

SOLIHULL METROPOLITAN BOROUGH COUNCIL

TERMS OF REFERENCE
AND OFFICER DELEGATIONS
OF THE
LICENSING COMMITTEE

(In force from 16th October 2002)

(Amended 22nd November 2004)

(Amended 8th February 2005 (Full Council))

(Amended 7th April 2009)

Mark Rogers
Chief Executive
April 2009

Terms of Reference of the Licensing Committee and Officer delegations

Explanatory Introduction

Council functions which relate to licensing matters cannot be decided by the Cabinet but fall to be dealt with by the Council through the Licensing Committee. This document sets out in detail which statutory functions are the responsibility of the Committee, the allocation of functions to the Licensing Committee and those matters which are reserved for Council approval. Officer delegations are also shown.

The main functions and terms of reference of the Licensing Committee (11 members):-

- A. Licensing and registration.
- B. Health and Safety at Work (as enforcing authority).
- C. Statutory nuisance legislation.

Executive powers of Licensing Committee

1. The Committee shall have power to determine all matters within its terms of reference except for any matter which the Council determines shall be decided only by the Council.

Licensing Committee (11 members) – terms of reference

1. To undertake all the licensing and registration matters falling within the functions of the Licensing Committee; and

2. To hear and determine appeals in relation to such licensing and registration matters.
3. The authorisation of enforcement and similar action and the taking of legal proceedings;

Executive powers of committees

The Committee shall have power to determine all matters within its terms of reference except for any matter which the Licensing Committee determines shall be decided only by that Committee.

General Delegation to Officers

Functions delegated to the Chief Executive, Corporate Directors, Strategic Directors and Heads of Service (see appendix for the full list of posts to which this delegation applies) in respect of matters for which they are the authorised or proper officer

- (a) The power to take any action in the name of the Council which is required to be taken to implement any decision of the Licensing Committee and its Committees including entering into contracts and incurring expenditure;
- (b) To authorise works to be carried out by the Council in default of compliance with a notice served on an owner, occupier or other party and to recover the costs involved;
- (c) To serve any notice required or authorised by law to be given by or on behalf of the Council or in the name of an authorised or proper officer;
- (d) Subject to the statutory Codes of Practice and corporate policies, to grant authorisations under the Regulation of Investigatory Powers Act 2000 in respect of covert surveillance and the use or conduct of covert human intelligence sources;

- (e) In relation to any functions for which they are the responsible officer, the Chief Executive or a Corporate Director may:-
- (i) act as an authorised or proper officer where qualified to do so and where no other officer has been appointed;
 - (ii) appoint officers to act as a proper officer for the purpose of legislation and for the purpose of giving statutory notices on behalf of the Council;
 - (iii) reserve to themselves for decision or referral to the Committee or a Sub-Committee of the Committee any decision which is delegated to another officer; and
 - (iv) shall have power to give to officers within their Directorate such directions as to the exercise of delegated powers as they shall determine.

Authorisation Of Legal And Other Proceedings

- (a) Other than for those matters reserved to the Committee or a sub-committee, the post holders listed in the Appendix may authorise legal proceedings to be brought or other appropriate action to be taken in respect of legislation which is within their designated responsibilities subject in all cases to prior consultation with, and the evidence being to the satisfaction of, the Solicitor to the Council;
- (b) Any officer referred to in paragraph (c) above shall in relation to any matter authorised by him, also have authority to lay informations in the Magistrates Court;
- (c) The Solicitor to the Council may take all necessary steps, including laying informations in the Magistrates Court:- in relation to

the commencement and conduct of all legal proceedings, authorised by the Council or under delegated powers, and to defend any legal proceedings brought against the Council;

(d) The Chief Executive may, in consultation with the Chairman and Vice-Chairman of the Committee, authorise the issue of legal proceedings for the purposes of obtaining injunctions in all matters relating to the functions of the Committee.

(1)	(2)	<i>Officer delegations</i>
<i>Function</i>	<i>Provision of Act or Statutory Instrument</i>	
A. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)	Delegated to Licensing Committee	
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c. 62).	Head of Public Protection to grant (but not refuse) licences.
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c.49).	
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and section 15 of the Transport Act 1985 (c. 67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57); (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	Head of Public Protection to approve but not refuse. Head of Public Protection to suspend Hackney Carriage and Private Hire Vehicle licences where proof of insurance cover is not provided pending a report of the full facts of the case to the Committee. Head of Public Protection to have power to approve additional types of vehicles for use as a Hackney Carriage.

4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	<p>Head of Public Protection to approve but not refuse.</p> <p>Head of Public Protection power to prosecute for no insurance.</p> <p>Head of Public Protection to check with the Police and Criminal Records Bureau for criminal convictions of applicants for Hackney Carriage and Private Hire Driving Licences, and to suspend the renewal of licences when criminal records are revealed that are not consistent with the Committee's policies pending consideration by the Licensing Committee.</p> <p>Head of Public Protection to have power to suspend drivers who fail to attend a medical appointment or fail to request another appointment from the Licensing Office.</p>
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	Head of Public Protection to approve but not refuse.
6. Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c. 2).	Head of Public Protection to approve but not refuse.
7. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963.	Head of Public Protection to approve but not refuse.

8. Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963.	Head of Public Protection to approve but not refuse.
9. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 (c. 65).	Head of Public Protection to grant permits.
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 (c. 32).	Head of Public Protection to approve but not refuse.
11. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976.	Head of Public Protection to approve but not refuse.
12. Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985 (c. 13).	Head of Public Protection to approve but not refuse.
13. Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968 (c. 54).	Head of Public Protection to approve but not refuse.
14. Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933 (c.	Head of Public Protection to approve but not refuse.

	12), section 79 of the Licensing Act 1964 (c. 26), sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 (c. 19) and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).	Head of Public Protection to issue a certificate when required whereby in any legal proceedings the production of a certified copy of the standard terms, conditions and restrictions of regulations approved by the Council for the purposes of public entertainment licences issued under the Local Government (Miscellaneous Provisions) Act 1982 shall be <i>prima facie</i> evidence that they are a true copy of the approved standard terms, conditions and restrictions.
15. Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.	
16. Power to license performances of hypnotism.	The Hypnotism Act 1952 (c. 46).	Head of Public Protection to grant consents for performances.
17. Power to license premises for acupuncture, tattooing, ear piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.	Head of Public Protection to approve but not refuse.
18. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c. 53).	
19. [spare]		

<p>20. Power to license market and street trading.</p>	<p>Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982</p>	<p>Head of Public Protection to approve licences and consents.</p>
<p>21. Power to license night cafes and take-away food shops.</p>	<p>Section 2 of the Late Night Refreshment Houses Act 1969 (c. 53).</p>	<p>Head of Public Protection to approve but not refuse.</p>
<p>22. Duty to keep list of persons entitled to sell non-medicinal poisons.</p>	<p>Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (c. 66).</p>	<p>Head of Public Protection</p>
<p>23. Power to license dealers in game and the killing and selling of game.</p>	<p>Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c. 32); sections 2 to 16 of the Game Licensing Act 1860 (c. 90), section 4 of the Customs and Inland Revenue Act 1883 (c. 10), sections 12(3) and 27 of the Local Government Act 1874 (c. 73), and section 213 of the Local Government Act 1972 (c. 70).</p>	<p>Head of Public Protection to have powers to grant licences.</p>
<p>24. Power of register and license premises for the preparation of food.</p>	<p>Section 19 of the Food Safety Act 1990 (c. 16).</p>	<p>Head of Public Protection to approve but not refuse.</p>
<p>25. Power to license scrap yards.</p>	<p>Section 1 of the Scrap Metal Dealers Act 1964 (c. 69). Vehicle (Crime) Act 2001</p>	<p>Head of Public Protection to approve but not refuse. Head of Public Protection to administer licences for salvage yard operators.</p>

<p>26. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.</p>	<p>The Safety of Sports Grounds Act 1975 (c. 52).</p>	
<p>27. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.</p>	<p>Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).</p>	<p>Head of Public Protection to determine whether a stand is a regulated stand for the purposes of the Act.</p> <p>Head of Public Protection to have power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.</p>
<p>28. [keep spare]</p>		
<p>29. Power to license premises for the breeding of dogs.</p>	<p>Section 1 of the Breeding of Dogs Act 1973 (c. 60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11).</p>	<p>Head of Public Protection to approve but not refuse.</p>
<p>30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.</p>	<p>Section 1 of the Pet Animals Act 1951 (c. 35); section 1 of the Animal Boarding Establishments Act 1963(c. 43); the Riding Establishments Acts 1964 and 1970 (1964 c. 70 and 1970 c. 70); section 1 of the Breeding of Dogs Act 1973 (c. 60), and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.</p>	<p>Head of Public Protection to approve but not refuse.</p> <p>Head of Public Protection to appoint veterinary officers to inspect animal establishments.</p>
<p>31. Power to register animal trainers and exhibitors.</p>	<p>Section 1 of the Performing Animals (Regulation) Act 1925 (c. 38).</p>	

32. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981 (c. 37).	
33. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c. 38).	Head of Public Protection to approve but not refuse.
34. Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).	
35. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933 (c. 33), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c. 37).	
37. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to - (a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or (b) an order under section 147 of the Enclosure Act 1845 (c. 8 & 9 Vict. c. 118).	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).	

38. Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471).	
39. Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c. 31) and section 2 of the House to House Collections Act 1939 (c. 44).	Head of Public Protection to approve but not refuse.
40. Power to grant consent for the operation of a loudspeaker. (Subject to adoption of power by the Council).	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).	
41. Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957 (c. 16).	Head of Public Protection to approve but not refuse.
42. Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).	Head of Public Protection to approve.
43. Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.	Head of Public Protection to approve but not refuse.

<p>44. Power to license collecting centres for the movement of pigs.</p>	<p>Article 14 of the Pigs (Records, Identification and Movement) Order 1995.</p>	<p>Head of Public Protection to approve but not refuse.</p>
<p>45. Power to issue a licence to move cattle from a market.</p>	<p>Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).</p>	<p>Head of Public Protection to approve but not refuse.</p>
<p>46. Power to sanction use of parts of buildings for storage of celluloid.</p>	<p>Section 1 of the Celluloid and Cinematograph Film Act 1922 (c. 35).</p>	
<p>47. Power to approve meat product premises.</p>	<p>Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082).</p>	
<p>48. Power to approve premises for the production of minced meat or meat preparations.</p>	<p>Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).</p>	
<p>49. Power to approve dairy establishments.</p>	<p>Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086).</p>	
<p>50. Power to approve egg product establishments.</p>	<p>Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).</p>	

51. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763) as amended by the Food Safety (Butchers Shops) Amendment Regulations 2000.	Head of Public Protection to approve but not refuse
52. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).	
53. Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
54. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
55. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
56. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	

57. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2825).	Head of Public Protection
58. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.	
B. Functions relating to health and safety at work	To be exercised by the Licensing Committee	
Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974 (c. 37).	Head of Public Protection to appoint Inspectors under Section 19, Health and Safety at Work Act, 1974 for the purposes of Sections 20, 21, 22 and 25. Head of Public Protection to determine requests under Regulation 6(2) of the Control of Asbestos at Work Regulations 1987. Head of Public Protection to agree the assignment of functions by the Health and Safety Executive under the Health and Safety (Enforcing Authority) Regulations 1998.
C. Functions under Local Acts	To be exercised by the Licensing Committee	Head of Public Protection to make decisions under the Regulations made under the National Exhibition Centre and Birmingham Municipal Bank Act 1976 including applications for relaxation;
D. Functions in relation to contaminated land (Enforcement only – other powers are Cabinet responsibility).	To be exercised by the Licensing Committee	

E. Functions relating to statutory nuisances		
1. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	To be exercised by the Licensing Committee	
2. The inspection of the authority's area to detect any statutory nuisance.	To be exercised by the Licensing Committee	Head of Public Protection
3. The investigation of any complaint as to the existence of a statutory nuisance.	To be exercised by the Licensing Committee	Head of Public Protection
F. Functions of obtaining information	The Committee	
1. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land except in connection with the exercise of statutory functions which are the responsibility of the executive.		The Chief Executive and all Chief Officers
2. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 except in connection with the exercise of statutory functions which are the responsibility of the executive.		The Chief Executive and all Corporate Directors and designated proper officers.

APPENDIX

LIST OF POSTS INCLUDED IN GENERAL DELEGATION TO OFFICERS

Chief Executive
Director for Commissioning
Head of Corporate Performance, Policy and Information
Director of Corporate Governance (Solicitor to the Council and Monitoring Officer)
Director of Business Support (s.151 Officer)
Head of Financial Operation
Head of Human Resources and Equalities
Head of Customer Services
Head of Communications
Corporate Director for People
Director of Adult Social Services
Service Director (Quality/Social Regeneration & Learning Strategy)
Head of Children and Young People Services
Corporate Director for Places
Service Director, Transport, Highways and the Environment
Strategic Director of Community & Economic Regeneration
Head of Leisure Services
Head of Libraries and Lifelong Learning
Head of Public Protection
Head of Planning Services
Head of Public Protection

