

**Manchester City Council
Report for Resolution**

Report to: Licensing Committee – 5 December 2022

Subject Delegation of Licensing Authority Functions

Report of: The City Solicitor

Summary

The purpose of this report is to enable the Licensing Committee to agree the licensing authority delegations contained in Sections C and F of Part 3 of the Council's Constitution.

Recommendation

The Committee is recommended, insofar as it has statutory responsibility for the discharge and delegation of licensing authority functions under the Licensing Act 2003 or the Gambling Act 2005, to approve the delegation of such functions as set out in the revised Sections C and F of Part 3 of the Council's Constitution that are appended to this report.

Wards Affected: All

Environmental Impact Assessment - the impact of the decisions proposed in this report on achieving the zero-carbon target for the city
Not Applicable

Our Manchester Strategy outcomes	Contribution to the strategy
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	Not Applicable
A highly skilled city: world class and home-grown talent sustaining the city's economic success	Not Applicable

A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	Not Applicable
A liveable and low carbon city: a destination of choice to live, visit, work	Not Applicable
A connected city: world class infrastructure and connectivity to drive growth	Not Applicable

Financial Consequences – Revenue

None

Financial Consequences – Capital

None

Contact Officers:

Name: Fiona Ledden
Position: City Solicitor
Telephone: 0161 234 3087
E-mail: fiona.ledden@manchester.gov.uk

Name: Poornima Karkera
Position: Head of Governance
Telephone: 0161 234 3719
E-mail: poornima.karkera@manchester.gov.uk

Background Documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy, please contact one of the contact officers above.

None.

1. Background

- 1.1 On 30 November 2022 Council will consider proposals for it to agree various amendments to the Council's Constitution. This will include consideration of the arrangements for the delegation of responsibility for the discharge of the Council's non-executive functions.
- 1.2 In general, the Council is able to delegate non-executive functions to committees and/or officers as it sees fit (other than where a function has to by law be discharged by the Council itself). The Council's licensing authority functions under the Licensing Act 2003 and the Gambling Act 2005 are an exception to this.
- 1.3 Section 7(1) of the Licensing Act 2003 provides that (subject to certain exceptions) "All matters relating to the discharge by a licensing authority of its licensing functions are, by virtue of this subsection, referred to its licensing committee and, accordingly, that committee must discharge those functions on behalf of the authority." The further delegation of such functions to licensing subcommittees and officers is also a matter for an authority's licensing committee to arrange under Section 10 of the 2003 Act (as licensing authority functions are expressly excluded from a local authority's more general power of delegation under Section 101 of the Local Government Act 1972). The position is similar in respect of licensing authority functions under the Gambling Act 2005, by virtue of Section 154 of the 2005 Act.
- 1.4 Accordingly, it is proposed that the Licensing Committee agree the relevant licensing authority delegations contained in Sections C and F of Part 3 of the Council's Constitution. It should be noted that responsibility for approving all other non-executive delegations in those sections (or elsewhere in the Constitution) is the responsibility of the Council, while responsibility for approving all executive delegations contained in the Constitution is the responsibility of the Leader.
- 1.5 Attached to this report, and summarised below, are the revised Sections C and F of Part 3 of the Council's Constitution that the City Solicitor has brought forward for approval. The attached revised sections of the Constitution show proposed amendments as "track-changes" and new wording appears in bold text for additional clarity.

2. Proposals in Relation to Part 3 of the Constitution – Responsibility for Functions

- 2.1 A number of changes are proposed to Section C ("Non-Executive Functions") of Part 3 of the Constitution. Some of these are to reflect the transfer of delegated responsibility for the discharge of particular non-executive functions from one officer to another (with these changes in turn being reflected in the revised Section F ("Scheme of Delegation to Officers")). Changes are also proposed to reflect recent amendments to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Finally, a small number of typographical errors are proposed to be corrected. The Committee's attention

is directed in particular to the Licensing Committee's own entry in Section C, which is at the pages numbered 16 to 18.

2.2 A number of amendments to the Scheme of Delegation to Officers (Part 3, Section F of the Constitution) are proposed. Given the number of proposed changes, it is not intended to list all amendments here (although all are fully shown in the appended revised Part 3, Section F). Proposed amendments of particular note are as follows:

- a) Throughout Section F any references to consultation by officers with a particular Executive Member are amended to refer to the Executive Member's portfolio responsibility rather than the Executive Member's title, so as to future-proof against changes to portfolio responsibility or title made by the Leader;
- b) The transfer of a number of licensing functions from the Strategic Director (Neighbourhoods) to the Director of Planning, Building Control and Licensing, to better reflect where operational responsibility for those matters rests. The Committee is directed in particular to the entries for those officers in the revised Scheme of Delegation at the pages numbered 39 to 49 and 64 to 74;
- c) Amendments to various entries to add clarity or update legislative references; and
- d) Changes made to delegation numbering, alongside removal of empty delegation entries, to result in clear sequential numbering of delegations within each entry in the Scheme.

3. Recommendations

3.1 The recommendations appear at the beginning of this report.