

		<b>Executive</b>  <b>20<sup>th</sup> June 2012</b>	<b>Agenda Item No.</b>  <b>5</b>
<b>Title</b>		Amendments to the Officer Scheme of Delegation	
<b>For further information about this report please contact</b>		Graham Leach Civic & Committee Services Manager 01926 456114	
<b>Service Area</b>			
<b>Wards of the District directly affected</b>		All	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006</b>		No	
<b>Date and meeting when issue was last considered and relevant minute number</b>		N/A	
<b>Background Papers</b>		None	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No

<b>Officer/Councillor Approval</b>		
With regard to officer approval all reports <i>must</i> be approved by the report authors relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Head of Service	9 May 2012 11 May 2012	Roger Jewsbury Ian Coker
Relevant Director		Bill Hunt
Chief Executive		
CMT		
Section 151 Officer		Mike Snow
Legal		
Finance		Jenny Clayton
Portfolio Holder(s)		Councillor Coker Councillor Shilton
<b>Consultation Undertaken</b>		
See report		
<b>Final Decision?</b>		Yes

## 1. **SUMMARY**

- 1.1 The report brings forward minor changes to the officer Scheme of Delegation of for Community Protection & Neighbourhood Services.

## 2. **RECOMMENDATION**

- 2.1 That the Executive recommends to Council the amendments to the scheme of delegation at Appendix 1 to the report.

## 3. **REASONS FOR THE RECOMMENDATION**

- 3.1 The Policing Reform and Social Responsibility Act 2011 brought about changes to the Licensing Act 2003.
- 3.2 One of the changes made was to make the Licensing Authority itself a Responsible Authority under the Licensing Act 2003. This is in addition to the existing seven other Responsible Authorities.
- 3.3 This means that a nominated person will have to Act for the Licensing Authority in making representations against licensing applications, should this be necessary. The Home Office who deal with this legislation have advised that this should be delegated to an officer.
- 3.4 The Changes to the Neighbourhood Services Scheme of delegation is to provide a mechanism for changes to parking charges to be made in full compliance with the legislation.
- 3.5 There will be a more comprehensive update and changes to the Scheme of delegation to the July Executive however these changes need to be implemented as soon as possible. In addition there will be a review of the Constitution starting July, following the Change in Code of Conduct, which will look at all aspects of the Constitution.

## 4. **ALTERNATIVE OPTION CONSIDERED**

- 4.1 This is a statutory duty so no alternative is available

## 5. **BUDGETARY FRAMEWORK**

- 5.1 The only consideration is the possible extra officer time taken in dealing with the change

## 6. **POLICY FRAMEWORK**

- 6.1 The Licensing Act 2003 is an integral part of, and vital to the Council's dealings with licensed premises. The changes to the Act will require an addition to the Scheme of Delegation.

## 7. **BACKGROUND**

### **Community Protection**

- 7.1 Parts of the Policing Reform and Social Responsibility Act were enacted on the 25 April 2012. This brought several changes to the Licensing Act 2003.

- 7.2 The Licensing Act 2003 contains the framework for the licensing of pubs, clubs, off- licences and late night takeaways. Warwick District Council, acting as the Licensing Authority deals with the acceptance and processing of new applications for, and variations to, premises licences.
- 7.3 Until the 25 April 2012, representations in the application process were permitted only from seven Responsible Authorities and people who live or work in the area of the premises making the application.
- 7.4 From the 25 April 2012, the Licensing Authority has now a *statutory* duty to act as a Responsible Authority.
- 7.5 In exercising this statutory duty, the Licensing Authority may now make representations on any premises licence application and also request a review of a premises licence. This may present a picture to licensees and the public in general that the Licensing Authority is acting as 'judge, jury and executioner'.
- 7.6 To prevent this perception, and to ensure fairness and transparency, separate officers will be required in the representation process. One officer will need to act as the Responsible Authority and make the representation; whilst another officer will need to write and present the report.
- 7.7 The proposed change to the scheme of delegation will permit the Head of Community Protection to delegate one officer to act as the Responsible Authority in the unlikely event that the duty would be necessary.
- 7.8 It is not envisaged that this statutory function will be exercised on many occasions, if at all. The guidance from the Home Office makes it very clear that the Licensing Authority's function in this respect *must not* be triggered by requests to do so by the public, councilors or other Responsible Authorities as they are able to make representations independently in their own right.
- 7.9 The council's website has been updated to reflect this change as well as the other changes that came into effect on the 25 April 2012. These have been circulated to all councilors by email, but, for completeness they are changes to the Temporary Event Notices regime and changes to the rules around the collection of licensing fees.
- 7.10 In addition a recent review of the scheme of delegation has found a number of minor changes to the Scheme of Delegation for Community protection to enable continued effective service delivery. These are also detailed in Appendix 1 to the report.

### **Neighbourhood Services Aspect**

- 7.11 Feedback from Legal Services confirms that in order for changes to off-street parking charges to take place the Head of Neighbourhood Services needs to be given delegated powers to publish the orders required to make those changes.
- 7.12 Previously the assumption was that a Full Council decision gave the Head of Neighbourhood Services the authority required to publish the new order.

- 7.13 The report seeks the delegated authority to be given to the Head of Neighbourhood Services to publish those orders so as prevent the possibility of a challenge.

**Community Protection**

The following two additional delegations be made to the Head of Community Protection:

- (1) Authority to act as a responsible authority as designated under the Licensing Act 2003 as amended by the Policing Reform and Social Responsibility Act 2010;
- (2) Authority to suspend a premises licence on non receipt of the Premises Licence Annual Fee within 3 days after the due day.

The following amendments have also been made:

*Removal of CP(7) which was incorrectly listed as a licensing function and renumbering of CP(8)-(14) to become CP(7)-(13)*

- CP (14) issue sex encounter licences under the 1982 Act where no objections are received.

*Previously CP(15). The following is deleted and now becomes CP(18):*  
~~Serve notices under the Land Drainage Act 1991 and any amendments thereof:~~

- ~~(i) S24 – Contraventions of prohibition on obstructions~~
- ~~(ii) S25 – Powers to require works for maintaining the flow of a watercourse~~
- ~~(iii) S64 – Powers of entry onto land~~

- CP (15) determine applications for minor variations of premises licenses under sections 41A-41C of the Licensing Act 2003.

*The following is deleted:*  
~~Following consultation with the appropriate Parish or Town Council, approve the naming of streets~~

- CP (16) issue closure notices under Section 19 of the Criminal Justice and Police Act 2001

- CP(18) serve notices under the Land Drainage Act 1991 and any amendments thereof:

- (i) S 24 – Contraventions of prohibition on obstructions
- (ii) S 25 – Powers to require works for maintaining the flow of a watercourse
- (iii) S 64 – Powers of entry onto land

*The following is deleted and now listed separately as CP(14):*  
~~Issue sex encounter licenses under the 1982 Act where no objections are received.~~

- CP (19) invite tenders or allocation of work, in accordance with Standing Orders, for the carrying out of works in default of Statutory Notices

*The following is deleted and becomes CP(15):*

~~Determine applications for minor variations of premises licenses under sections 41A-41C of the Licensing Act 2003~~

- CP (20) issue notices of entry on land and sewers under S.159, 161(2) and 168 of the Water Industry Act 1991
- CP (21) serve notices under Local Government (Miscellaneous Provisions) Act 1976:-  
(i) Section 16 requiring information  
(iii) Obstructions in private sewers S35  
(iv) Requiring payment of expenses of removal S35(3)
- CP (22) Serve notices under Public Health Act 1936:-  
(i) Notice to repair, maintain or cleanse a culvert S264  
(ii) Notice to occupier of intended entry S287  
(iii) apply to a Magistrate's Court for a warrant to enter premises for the purpose of:  
a) ascertaining whether there is, or has been, on or in connection with the premises any contravention of the provisions of the Public Health Act 1936, or any byelaws or building regulations made thereunder, being provisions which it is the duty of the council to enforce;  
b) ascertaining whether or not circumstances exist which would authorise or require the council to take any action or execute any work, under the provisions of the Public Health Act 1936, or any byelaws or building regulations;  
c) taking any action or executing any work authorised or required by provisions of the Public Health Act 1936, or any byelaws or building regulations, or any order made under this Act, to be taken, or executed, by the Council;  
d) generally, for the performance by the council of their functions under the provisions of the Public Health Act 1936, or any byelaws or building regulations.
- CP (23) serve notices under Public Health Act 1961:-  
(i) Notice to remedy or renew stopped up drain or private sewer etc S17
- CP (24) serve notices under sections 59, 60, 62 and 76 of the Building Act 1984
- CP (25) enter any premises at all reasonable hours for the purposes of the Building Act 1984 and/or the Public Health Act 1961
- CP (26) Authority to carry out the necessary procedure and make orders under the Town Police Clauses Act 1847 for the temporary closure of roads
- CP (27) (i) deal with the numbering and re-numbering of properties under the Town Improvement Clauses Act 1847  
(ii) following consultation with the appropriate Parish or Town Council, approve the naming of streets
- CP (28) Exercise all powers of local authorities under sections 19 to 28 of the Criminal Justice and Police Act 2001 including:
- Serving and cancelling closure notices;

- Making applications for closure orders;
- Issuing certificates of termination of closure orders;
- Defending applications for the discharge of closure orders;
- Recommending appealing against the refusal to make closure orders;
- Enforcing closure orders;
- Recommending prosecuting for obstruction of authorised officers or for offences in connection with closure orders;
- and authorising officers to exercise all or any of these powers

### **Neighbourhood Services**

The following additional delegation be made to the Head of Neighbourhood Services.

- (1) authority to the Head of Neighbourhood Services to implement any necessary changes in parking charges as specified by Council.