

HEAD OF LAW and REGULATION

1. As Head of Service:

To determine all operational issues relating to:

- Legal Services
- Democratic Services, including Scrutiny and Mayoralty
- Registration Services
- Electoral registration
- Public protection, including community safety; environmental health; licensing; trading standards.
- Marketing and Communications

2. Procedural Issues

- I. To determine any guidelines to be issued to officers and / or members on legal, procedural and proprietary issues.
- II. To affix the Common Seal of the Council to any Deed or other document required to be executed under Seal and to subscribe his name thereto as attesting such sealing.
- III. To determine the content of any binding contract or any other such documentation between the Council and any third party.
- IV. To sign contracts or other formal documents on behalf of the Council (which do not have to be executed as a deed) in accordance with Contract Standing Orders.

3. As Monitoring Officer

- I. To determine any action to be taken and to exercise the powers and responsibilities of the Monitoring Officer for the purpose of Section 5 of the Local Government and Housing Act 1989, part 3 of the Local Government Act 2000 and any other or subsequent relevant legislation.
- II. To determine when it is necessary and to issue reports to the Council as Monitoring Officer.
- III. To make payments of compensation, provide other benefits or take any other appropriate action to settle maladministration complaints in accordance with Section 92 of the Local Government Act 2000.
- IV. To monitor and review the Council Constitution and determine any minor or consequential amendments..
- V. To maintain the statutory register of Members interests in accordance with section 81 of the Local Government Act 2000

4. Democratic Arrangements and Scrutiny

- I. To determine action to be taken as "Proper Officer" for the purposes of implementing the provisions in the Local Government Act 1972 and any other subsequent legislation relating to :
 - a. Exclusion of Reports
 - b. List of Background papers
 - c. identification of Background papers
 - d. "Need to know"
- II. To act generally as Proper Officer of the Council unless legislation or the Scheme of Delegation names another officer or unless the Council determines otherwise.
- III. To determine arrangements for the proper record and maintenance of records of decisions taken by the Council, the Cabinet or any other element of the decision-making process empowered to take decisions.
- IV. To determine arrangements to record in the statutory register maintained for the purpose, particulars of any notice given by a member or officer of the Council under Section 117 of the Local Government Act 1972 of any pecuniary interest in a contract or any declarations of personal interest, or gifts and hospitality in accordance with any relevant code of practice.

5. Legal Proceedings

- I. To institute, defend or settle any legal proceedings he or she considers necessary (either in the name of the Council or an individual officer of the Council), at common law or under any enactment, statutory instrument, order or bye-law conferring functions upon the Council or in respect of functions undertaken by then and to lodge appeals against any decisions affecting the discharge of any of the Council's functions. For the avoidance of doubt, this delegation shall extend to the taking of all procedural steps, including the service of any notices, statutory or otherwise, counter-notices and notices to quit.
- II. To authorise officers of the Council to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 223 of the Local Government Act 1972 or any modification or re-enactment thereof.

6. Registration Services

- I. To act as "Proper Officer for registration of births, deaths and marriages
- II. To determine individuals who will be authorised to attest notices of civil partnerships;
- III. To designate a sufficient number of civil partnership registrars and determine who within the authority will be responsible for recording details of the formation into the civil partnership register.
- IV. To act as Proper Officer for the approval of premises for the conduct of civil marriages and civil partnerships in accordance with the Marriage Act 1949 and the Civil Partnership Act 2004.

7. Land and Property

- I. To determine when appropriate and to sign a suitable certificate of waiver of repayment of improvement grant where a building society proposes to lend in respect of a property, which might qualify for an improvement grant.
- II. To determine when and to serve statutory notices to ascertain the legal interest of any person in land.
- III. To sign certificates of title and execute any land sale, transfer or lease on behalf of the Council.

8. Public Protection

- i. To appoint and authorise Officers, of the Council, to carry out duties and exercise powers as required or permitted by the relevant “Public Protection” (See paragraph xv below) statutes and statutory instruments,
- ii. To issue, grant, renew, vary, revoke or refuse licences, registrations, permits, consents or approvals under Public Protection statutes and statutory instruments; or to determine the fitness to hold such licences consult on changes to council licensing policies etc. under Public Protection statutes and statutory instruments, (including those licensing duties/powers that are Council “executive functions” eg Housing Act, Scrap Metal Act) in accordance with Council policies, **UNLESS** for specific licences where the delegations are to the Licensing (Sub) Committee or Panel-as detailed in the Paragraphs e and g, and 11-13 below;
- iii. To grant or renew all applications for Hackney Carriage Vehicle Licences, Private Hire Vehicle Licences, Hackney Carriage /Private Hire Driver's Licences and Private Hire Operator's Licences. Where refusal is considered possible due to criminal or driving convictions or other matters, then the decision will be taken by the Officer or, depending upon the seriousness/complexity, will be referred to the Licensing Committee (Panel), in accordance with Council Policies;
(Revocation of an existing taxi licence is a matter for the Licensing Committee (Panel));
- iv. To suspend any Hackney Carriage or Private Hire Licences in accordance with S60 61 62 and 68 of the Local Government (Miscellaneous Provisions) Act 1976 or instead to serve a "deferred" notice as warning that the licence may be suspended if certain matters are not attended to;
- v. To revoke any Hackney Carriage or Private Hire Licences in accordance with S60 61 62 and 68 of the Local Government (Miscellaneous Provisions) Act. Where refusal is considered appropriate due to criminal or driving convictions or other matters, then the decision will be taken by the Officer or, depending upon the seriousness/complexity, will be referred to the Licensing Committee (Panel), in accordance with Council Hackney Carriage and Private Hire Policies;
- vi. To grant, renew, refuse, suspend and revoke “street furniture” licence Section 115E of the Highways Act 1980 and to determine terms and conditions for the grant of such licences.
- vii. To grant/renew licence under the Lotteries and Amusements Act 1976 / House to House and Street Collections/ Street Trading Part 3 of Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, if no objections are raised.
If objections are raised then the application must go before the Licensing Sub-Committee.
- viii. Together with Public Protection officers so authorised by the Head of Service, to charge offences where appropriate for contraventions of Public Protection criminal offences;

- ix. To enter into an agreement with another Local Authority or Enforcement Body to authorise that Local Authority/ Enforcement Body and its Officers, either, to discharge a function under Public Protection legislation in Newport; or to investigate and institute proceedings against offenders; or to assist with an investigation in Newport under the direct control of the Public Protection officers of Newport City Council; or to enter into an agreement with another Local Authority/ Enforcement Body to allow Public Protection officers of Newport City Council to investigate and for Newport City Council to institute proceedings against offenders for matters relating to that other Local Authority/ Enforcement Body; or assist with an investigation in that other Local Authority or for that Enforcement Body:
- x. To appoint the Council's Chief Inspector of Weights and Measures under Section 72(1) of the Weights and Measures Act 1985 and delegates to that the power under section 72(4) of the Act to designate suitably qualified and experienced officers as Deputy Chief Inspectors of Weights and Measures with powers to perform any of the powers and duties of the Chief Inspector in his or her absence or as directed by the Chief Inspector from time to time: and
- xi. To appoint the Council's Proper Officer for the purposes of the Public Health (Control of Disease) Act 1984 and in respect of the Council Functions relating to notifiable diseases and food poisoning and for the purposes of the Health Protection (Part 2A Orders) (Wales) Regulations 2010;
- xii. To appoint the Council's Medical Officer for Port Health for the purposes of the Public Health (Ships) Regulations 1979 (as amended), the Public Health (Aircraft) Regulations 1979 (as amended); the International Health Regulations 2005;
- xiii. To appoint a public analyst as required by Section 27 of the Food Safety Act 1990;
- xiv. To appoint an agricultural analyst as required by Section 67 of the Agriculture Act 1970;
- xv. To issue Certificates and exercise powers pursuant to the Safety of Sports Grounds Act 1975, and Fire Safety and Safety of Places of Sport Act 1987 in relation to the use of sports grounds.
- xvi. The "**Public Protection**" statutes, common law and statutory instruments to which these delegations apply, including any Regulations or Orders made there under, any amendments and additions thereto, and any licensing/registrations/authorisations/permits/approvals etc. in connection with that legislation, are those that cover:
Community safety, anti-social behaviour, nuisance, food safety and standards, nutrition, health promotion, public health, port health, control of disease and infection, health and safety at work, explosives, licensing and registration, water supply quality and pollution, air quality and pollution, energy, littering, fly posting, fly tipping, land pollution, noise and noise pollution, contaminated land, waste, drainage and sewage, environmental control protection & improvements, nuisance, housing safety and conditions, houses in multiple occupation, camping, caravans, mobile homes and illegal eviction, the condition of buildings and land, fire safety and means of escape, sports and events ground safety, road safety, Hackney Carriage and private hire vehicles, parking, highways and street obstruction, street trading, street and house to house collections, CCTV and security, entertainment, alcohol supply, gambling, consumer protection, consumer credit, age -restricted goods, trading standards, fair trading, advertisements, descriptions, omissions, classifications, counterfeiting, trademarks, product safety, agricultural produce, fertilisers and animal feed, marketing and quality standards, medicines and poisons, animal health and welfare, dog and pest control, imports and exports, weights and measures, trading practices, fraud, deception, forgery, aiding and abetting, conspiracy and the European Communities Act 1972.

This includes any new legislation that has been passed by Parliament or the Welsh Government that is relevant to the above.

9. Licensing Act: Arrangements for Applications Relating to Licensed Premises or Individuals

| Matter to be dealt with | Sub Committee | Officers |
|---|-----------------------------------|--------------------------------------|
| Policy –consulting on proposed changes | | x |
| Application for personal licence | If a Police objection | If `No` objection |
| Application for personal licence with `Unspent` Convictions | All cases | |
| Application for premises licence/club premises certificate | If a relevant representation made | If `No` relevant representation made |
| Application for ` Provisional Statement ` | If a relevant representation made | If `No` relevant representation made |
| Application to vary premises licence/club premises certificate | If a relevant representation made | If `No` relevant representation made |
| Application to vary designated premises Supervisor | If a Police representation | All other cases |
| Request to be removed as designated premises supervisor | | All cases |
| Application for transfer of premises licence | If a Police objection | All other cases |
| Application for Interim Authorities | If a Police representation | All other cases |
| Decision on whether a complaint is irrelevant frivolous vexations etc. | | All cases |
| Decision to object when Local Authority is a `Consultee` and not the `Lead Authority` | All cases | |
| Determination of a Police representation to a temporary Event Notice | All cases | |

10. As to the Gambling Act

| Matter to be dealt with | Full Council | Sub-Committee | Officers |
|--|---------------------|--|---|
| Policy –consulting on proposed changes | | | x |
| Approving Policy | x | | |
| Policy not to permit casinos | X | | |
| Fee Setting - when appropriate | | | X (to be approved by Cabinet Member) |
| Application for premises licences | | Where representations have been received and not withdrawn | Where no representations received/representations have been withdrawn |
| Application for a variation to a licence | | Where representations have been received and not withdrawn | Where no representations received/representations have been withdrawn |
| Application for a transfer of a licence | | Where representations have been received from the Commission | Where no representations received from the Commission |
| Application for a provisional statement | | Where representations have been received and not withdrawn | Where no representations received/representations have been withdrawn |
| Review of a premises licence | | X | |
| Application for club gaming /club machine permits | | Where representations have been received and not withdrawn | Where no representations received/representations have been withdrawn |
| Cancellation of club gaming/club machine permits | | X | |
| Applications for other permits | | | X |
| Cancellation of licensed premises gaming machine permits | | | X |
| Consideration of temporary use notice | | | X |
| Decision to give a counter notice to a temporary use | | X | |

| Matter to be dealt with | Full Council | Sub-Committee | Officers |
|-------------------------|--------------|---------------|----------|
| notice | | | |

11. (1) Sex Shop / Sex Cinemas Local Government (Miscellaneous Provisions) Act 1982, section 2 and schedule 3)/ Lap dancing and other sexual entertainment venues Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009).

To grant, refuse or revoke a Sexual entertainment venue licence is a matter for the Licensing Sub Committee.

(2) Lap dancing and other sexual entertainment venues Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009

To grant, renew, revoke or refuse Sexual entertainment venue licence.

12. Marketing and Communications

To determine any operational matters relating to the Council’s marketing and communications functions.

13. General Delegations

To determine matters relating to Human Resources, tenders, finance, land and buildings, operational plans and legal agreements relating to this service area and as contained in the general delegation of powers to all Heads of Service set out in Part 1 of this scheme of delegation