

# RIBBLE VALLEY BOROUGH COUNCIL REPORT TO POLICY AND FINANCE COMMITTEE

Agenda Item No. 8

meeting date: TUESDAY 26 JULY 2011  
title: MINOR MODIFICATIONS TO TERMS OF REFERENCE OF COMMITTEE  
AND THE OFFICER DELEGATION SCHEME  
submitted by: SOLICITOR  
principal author: SOLICITOR

## 1 PURPOSE

1.1 To make minor modifications to the Terms of Reference of various committees and to the Officer's Delegation Scheme.

1.2 Relevance to the Council's ambitions and priorities:

- Council's Ambitions – The provision of an effective regulation is key to achieving our ambitions.
- Community Objectives – Proper delegation to officers and committees will facilitate the Council's objectives.
- Corporate Priorities – To be a well-managed Council.
- Other considerations – None

## 2 BACKGROUND

2.1 Section 101 of the Local Government Act 1972 provides that a Council can arrange for the discharge of its functions through a committee, sub-committee or officer of the authority.

2.2 On 29 March 2011, Committee considered and approved the Officer Delegation Scheme and referred suggested changes to the Articles of the Council's Constitution to Full Council with their recommendation for approval.

2.3 Full Council approved the amendments on 26 April 2011. The current Terms of Reference for Committees was approved by Full Council on 17 May 2011.

2.4 Since then it has become apparent that a small number of minor changes are necessary both to the Council's Terms of Reference to Committees and the Officer's Delegation Scheme. These proposed modifications are set out below.

## 3 MODIFICATIONS

### Licensing Committee

3.1 The Council's terms of reference for committees provides for the Health and Housing Committee to "*consider matters affecting the environmental health of the community within the Borough and the development of the Council's environmental health services: in particular licensing and registration of persons which affect public health.*"

- 3.2 On 23 August 1982, the Health and Housing Committee pursuant to this power adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the “**1982 Act**”), which gave it the power to license and regulate Sex Establishments, which at the time were defined as Sex Shops and Sex Cinemas.
- 3.3 More recently, the increase in the number of lap dancing clubs has become a cause of concern for many local communities across England and Wales, and it was apparent that the existing controls within the Act did not extend to lap dancing and strip clubs.
- 3.4 In an attempt to address these concerns, Section 27 of the Police and Crime Act 2009 (the “**2009 Act**”) reclassifies lap-dancing clubs into a new category of Sex Establishment called a “Sexual Entertainment Venue” (“**SEV**”) and gives local authorities in England and Wales the power to regulate SEVs under the Act.
- 3.5 On 16 November 2010, the Legal Services Manager brought a report to the Licensing Committee recommending the adoption of these new powers and the Licensing Committee resolved to recommend to full Council that the Council adopt these powers.
- 3.6 On 14 December 2010, Full Council adopted these powers.
- 3.7 The Licensing of SEVs is linked to the Council’s other licensing duties and powers and so it would seem sensible for it to be dealt with by the Licensing Committee. This, however, would mean that different types of “Sex Establishments” (now defined as Sex Shops, Sex Cinemas and SEVs) were dealt with by different Committees and departments of the Council.
- 3.8 Following a discussion with the Environmental Health Manager it is proposed that the Licensing Committee and the Legal department of the Council should deal with the licensing of Sex Establishments.
- 3.9 Currently, however the terms of reference for Licensing Committee do not give the Licensing Committee power to do this. It is proposed therefore that the Terms of the Reference of the Licensing Committee are extended to include an additional power:

*“To carry out the Council’s duties and powers relating to the licensing of Sex Establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982”.*

#### Community Committee

- 3.10 The Director of Community Services has reviewed the terms of reference of Community Committee and recommends that it should be extended to include:  
*“To promote healthy lifestyles and to work with partner agencies to improve the health of the people in the Ribble Valley.”*

#### Parish Council Liaison Committee

- 3.11 There is a minor typographical error in paragraph 3, which needs to be amended. So that paragraph 3 reads:

*“There shall be a chairman and a vice chairman appointed at the Annual Meeting. The Chairman shall be a parish councillor who is not also a borough councillor. The vice-chairman shall be a borough councillor.”*

#### Accounts and Audit Committee

- 3.12 The Director of Resources has requested that changes be made to the Terms of Reference to reflect the changes to the audit regime. Those changes are shown in track changes in **Appendix 1**.

#### Consequential changes required to Scheme of Delegation

- 3.13 At present there is no specific provision at all within the Officer’s Delegation Scheme with regard to the licensing of Sex Establishments. It is recommended therefore that Table 1 of Part 2 of the Scheme be amended to include the licensing of Sex Establishments in the area which will be managed on a day-to-day basis by the Head of Legal and Democratic Services.
- 3.14 It is recommended that the table at 4.2 of Part 3 the Officers Delegation Scheme be amended to include an additional item for which the Director of Community Services is responsible, namely: *“promoting healthy lifestyles and working with partner agencies to improve the health of the people in the Council’s area”*. This reflects the changes proposed above at paragraph 3.11 to the Community Committee’s terms of reference.
- 3.15 On 30 March 2011 the Council’s Solicitor was provided with a letter from the Health Protection Agency (“**HPA**”) concerning delegations on certain public health matters. This letter advised that whilst it remains a decision for the local authority to decide who should be appointed as their proper officer in relation to public health functions, the Health Protection Legislation (England) Guidance 2010 notes that most authorities elect to appoint a consultant based within the local HPA office.
- 3.16 Section 113(1A)(b) of the Local Government Act 1972 empowers the Council to enter into an agreement with the HPA for the placing at the Council’s disposal for the purposes of its functions, of the services of HPA officers. The Council therefore has power to appoint HPA officers as its proper officers for public health functions.
- 3.17 The HPA letter explained that due to legislative changes, local authorities may wish to review their authorisations with regard to health protection. It noted that should the Ribble Valley Borough Council wish to appoint a HPA consultant as its proper officer for such purposes, the nominated proper officer for this area would be Dr Sohail Ashraf.
- 3.18 On the basis of the HPA letter, the Council’s Solicitor has drafted amendments to the table of proper officers at Part 5 of the Scheme of Delegation. These amendments are shown at **Appendix 2**.
- 3.19 The Council’s Solicitor requests that members give consideration to these amendments and requests that they recommend that Full Council approves them and appoints Dr Ashraf as the Council’s Proper Officer and the other HPA consultants as the Council’s Deputy Proper Officers, for the purposes listed in Appendix.

3.20 The Council's Solicitor proposes that consequential amendments (to reflect those discussed above) be made to the tables in Part 4 of Scheme of Delegation. These proposed changes are shown in **Appendix 3** to this report.

3.21 If this committee is minded to approve the proposed changes to the Council's Scheme of delegation, the date of the Scheme in its title, and the dates in paragraphs 1.11 and 1.12 of the scheme will need to be updated to reflect the date at which full council considers and approves the amended scheme. The next full Council meeting will be on 30 August 2011 and it is proposed that the dates are changed from 1 July 2011 to 30 August 2011.

#### 4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – The Legal Department will make the necessary amendments to the documents.
- Technical, Environment and Legal – The amendments will ensure the Council can deal with legal and technical matters more effectively.
- Political – None.
- Reputation – None.

#### 5 **RECOMMENDED THAT COMMITTEE**

5.1 Recommend the proposed modifications of the Terms of Reference to Committees and the Officer Delegation Scheme to Full Council for approval.

#### SOLICITOR

#### BACKGROUND PAPERS

- Minutes of Licensing Committee 16 November 2010
- Minutes of Full Council 14 December 2010
- Minutes of Full Council 26 April 2011

For further information please ask for Mair Hill on extension 3216.

TERMS OF REFERENCE

ACCOUNTS AND AUDIT COMMITTEE

- 1 To review all matters relating to Internal and External Audit. The Committee will have the right of access to all information it considers necessary and can consult directly with Internal and External Auditors.
- 2 To monitor arrangements for discharging the Council's responsibilities for efficient and effective financial and operational resource management. In pursuing this aim, it will consider:
  - the soundness, adequacy and application of controls;
  - compliance with policies, procedures and statutory requirements;
  - arrangements for safeguarding the Council's assets and interests;
  - the integrity and reliability of management information and financial records;
  - the economic, efficient and effective use of resources.
- 3 To approve the annual Statement of Accounts and receive the External Auditor's Annual Governance Report. ~~ISA260 report under the Account and Audit Regulations 1996.~~
- 4 To approve the Annual Audit Plan of the External Auditor.
- 5 To monitor the External Auditor's progress with the Annual Plan, ~~including his/her comments on the Best Value Performance Plan and the production of agreed outputs.~~
- 6 To approve the Annual Internal Audit Plan.
- 7 To monitor Internal Audit progress with the Annual Audit Plan, evaluating the effectiveness of Internal Audit and the use of Audit resources and where necessary recommending adjustments to the Internal Audit Plan.
- 8 To review and comment upon liaison arrangements between Internal and External Audit with a view to optimising the effective deployment of Audit resources.
- 9 To evaluate the adequacy and effectiveness of the Council's financial and operational policies and procedures including financial and accounting management through discussions with the External Auditors, Internal Auditors, and appropriate officers.
- 10 To receive and review the findings of both External and Internal audit examinations and to ensure that management takes appropriate action to implement agreed recommendations and to remedy any internal accounting, organisational and operational control weaknesses identified.
- 11 To receive and comment upon the annual Internal Audit Report and ~~accept~~produce the Annual Governance Statement.
- ~~12 To consider and approve the Council's self assessment of performance relating to Comprehensive Performance Assessments or similar inspections by the Audit Commission.~~
- 123 To annually monitor the effectiveness of the Code of Corporate Governance.
- 134 To refer directly to the Council any matters it shall see fit.
- 145 With the Council's Monitoring Officer, to monitor and review the operation of the Constitution to ensure the aims and principles of the Constitution are given full effect.
- 156 To consider and approve amendments to the Council's Financial Regulations and Contractual Standing Orders.

~~17. To liaise with the Independent Remuneration Panel on the Members Allowances Scheme.~~ |

168. To oversee and then monitor the development and implementation of a comprehensive approach to Risk Management. |

# APPENDIX 2

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## OFFICER DELEGATION SCHEME

Section 4 (Head of paid service)	Chief Executive	
Sections 5, 5A (Monitoring Officer)	Head of Legal and Democratic Services	Solicitors
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
	<b>Proper Officer</b>	<b>Deputy</b>
Political groups	Chief Executive	Head of Legal and Democratic Services
<b>Local Authorities (Members' Allowances) (England) Regulations 2003</b>		
Members' allowances	Director of Resources	Head of Legal and Democratic Services
<b>National Assistance Act 1948</b>		
	<b>Proper Officer</b>	<b>Deputy</b>
<p>Section 47 (removal of people in need)</p> <p>The proper officer for action to be taken regarding infectious diseases to be specially reported and making of weekly and quarterly returns.</p> <p>The proper officer who shall issue a certificate to the local authority and give oral evidence to a court of summary jurisdiction on application being made for an order authorising the removal of a person in need of care and assistance.</p>	<p><del>Officers of health authorities authorised under the Local Government Act 1972 Section 113(1A)</del></p> <p>The Director of Public Health</p>	
<b>Public Health Act 1936</b>		
	<b>Proper Officer</b>	<b>Deputy in cases of emergency only</b>
Section 79 (removal of noxious matter)		
<p>Section 83, 84 (verminous articles) &amp; 85 (verminous people)</p> <p>The proper officer of the Council who shall certify to the local authority that any premises, articles or clothing are filthy or verminous and who shall authorise a registered medical practitioner, or a woman duly authorised by the medical officer of health to carry out the cleaning of females under Section 85.</p>	<p><u>Dr Sohail Ashraf of the Health Protection Agency</u></p>	<p><u>John Astbury, Kenneth Lamden, Steven Gee, Kate Brierley, Jeff Scott, each of the Health Protection Agency</u></p>

## OFFICER DELEGATION SCHEME

<b>Public Health Act 1961</b>		
	<b>Proper Officer</b>	<b>Deputy in cases of emergency only</b>
Section 37 (verminous articles)	<u>Dr Sohail Ashraf of the Health Protection Agency</u>	<u>John Astbury, Kenneth Lamden, Steven Gee, Kate Brierley, Jeff Scott, each of the Health Protection Agency</u>
<b>Public Health (Control of Disease) Act 1984</b>		
	<b>Proper Officer</b>	<b>Deputy</b>
<u>Public Health (Control of Disease) Act 1984, Part 2A sections 48, 61 and 62.</u>	<u>Dr Sohail Ashraf of the Health Protection Agency Ribble Valley Borough Council authorises Dr John Astbury of the Health Protection Agency to act on its behalf.</u>	<u>John Astbury, Kenneth Lamden, Steven Gee, Kate Brierley, Jeff Scott, each of the Health Protection Agency Ribble Valley Borough Council authorises the following persons to act as deputies on its behalf: Dr Stephen Gee, Dr Kenneth Launden Dr Sohail Ashraf Jeff Scott Kate Brierley</u>
<b>Public Health (Prevention of Tuberculosis) Regulations 1925</b>		
<b><u>Health Protection (Notification) Regulations 2010</u></b>		
	<b>Proper Officer</b>	<b>Deputy</b>
<u>Infectious diseases</u> <u>The proper officer for action to be taken regarding infectious diseases to be specially reported and making of weekly and quarterly returns.</u> <u>The proper officer who shall issue a certificate to the local authority and give oral evidence to a court of summary jurisdiction on application being made for an order authorising the removal of a person in need of care and assistance.</u> <u>Regulations 2 and 3</u>	<u>Dr Sohail Ashraf of the Health Protection Agency Officers of health authorities etc authorised under the Local Government Act 1972 Section 113(1A)</u>	<u>John Astbury, Kenneth Lamden, Steven Gee, Kate Brierley, Jeff Scott, each of the Health Protection Agency</u>



## OFFICER DELEGATION SCHEME

<b>Public health (Infectious Diseases) Regulations 1988</b>		
	<b>Proper Officer</b>	<b>Deputy</b>
<p>Infectious diseases</p> <p><del>The proper officer for action to be taken regarding infectious diseases to be specially reported and making of weekly and quarterly returns.</del></p> <p><del>The proper officer who shall issue a certificate to the local authority and give oral evidence to a court of summary jurisdiction on application being made for an order authorising the removal of a person in need of care and assistance.</del></p>	<p>Officers of health authorities etc authorised under the Local Government Act 1972 Section 113(1A)</p>	
<b>Representation of the People Act 1983</b>		
	<b>Proper Officer</b>	<b>Deputy</b>
Section 8 Electoral Registration Officer	Chief Executive	Head of Legal and Democratic Purposes
Section 35 Returning Officer	Chief Executive	Director of Resources
Section 67(7)(b) in relation to a local government election, a Proper Officer within the meaning of section 270(3) and (4) of the Local Government Act	Chief Executive	Director of Resources
Section 128 – proper officer to receive a copy of any petition questioning a local government election	Chief Executive	Director of Resources
<b>Other</b>		
	<b>Proper Officer</b>	<b>Deputy</b>
Any other provision for which arrangements are not specifically made under this Scheme of Delegation	Chief Executive	Head of Legal and Democratic Services except in relation to financial matters, in which case, Director of Resources

# APPENDIX 3

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## OFFICER DELEGATION SCHEME

### 2.8 Housing Benefit

2.8.1 Holders of the following posts are authorised to enter land or premises for the following functions:

Post holder	Function
Benefits Manager Fraud Control Officer	Detection and investigation of Housing Benefit or Council Tax fraud
Head of Revenues and Benefits Benefits Manager Fraud Control Officer Benefits Officer Visiting Officer (Benefits)	Housing Benefit

### 2.9 Other functions

2.9.1 Holders of the following posts are authorised to enter land or premises for the following functions:

Post holder	Function
Head of Legal and Democratic Services Solicitor Enforcement Officer (Licensing)	Licensing under the Licensing Act 2003 and the Gambling Act 2005
Head of Legal and Democratic Services Solicitor Enforcement Officer (Licensing)	Regulation and licensing of sex establishments
HPA officer appointed as the Council's proper officer for such purposes	Public health functions

propose this is moved here from table above (at 2.3.1 of this part).

new proposed additional rows.

### 3. OTHER AUTHORISATIONS

3.1 The following post-holders are authorised to use the powers contained in Section 109B and 109C of the Social Security Administration Act 1992 for the purposes set out in Section 110A (i.e. they are "authorised officers" in relation to Housing Benefit and Council Tax Benefit):

- o Benefits Manager; and