

**Manchester City Council
Report for Resolution**

Report to: Licensing Committee – 23 October 2023
Subject: Delegation of Licensing Authority functions
Report of: 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.

Recommendations

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 affirm the existing arrangements as set out in the excerpts from Sections C and F of Part 3 of the Council's Constitution that are appended to this report.

Wards Affected - All

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: Assistant Director of Legal and Democratic Services (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

1.0 Background

- 1.1 On 29 November 2023 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 sub-committees 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 The Committee's attention is directed to the Licensing Committee's entry within Section C of Part 3 of the Constitution and also to the delegation of relevant licensing authority functions to the Director of Planning, Building Control and Licensing set out within Section F of Part 3. The relevant excerpts from those sections of the Constitution are reproduced in the Appendix to this report.
- 1.6 No changes have been made to the statutory functions of the Licensing Committee nor to the officer delegations in respect of licensing authority functions since the Committee last reviewed these on 5 December 2022. The Committee is therefore requested to affirm the existing arrangements.

2.0 Recommendation

- 2.1 The recommendation appears at the beginning of this report.