BOROUGH COUNCIL OF WELLINGBOROUGH

Licensing Committee

Report of the Head of Planning and Local Development

Delegation of Functions by Licensing Committee

1 Purpose of Report

1.1 To delegate officers to act as a responsible authority within the Licensing Act 2003 on behalf of the Licensing Authority.

2 Executive Summary

2.1 This report sets out the background to the issue and invites the Committee to delegate the functions in relation to status as a ‘responsible authority’ to the Team Leader Health Protection and Team Leader Environmental Protection, to ensure the proper separation between the Licensing Authority as a decision maker under the Licensing Act 2003 and the Licensing Authority as a ‘responsible authority’.

3 Appendices

3.1 None

4 Proposed Action:

4.1 The Committee is invited to RESOLVE to authorise the Team Leader Health Protection and Team Leader Environmental Protection, to make representations on behalf of the licensing authority as a responsible authority under the Licensing Act 2003

5 Background

5.1 In April 2012 the Licensing Act 2003 was amended by the Police Reform and Social Responsibility Act 2011. One of these amendments (now in force) made the Licensing Authority a responsible authority under the Licensing Act 2003. This gives the Licensing Authority the power to respond to applications as a consultee and ask for reviews of licences.

5.2 Section 10 of the Licensing Act 2003 permits the Licensing Committee to discharge certain functions to an officer of the Licensing Authority. Delegation from the Committee is requested to establish how the role of Responsible Authority will be carried out.

5.3 On 11th April 2013 a report was presented to committee requesting permission to authorise the Principal Environmental Protection Manager to make representations on behalf of the licensing authority. Since this time however, the Environmental Health team have restructured and the post of Principal Environmental Protection Manager no longer exists.

6 Discussion

6.1 Licensing Authorities are ‘responsible authorities’ under the Licensing Act 2003 and as such have the power to comment upon licensing applications and to trigger a review of a Premises Licence/Club Premises Certificate, where it is
deemed necessary to promote any or all of the licensing objectives.

6.2 Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups). Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so.

6.3 It is also reasonable for licensing authorities to expect other responsible authorities to take appropriate action themselves, where the basis for the intervention falls within their remit. For example, the police should make representations where the representations are based on concerns about crime and disorder.

6.4 Accordingly, it is unlikely that representations would need to be made by the licensing authority on a regular basis.

6.5 If the delegation of this function is not approved by Council, representations and the triggering of any reviews deemed necessary by the Licensing Authority would require a resolution by the Licensing Authority to be lawful. Due to the statutory timescales associated with applications and the potential requirement to act in a timely manner for reviews, this would be an impracticable method of working.

6.6 It is considered necessary to separate the role of Responsible Authority from the process of handling applications and servicing the Licensing Committee, to protect the impartiality of the Licensing Authority, and reduce any possible conflict of interest, to ensure a fair hearing. These duties are currently carried out by the Principal Environmental Health Manager.

6.7 It is felt that the Team Leader Health Protection and Team Leader Environmental Protection are best placed to carry out the Responsible Authority duties on behalf of the Licensing Authority, since these post holders have a good knowledge of licensing legislation and practice. This would provide some separation from the role undertaken by the Principal Environmental Health Manager.

6.8 Communication between the Team Leader and the Principal Environmental Health Manager will remain formal whilst exercising the function of Responsible Authority and will be consistent with communications with other Responsible Authorities.

7 **Legal Powers**

7.1 Section 7(1) of the Licensing Act 2003 prescribes that the functions of the licensing authority shall be delegated to the Licensing Committee established under that Act. The Licensing Committee therefore has the power to delegate its functions as ‘responsible authority’ to officers.

8 **Financial and Value for Money Implications**

8.1 There are no such implications arising from this report.
9 Risk Analysis

<table>
<thead>
<tr>
<th>Nature of risk</th>
<th>Consequences if realised</th>
<th>Likelihood of occurrence</th>
<th>Control measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inability to respond to applications or trigger reviews within prescribed timescales</td>
<td>Ombudsman complaint or Judicial Review</td>
<td>Low</td>
<td>Delegation of authority to officer</td>
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<td></td>
<td>Loss of effectiveness of the licensing regime</td>
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10 Implications for Resources

10.1 Officer time in giving effect to the decision of the Committee.

11 Implications for Stronger and Safer Communities

11.1 There are no such implications arising from this report.

12 Implications for Equalities

12.1 There are no equality and diversity implications arising from the proposals as they relate to arrangements for discharging functions. The function itself – making representations – is however subject to the duties contained in the Equalities Act 2010.

13 Author and Contact Officer

13.1 Amanda Wilcox, Principal Environmental Health Manager

14 Consultees

Julie Thomas, Interim Director
Liz Elliott, Interim Managing Director
Bridget Gamble, Interim Director
Matt O'Donnell, Team Leader Health Protection
Catherine Somerville, Team Leader Environmental Protection
James Chadwick, District Law

15 Background Papers


Amended Guidance issued under Section 182 of the Licensing Act 2003: