislation. Check for risk of contracts being awarded inappropriately/potential for conflict of interest/personal gain.	Background
Personal Budgets (Direct Payments/Use of payment cards) (Education Service)	Personal Budgets may be used inappropriately/fraudulent documentation could be provided for expenditure incurred.	
Street Works/Traffic Regulation Orders/Section 38 Charges	Income collection – to ensure that the relevant charges are requested/received.	
Parking	Income collection – income is maximised/reduced risk of theft.	
*Council Tax Reduction Scheme	Reductions granted are valid, regularly reviewed, and investigated where applicable.	Being Planned.

*A piece of work which has been commissioned from an external fraud work provider.

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Licensing Act 2003 and Gambling Act 2005 Delegations

Committee considering report:	Governance and Ethics Committee
Date of Committee:	Governance and Ethics (27 September 2021) Licensing Committee (08 November 2021)
Portfolio Member:	Councillor Hilary Cole
Date Portfolio Member agreed report:	TBC
Report Author:	Sean Murphy
Forward Plan Ref:	LC4141

1 Purpose of the Report

- 1.1 To set out and seek approval for updated delegations under the Licensing Act 2003 and Gambling Act 2005

2 Recommendation

- 2.1 To **APPROVE** the delegations to the Licensing Sub-Committee and Officers set out at **Appendix A** and **Appendix B** to this report.
- 2.2 To **DELEGATE** authority to the Monitoring Officer to make any changes to the Constitution arising from this report.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	There are no financial implications associated with production of this report
Human Resource:	There are no HR implication associated with this report.
Legal:	The Licensing Act 2003 established that West Berkshire District Council, as a unitary authority, would be the Licensing Authority for the District of West Berkshire.

	<p>The Gambling Act 2005 established that West Berkshire Council, as a unitary authority, would be the Licensing Authority for the purpose of the local authority licensing functions under the Act</p> <p>Section 7 of the Licensing Act 2003 requires the Council to establish a Committee for the purpose of the Act and to oversee the implementation of the Act in the District. The Committee must by law consist of between twelve and fifteen Members of Council and any Sub-Committee must consist of three members of the Committee. In accordance with the Constitution the Committee must appoint a Chairman and Vice Chairman and each Sub-Committee must appoint a Chairman.</p> <p>Section 10 of the Licensing Act 2003 permits the Licensing Authority to delegate functions under the Act to either a Sub-Committee or to an Officer of the Licensing Committee.</p> <p>Section 154 of the Gambling Act 2005 applies various provisions of the Licensing Act 2003 for the purpose of the Gambling Act 2005. This includes the power of the Committee to delegate functions to a Sub-Committee or an Officer of the Licensing Authority.</p> <p>James Button & Co, Solicitors, Beth Varcoe and Patricia Brown have been consulted</p>
<p>Risk Management:</p>	<p>The only significant risk identified is not delegating functions in accordance with law. The legislation and thus the route to the Committee being able to consider / grant these delegations is set out in the legal implications section above.</p> <p>Both proposed delegation schemes have be drafted to reflect the prevailing legal framework as well as local policy considerations as set out in local policies adopted in a accordance with statute.</p>
<p>Property:</p>	<p>There are no property issues associated with this report</p>
<p>Policy:</p>	<p>Both proposed delegation schemes have be drafted to reflect the prevailing legal framework as well as local policy considerations as set out in local policies adopted in a accordance with statute.</p>

	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		Equalities issues are considered as part of the formulation of the Licensing and Gambling Policies. This report is seeking to ensure the appropriate governance arrangements are in place.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		Equalities issues are considered as part of the formulation of the Licensing and Gambling Policies. This report is seeking to ensure the appropriate governance arrangements are in place.
Environmental Impact:		X		It is not envisaged that the governance arrangements will have either a positive or negative impact on the environment.
Health Impact:		X		It is not envisaged that the governance arrangements will have either a positive or negative impact on health and wellbeing. These issues are considered during the formulation of the licensing and gambling policies.
ICT Impact:		X		Meetings will be conducted in accordance with Council Policies and the prevailing law which includes face to face and hybrid meetings.
Digital Services Impact:		X		All meetings are broadcast live.
Council Strategy Priorities:		X		Business as Usual

Core Business:		X		Business as Usual
Data Impact:		X		None
Consultation and Engagement:	None			

4 Executive Summary

- 4.1 The purpose of this report is to allow the Committee to consider updated delegation schemes for the purposes of the Licensing Act 2003 (LA03) and Gambling Act 2005 (GA05).
- 4.2 The proposed scheme for the Licensing Act 2003 can be found at Appendix A to this report and the proposed Scheme for the Gambling Act 2005 can be found at Appendix B to this report.
- 4.3 These delegation schemes have been drafted taking account of the relevant legislation, statutory guidance, the Councils Licensing Act 2003 Policy approved by Council on 06 December 2018 and the proposed Statement of Policy under the Gambling Act 2005 considered by this Committee on 21 June 2021 the final version of which is due for consideration by Council on 02 December 2021.
- 4.4 While the Committee does not have authority to delegate decisions up to Council it should be noted that delegations to Council referred to in Appendix A including the creation of the Licensing Committee and the agreement of the Licensing Policy and its content are already delegated to Council. It is proposed to include them in the document for completeness.
- 4.5 Similarly in Appendix B the signing off of the Gambling Policy is already included in the Policy Framework (paragraph 2.5.2 of the Constitution) for Council to sign off. This policy will include the 'no casino resolution'. In addition all fees, including licensing fees, are signed off by Full Council usually at the Annual Budget meeting.
- 4.6 Should the Committee approve these schemes they will be published on the Councils website and be made available in other forms on request.

5 Supporting Information

Statutory Basis for the Delegations

- 5.1 The legal position regarding the delegation of licensing functions can be summarised as follows
 - Section 101(1) of the LGA provides that (subject to any express statutory provision) a local authority may arrange for the discharge of any of its functions by a committee, sub-committee or one of its officers.

- Section 101(15), inserted by the LA03, states that section 101 does not apply to any function of a licensing authority under the LA03. This means that the usual mechanisms for delegation do not, and cannot apply to the Licensing Act, and by extension the Gambling Act.
- Under section 7 of the LA03, the functions of the licensing authority (Council) are expressly delegated to, and must and can only be discharged by, the licensing committee which must be established by the authority, subject to the exceptions contained in subsection (2) and the circumstances described in subsection (9).
- The exceptions contained in subsection (2) and the circumstances described in subsection (9) are the only functions that can be discharged by the licensing authority (full Council).
- Section 10 of the LA03 allows a licensing committee to sub-delegate any functions to sub-committees and some functions to officers.
- Section 154 of the GA05 applies the scheme of delegations contained in the LA03 to the discharge of functions by a licensing authority created under the GA05, subject to three exceptions and amendment of the functions capable of delegation to officers.
- Subject to the three exceptions and the amendment, the functions of the licensing authority (Council) under the GA05 are also expressly delegated to, and must and can only be discharged by, the licensing committee,

The Structure of the Delegations

- 5.2 The proposed delegation Schemes identify in table form those matters that are matters for the Licensing Committee along with those that are matters for the Licensing Sub-Committee and those which are delegated to Officers.
- 5.3 Primarily the delegations to Officers are the administrative functions under both Acts and include the authority to approve full applications, variations, minor variations for premise licences as well as personal licences and temporary event notices (under the Licensing Act 2003). In some cases these matters would automatically come before a sub-committee if objections are raised that cannot be mediated by Officers. The occasions when matters will go before the Sub-Committee are set out in the relevant scheme and reflect both the law and adopted local policy framework.
- 5.4 The activity of both Officers and Licensing Sub-Committee are reported annually to the Licensing Committee and the minutes of the Committee are referenced at the next meeting of Full Council.
- 5.5 It is important for both applicants, licence holders, responsible authorities and residents that the any scheme of delegation approved by this Committee is clear in its intent. These new proposed delegation schemes, laid out in table form, contain significantly more detail than previous scheme's and provide absolute clarity about who is making decisions and on what legal basis. External specialist legal advice has been sought in the development of these delegations.
- 5.6 Once the Licensing and Gambling Schemes of Delegation are agreed they will be located in the Constitution, alongside the Scheme of Delegation (Part 3) as Schemes of Delegation approved by the Licensing Committee.

Appendices

6.1 Appendix A – Licensing Act 2003– Proposed Scheme of Delegation

Appendix B – Gambling Act 2005 – Proposed Scheme of Delegation

Background Papers:

Licensing Act 2003 Policy dated 06 December 2018

Draft Gambling Act 2005 Statement of Policy 21 June 2021

Subject to Call-In:

Yes: No:

Wards affected: All

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Version	Date	Description	Change ID
1	-		
2	06/09/21	Amend names of external solicitors and reference from Chair to Chairman/Chairmen	Covering Report Implications

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 ¹		•	•	•
Various sections	Making representation as a responsible authority ²				•
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

¹ 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).

² 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 ³	Council			
Section 172B(1)(a)	Advertising a proposal to introduce an Early Morning Alcohol Restriction Order (EM(A)RO)				•

³ 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.

Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005	Functions	Delegation - Licensing Authority	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
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				•

Licensing Act 2003 (Personal Licences) Regulations 2005	Functions	Delegation - Licensing Authority	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
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 ⁴			•	• 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 ⁵		•	•	
Reg 20	Power to adjourn or continue a hearing in the absence of a party ⁶		•	•	
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 ⁷		•	•	

⁴ 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.

⁵ 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.

⁶ See footnote 6 above.

⁷ See footnote 6 above.

Licensing Act 2003 (Hearings) Regulations 2005	Functions	Delegation - Licensing Authority	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
Reg 24	Allowing parties an equal period of time at a hearing ⁸		•	•	
Reg 25	Requiring a party to leave a hearing ⁹		•	•	
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 ¹⁰		•	•	

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

⁸ See footnote 6 above.

⁹ See footnote 6 above.

¹⁰ See footnote 6 above.

Police Reform and Social Responsibility Act 2011	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
Section 125(2) & 132	Decision to impose a Late Night Levy (LNL) ¹¹ , 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			

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

¹¹ 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.

¹² 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.

Appendix B: Delegation of Functions:

Gambling Act 2005 and Regulations

All but three functions under the Gambling Act functions are the responsibility of, and are discharged by, the Licensing Committee (see section 154(1) Gambling Act 2005). This includes delegating specific functions to a sub-committee or an officer (see s10 Licensing Act 2003 applied by S154(3) Gambling Act). The Licensing Committee has made this Scheme of Delegations. The three functions of Council are identified in the table below.

Gambling Act 2005	Functions	Delegation - Licensing Authority (Council or Executive – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
Section 166	* No Casino resolution	Council			
Section 212	* Setting licence fees	Council – but can be delegated to the Licensing Committee			
Section 349	* Adopting Statement of Licensing Policy	Council			
Section 163	Determination of application for Premises Licence in respect of which representations have been made (and not withdrawn)			•	
Section 163	Determination of application for Premises Licence where no relevant representations received				•
Section 162	Attachment of condition to Premises Licence or exclusion of default condition			•	
Section 162	Decision as to whether representation is vexatious, frivolous, or would certainly not influence the authority's determination of application				• In consultation with the Chairman or Vice Chairman of Licensing Committee
Section 187	Determination of application to vary Premises Licence in respect of which representations have been made (and not withdrawn)			•	
Section 187	Determination of application to vary Premises Licence in respect of which no representation received				•
Section 188	Determination of application for transfer of			•	

	Premises Licence in respect of which representations have been made (not withdrawn)				
Section 188	Determination of application for transfer of Premises Licence where no representations received				•
Section 193	Revocation of Premises Licence for failure to pay annual fee				•
Section 194	Determination that a premise Licence has lapsed				•
Section 195	Reinstatement of lapsed Premises Licence in respect of which representations have been made (and not withdrawn)			•	
Section 195	Reinstatement of lapsed Premises Licence where no representation is received				•
Section 198	Rejection of application for review of Premises Licence on various grounds				• In consultation with the Chairman or Vice Chairman of Licensing Committee
Section 200	Initiation of review of Premises Licence				•
Section 201	Determination that representation about review of Premises Licence is frivolous, vexatious or will certainly not influence a review of a Premises Licence				• In consultation with the Chairman or Vice Chairman of Licensing Committee
Section 202	Determination of action following review of Premises Licence			•	
Section 204	Determination of application for provisional statement in respect of Premises Licence where representations have been made (and not withdrawn)			•	

Section 204	Determination of application for provisional statement in respect of which no representations received				•
Section 205	Decision to disregard representations made in respect of application for a Premises Licence after issue of provisional statement				• In consultation with the Chairman or Vice Chairman of Licensing Committee
Section 218	Issue of counter notice to Temporary Use Notice where number of permitted days are exceeded				•
Section 221	Objection to Temporary Use Notice				•
Section 224	Issue of counter notice in response to Temporary Use Notice			•	
Section 284	Making of Order to remove exemptions from specified premises			•	
Section 346	Institution of criminal proceedings in respect of an offence under the provisions of the Act				• In consultation with the Chairman or Vice Chairman of Licensing Committee
Schedule 10 Paragraph 8	Determination of application for Family Entertainment Centre Gaming Machine Permit				• In consultation with the Chairman or Vice Chairman of Licensing Committee
Schedule 10 Paragraphs 14 and 15	Notification of lapse of Family Entertainment Centre Gaming Permit				• In consultation with the Chairman or Vice Chairman of Licensing Committee
Schedule 11 Paragraph 44	Registration of society for small society lottery				•
Schedule 11 Paragraph 48	Refusal of application for registration of society for small society lottery				• In consultation with the Chairman or Vice Chairman of Licensing Committee
Schedule 11 Paragraph 50	Revocation of registration of society for small society lottery				• In consultation with the Chairman or Vice Chairman of Licensing Committee

Schedule 11 Paragraph 54	Cancellation of registration of society for small society lottery for non-payment of annual fee				•
Schedule 12 Paragraphs 5, 10 and 24	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit in respect of which representations have been made (and not withdrawn)			•	
Schedule 12 Paragraphs 5, 10 and 24	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit where no representations received				•
Schedule 12 Paragraph 15	Determination of application for variation of Club Gaming Permit and in respect of which Club Registration Permit and cancellation of permit representations have been made (and not withdrawn)			•	
Schedule 12 Paragraph 15	Determination of application for variation of Club Gaming Permit and Club Registration Permit and cancellation of permit where no representations received				•
Schedule 12 Paragraph 21	Cancellation of Club Gaming Permit and Club Registration Permit			•	
Schedule 12 Paragraph 22	Cancellation of Club Gaming Permit and Club Registration Permit for failure to pay annual fee				•
Schedule 13 Paragraphs 4, 15 and 19	Determination of application for grant, variation or transfer of Licensed Premises Gaming Machine Permit				• (Refusal and limitation on number of machines only) in consultation with the Chairman or Vice Chairman of the Licensing Committee

Schedule 13 Paragraph 16	Cancellation of Licensed Premises Gaming Machine Permit or variation of number or category of machines in respect of which representations received (and not withdrawn)			•	
Schedule 13 Paragraph 16	Cancellation of Licensing Premises Gaming Machine Permit and variation of number or category of machine where no representations received				•
Schedule 13 Paragraph 17	Cancellation of Licensed Premises Gaming Machine Permit for failure to pay annual fee				•
Schedule 14 Paragraphs 9 and 18	Determination of application for Prize Gaming Permit and application for renewal of Permit				• (Refusal only) in Consultation with the Chairman or Vice Chairman of the Licensing Committee
Schedule 14 Paragraph 15	Determination that Prize Gaming Permit has lapsed				•