

PROTOCOL (H) – DELEGATIONS AND WHO IS/ACTING FOR THE RESPONSIBLE AUTHORITIES

Delegations – Who decides?

1. The Licensing Act 2003 refers to the Licensing Authority and in the context of the City of Newcastle upon Tyne this means Newcastle upon Tyne City Council, whose legal name is “The Council of the City of Newcastle upon Tyne”.
2. Generally there are a number of bodies that can make decisions in the name of the City Council. These are:-
 - the full Council (when all the elected councillors meet);
 - the Leader of the Council, Cabinet and individual Cabinet Members (in respect of executive matters);
 - Committees and Sub-Committees of the Council (in respect of non-executive matters); and
 - Officers of the Council (in respect of both executive and non-executive matters).
3. The appropriate body in respect of any particular matter depends, firstly, on legislation (the Local Government Act 1972, the Local Government 2000 and (in this case) the Licensing Act 2003, and regulations made by the Secretary of State) and, secondly, on decisions made by the Council and the Leader of the Council, which are recorded in the Council’s Constitution (called *The Newcastle Charter*).
4. Part 3.5A of *The Newcastle Charter* sets out how the Council will deal with its Licensing Functions. This a link to Part 3.
http://www.newcastle.gov.uk/sites/drupalncc.newcastle.gov.uk/files/wwwfileroot/your-council/how_the_council_works/part_3.pdf *The Newcastle Charter* is reviewed annually by the Council. Broadly Part 3.5A provides:-
 - a. The full Council is responsible for approving the Statement of Licensing Policy. It is prepared by the Cabinet under the oversight of a Cabinet Member for submission to Council.
 - b. The Licensing Committee, Licensing Sub-Committees or the Director of Regulatory Services and Public Protection are responsible for exercising all other Licensing functions. The Council will usually only exercise these functions where Licensing Committee is unable to do so because of the number of its members who are unable to participate.
 - c. Most applications and licensing decisions will be made by a Licensing Sub-Committees or the Director of Regulatory Services and Public Protection. Generally, a Licensing Sub-Committee will decide matters if there are representations or objections. A Table included in the Statement of Licensing Policy sets out in more detail who will generally decide a particular matter. However, the Director of Regulatory Services and Public Protection has the right to refer the matter to a

Licensing Sub-Committee or the Licensing Committee, if he considers it appropriate, even though he could have made a decision himself. The Table is attached at Appendix 1.

- d. Although power has been delegated to the Director of Regulatory Services and Public Protection, it is not necessary that he/she makes the decisions him/herself. *The Newcastle Charter* provides that officers in his/her department can make decisions in the name of the Director of Regulatory Services and Public Protection in accordance with arrangements made from time to time by him/her.

Proper Officer

5. The Director of Regulatory Services and Public Protection is also a “Proper Officer” of the Council for the purpose of the Council’s licensing functions in addition to any other proper officer designated under *The Newcastle Charter*.
6. *The Newcastle Charter* provides that officers in his/her department can exercise his/her “Proper Officer” function in the name of the Director of Regulatory Services and Public Protection in accordance with arrangements made from time to time by him/her.
7. The Proper Officer responsibility is mainly relevant in respect of the authentication of documents.

Substitute Officer

8. The Head of Environmental and Public Protection has been appointed to act instead of the Director of Regulatory Services and Public Protection, in the event of his/her being for any reason unable to act or of his/her post being vacant, whether as “proper” or other “statutory officer” or a Delegated Officer (unless Licensing Committee makes other provision).

Responsible Authorities

9. The Licensing Act 2003 refers to persons or bodies called “responsible authorities”. A responsible authority has certain rights and powers under the Licensing Act (e.g. to receive notice of certain applications).
10. Under the Licensing Act there are 10 categories of responsible authorities, shown in the following Table:-

	Paragraph ¹	Description	Name [...]²
1.	(za)	The Licensing Authority [Any other Licensing Authority in whose area part of the premises is situated]	Newcastle upon Tyne City Council [and Northumberland County Council, North Tyneside Council, South Tyneside Council, and/or Gateshead Council]
2.	(a)	Chief Officer of Police	Chief Constable of Northumbria Police
3.	(b)	Fire and Rescue Authority	Tyne and Wear Fire and Rescue Authority [and Northumberland County Council]
4.	(bb)	Local Authority with public health functions	Newcastle upon Tyne City Council [and Northumberland County Council, North Tyneside Council, South Tyneside Council, and/or Gateshead Council]
5.	(c)	Health and Safety Enforcing Authority	Newcastle upon Tyne City Council [and Northumberland County Council, North Tyneside Council, South Tyneside Council, and/or Gateshead Council] or The Health and Safety Executive

¹ Of sections 13(4) and 69(4) of the Licensing Act 2003

² Names in brackets refer to possible additional responsible authorities where the premises are partly in Newcastle upon Tyne and partly in the area of an adjacent local authority. You should make enquires of those authorities to find out addresses etc.

	Paragraph ¹	Description	Name [...]²
6.	(d)	Local Planning Authority	Newcastle upon Tyne City Council [and Northumberland County Council, North Tyneside Council, South Tyneside Council, and/or Gateshead Council]
7.	(e)	Local Authority with environmental health functions	Newcastle upon Tyne City Council [and Northumberland County Council, North Tyneside Council, South Tyneside Council, and/or Gateshead Council]
8.	(f)	Recognised bodies relating to protection of children from harm	Newcastle upon Tyne Local Safeguarding Children Board and [and Northumberland County Council, North Tyneside Council, South Tyneside Council, and/or Gateshead Council or body recognised by them]
9.	(h)	Persons with responsibilities with regard to vessels	Maritime and Coastguard Agency (for sea going vessels) and/or Port of Tyne Authority (if based on the River Tyne or Ouseburn) N.B. The Canal & River Trust is not responsible for any waters in Newcastle upon Tyne and The Environment Agency is not the navigation authority for the navigable parts of the River Tyne or Ouseburn.

	Paragraph¹	Description	Name [...]²
10.	(i)	Other prescribed persons: (1) Local Weights and Measures Authority ³	Newcastle upon Tyne City Council [and Northumberland County Council, North Tyneside Council, South Tyneside Council, and/or Gateshead Council]

11. The contact details for these bodies are set out in Appendix 2. Up to date details will be published on the Council's website at http://www.newcastle.gov.uk/sites/drupalncc.newcastle.gov.uk/files/wwwfileroot/business/licences/new_responsible_bodies_list.pdf

Newcastle City Council as a responsible authority

12. Newcastle City Council is a responsible body in a number of separate capacities as well as being the Licensing Authority: - public health, health and safety, planning, environmental health, and trading standards. Three of the functions as well as the licensing authority function are the ultimate responsibility of the Director of Regulatory Services and Public Protection. In order to avoid conflicts of interest, internal arrangements seek to avoid a dual-hatted approach. The following table sets out who is responsible for the various functions on a day-to-day basis:-

³ Regulation 7 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005 No 42)

13.

Function	Officer Responsible
Licensing Authority (as determining authority)	Director of Regulatory Services and Public Protection
Licensing Authority (as responsible authority)	Head of Environment & Public Protection
Public Health	Director of Public Health
Health and Safety	Head of Environment & Public Protection
Local Planning Authority	Director of Strategic Housing, Planning and Transportation
Environmental Health	Head of Environment & Public Protection
Weights and Measures	Head of Environment & Public Protection

Appendix 1 – Table of Delegations

Matter to be dealt with	Sub Committee	Officers
Application for personal licence	If a police objection	If no objection made
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 for a minor variation of premises licence/club premises certificate		All cases
Application to vary designated premises supervisor	If a police objection	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
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition.	If a police objection	All other cases
Determination of a police objection to a temporary event notice	All cases	

Appendix 2 – Responsible Authorities

All applications must be sent to the City Council at the following address

The Licensing Authority
Newcastle City Council,
Public Safety and Regulation
Civic Centre
Newcastle upon Tyne
NE1 8QH

Applications for a Premises Licence, a Provisional Statement, a variation of a Premises Licence under Section 34, a Review under Section 51, a Club Premises Certificate, a Review under Section 87 or a variation of a Club Premises Certificate must also be sent to each of the following Responsible Bodies, together with accompanying documents.

1. The Chief Officer of Police

The Chief Constable
Northumbria Police Headquarters
Ponteland
Newcastle upon Tyne
NE20 OBL

Applications should be addressed to

The Licensing Officer
Northumbria Police
Eldon Square, Floor 1, Eldon Court, Percy Street
Newcastle upon Tyne
NE1 7JB

2. Fire Authority

The Chief Fire Officer
Tyne and Wear Fire and Rescue Service
Service Headquarters
Nissan Way
Barmston Mere
Sunderland
SR5 3QY

Applications should be addressed to

Watch Manager
Tyne and Wear Fire and Rescue Service
Fire Station
West Denton Way
Newcastle upon Tyne
NE5 2RB

3. Protection of Children from Harm

Local Safeguarding Children Board Co-ordinator
Wellbeing Care and Learning Directorate
Newcastle City Council
Civic Centre
Newcastle upon Tyne
NE1 8QH

4. Local Planning Authority

Director of Investment and Development
Investment and Development Directorate
Newcastle City Council
Civic Centre,
Newcastle upon Tyne
NE1 8QH

5. Enforcing Authority for Health and Safety at Work etc Act 1974

Applications should usually be addressed to

Assistant Director Public Safety and Regulation (Commercial Team)
Assistant Chief Executives Directorate
Newcastle City Council
Civic Centre

Newcastle upon Tyne NE1 8QH

For applications in respect of premises inspected by the Health and Safety Executive

Health and Safety Executive
Alnwick House
Benton Park View
Newcastle upon Tyne
NE98 1YX

6. Authority responsible for preventing risk of pollution of environment or harm to human health

Assistant Director Public Safety and Regulation (Commercial Team)
Assistant Chief Executive Directorate
Newcastle City Council
Civic Centre
Newcastle upon Tyne
NE1 8QH

7. Local Weights and Measures Authority

Assistant Director Public Safety and Regulation (Trading Standards Service)
Assistant Chief Executive Directorate
Newcastle City Council
Civic Centre
Newcastle upon Tyne
NE1 8QH

8. Public Health

Director of Public Health
Wellbeing Care and Learning Directorate
Newcastle City Council
Civic Centre
Newcastle upon Tyne
NE1 8QH

9. In relation to Vessels

The Navigation Authority (within the meaning of Section 22(1) of the Water Resources Act 1991 having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities), the Maritime and Coastguard Agency, British Waterways Board, or the Environment Agency*.

Sea Going Vessels

Maritime and Coastguard Agency
Newcastle Marine Office
Compass House
Unit 1 Tyne Dock
South Shields
NE34 9PY

River Tyne or Ouseburn Based Vessels

Port of Tyne Authority
Maritime House
Tyne Dock
South Shields
Tyne and Wear
NE34 9PT

**Please note there are no British Waterways Board owned canals or navigable rivers where British Waterways is the navigation authority in Newcastle upon Tyne. The Environment Agency is not the navigation authority for navigable parts of the River Tyne or Ouseburn.*