



Dear

Freedom of Information Act 2000 - Request for Information

I am writing in respect of your enquiry dated 3 January 2012 for information held by the Council. Your enquiry is being dealt with under the provisions of the Freedom of Information Act 2000.

1. You requested the following information:

i) Whether it was intended that all posts from the Strategic Director down to the Licensing Officer should have the same delegated powers in relation to hackney carriage and private hire licensing under the Town Police Clauses Act 1847 and Part 2 of the Local Government (Miscellaneous Provisions) Act 1976

ii) The method of delegation of powers from the Council down to individual Officers, whether they are made through a personal letter delegation to the post holder or whether, through publication of the Scheme of Delegations to Officers, they are automatically assigned to the post holder irrespective of their knowledge or experience.

iii) Confirmation that decisions made by Officers acting under delegated authority must be supported by reasons, which reasons are recorded and made publically available together with background papers.

iv) Confirmation that Officers making decisions under such delegated authority must act in accordance with Standing Order 38.

2. The following information is provided free of charge in response to your enquiry:

i) Yes, the delegation so provides in terms of Part II of the Local Government (Miscellaneous Provisions) Act 1976. [However, in practice, delegation remains with the Enforcement & Regulatory Services Manager and is then delegated to the Senior Licensing Officer. In terms of the Town Police Clauses Act 1847, the delegation is to the Strategic Director and then to the Enforcement & Regulatory Services Manager who again also delegates to the Senior Licensing Officer].

ii) For a full explanation of how powers are delegated from the Council to individual Officers please see the publically accessible documents on the Council's website as reported to the Council's Cabinet on 21 April 2011 (minute 167) and the General Assembly of



the Council on 18 April 2011 (minute11). These can be located using the following links:

<http://committeedmz.dartford.gov.uk/ieListDocuments.aspx?CId=105&MID=1739&J=5>

<http://committeedmz.dartford.gov.uk/ieListDocuments.aspx?CId=108&MID=1789&J=3#A117455>

I would refer you, in particular, to the Preamble to the Scheme of Delegations and the reports to Members.

With regards to delegated powers to Licensing Officers these are via the Strategic Director in writing to the Enforcement & Regulatory Services Manager. Written delegation is then provided to the Senior Licensing Officer and specific powers provided to the Licensing Enforcement Officer. Please see attached documents which show these delegations to Officers.

iii) The exercise of any delegated authority is recorded on file and maintained with the appropriate file papers. Any request for disclosure would be subject to the Freedom of Information Act 2000 or The Environmental Information Regulations 2004 (as appropriate) and the Data Protection Act 1998.

iv) Standing Order 38 provides a distinct procedure to deal with urgent and routine matters and is a separate process from the exercise of delegations granted to Officers under the Scheme of Delegations referred to above. I have no recollection of Standing Order 38 being utilised by Licensing Officers as it would not normally be necessary.

3. If you are unhappy with the way in which your enquiry has been dealt with, you may ask for an internal review by initiating the Council's Corporate Complaints Procedure, details of which may be obtained by logging onto the Council's website <http://www.dartford.gov.uk> or telephoning or emailing me. Should you remain dissatisfied with the decision on internal review, you may appeal to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow SK9 5AF.

I would be grateful if you would address any future correspondence you may have in relation to this matter, to me, quoting the reference number FOI 988. Please familiarise yourself with the informative on re-use of information.

Yours sincerely

David Court

David Court MloL BII
Enforcement & Regulatory Services Manager



INFORMATIVE

RE-USE OF INFORMATION - Terms and Conditions and Copyright, Designs and Patents Act 1988 (as amended) and Re-Use of Public Sector Information Regulations 2005

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You can make a formal application for re-use by writing to or emailing:

The Freedom of Information Officer
Dartford Borough Council
Civic Centre
Home Gardens
Dartford
Kent DA1 1DR
DX: 142726 DARTFORD 7
Email: foi@dartford.gov.uk

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If you need additional support, please let us know as soon as possible. If you have difficulty reading this Licence, we can make reasonable adjustments to assist you, in line with the requirements of the Disability Discrimination Act 2000. We can also help if English is not your first language. Please contact our Customer Services on 01322 343434 or email customer.services@dartford.gov.uk. We welcome calls via Typetalk

LICENSING & GAMBLING

I, **David Court, Enforcement & Regulatory Services Manager**, do hereby delegate to persons from time to time holding the post of: **Senior Licensing Officer**, all authority delegated to me by the **Strategic Director** to administer the following:

GAMBLING ACT 2005

- (1) Authorised to deal with all applications and granting of licences/permits where no representations have been received or where representations have been withdrawn;
- (2) Authorised to enter premises pursuant to powers contained in the Act.
- (3) Power to exchange information.

HEALTH ACT 2006

Authorised to carry out the enforcement functions pursuant to Part1, Chapter 1, including the issue of fixed penalty notices.

HYPNOTISM ACT 1952

Section 1 – Authorised to attach conditions regulating or prohibiting the giving of an exhibition, demonstration or performance of hypnotism on any person at the place to which a licence for public dancing, singing, music or other public entertainment of the like kind relates;

Section 2 – Authorised to permit with or without conditions the demonstration(s) of hypnotism at other places.

LICENSING ACT 2003

1. Authorised to deal with the following:

- (1) **Personal Licence**
Application for Personal Licence – where no representation made;
- (2) **Designated Premises Supervisor**
Application to vary Designated Premises Supervisor – where no police representation;
Request to be removed as Designated Premises Supervisor;
- (3) **Premises Licence**
Application for Premises Licence – where no representation made;
Application for Provisional Statement – where no representation made;
Application to vary Premises Licence – where no representation made;

- Application for transfer of Premises Licence – where no police representation;
- (4) **Club Premises Certificate**
Application for Club Premises Certificate – where no representation made;
Application to vary Club Premises Certificate – where no representation made;

LICENSING ACT 2003 (Cont'd)

2. **Interim Authorities**
Authorised to give immediate effect to an application – where no police representation;
3. **Irrelevant, Frivolous, Vexatious etc Complaints**
Authorised to decide on whether a complaint is irrelevant, frivolous, vexatious etc;
4. **Dispense with a Hearing**
Authorised to dispense with a hearing provided the applicant and where applicable, interested parties and relevant authorities have agreed;
5. **Local Authority Consultee**
The Environmental Health Services Manager (and in his/her absence, the Principal Environmental Health Officer) be authorised to object when the Council is a consultee and not the lead authority;
6. **Statutory Powers of Entry**
The persons from time to time holding the posts of:-

Strategic Director;
Enforcement & Regulatory Services Manager;
Senior Licensing Officer;
Licensing Officer;

authorised to enter land and premises pursuant to the statutory provisions in that behalf contained in Sections 59, 96, 108 and 179 of the Act.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

Part II (Hackney Carriages and Private Hire Vehicles) – that the following powers be delegated to persons from time to time holding the posts of:-

Strategic Director
Enforcement and Regulatory Services Manager
Senior Licensing Officer
Licensing Officer

- (1) Issue of licences;
- (2) Imposition and/or variation of conditions on licences;
- (3) Suspension of licences;
- (4) Revocation of licences;
- (5) Refusal to grant or renew licences;
- (6) Requiring information under Section 57;
- (7) Inspection of vehicles, issue of notice and suspension of licence under Section 68;
- (8) Issue of notice requiring return of plate or disc, or driver's badge.

NOISE ACT 1996 (as amended by the Clean Neighbourhoods and Environment Act 2005).

Section 8 – All Officers within the Section authorised to issue fixed penalty notices for offences in relation to noise from licensed premises.

TOWN POLICE CLAUSES ACT 1847 AND 1889

Authorised to administer the functions relating to hackney carriages.

MISCELLANEOUS

The Council's Adopted Standard Fee Scheme – Authorised to charge application fees in line with the Standard Fee Scheme.

Issue of Notice of Determination – The Strategic Director authorised to issue Notice of Determination.

GENERAL

Byelaws – Officers of the Licensing and Gambling Section authorised to enforce the Byelaws of the Council.

ENFORCEMENT & REGULATORY SERVICES

DELEGATIONS AND AUTHORISATIONS

Keith Frenchum – Licensing Enforcement Officer

In pursuance of Part III of the Council’s Constitution, the scheme of delegations sets out those functions delegated to the Strategic Director Sheri Green.

In order to enable effective discharge of the Councils business and statutory functions, Sheri Green, has conditionally sub-delegated all Enforcement & Regulatory Services functions to me, as Enforcement & Regulatory Services Manager.

For the effective delivery of the Enforcement & Regulatory Services function, I hereby conditionally delegate the following authorisations and powers of entry to you **Keith Frenchum**.

Signed.....
David Court
Enforcement & Regulatory Services Manager

Date

DELEGATIONS:

ANIMAL HEALTH ACT 1981 (as amended):

Authorised to execute and enforce the requirements of the **Control of Dogs Order 1992** in respect of collars and tags for dogs;

ANTI-SOCIAL BEHAVIOUR ACT 2003 (graffiti and fly-posting):

Authorised to serve defacement removal notices under section 48-52, enter any land, carry out works in default and recover costs;

Authorised to issue fixed penalty notices under section 43 for relevant offences (graffiti and fly-posting);

BUILDING ACT 1984:

Authorised to serve **Statutory Notices** under the following provisions:-

Section 76 – defective premises;

CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005:

Section 6(1) – Authorised to issue fixed penalty notices for the offences relating to nuisance parking;

Section 59(2) – Authorised to issue fixed penalty notices for offences under Dog Control Orders;

CONTROL OF POLLUTION ACT 1974 (as amended):

Authorised to carry out the functions pursuant to:-

Section 23 – Prohibition of parking to facilitate street cleaning;

CONTROL OF POLLUTION (AMENDMENT) ACT 1989:

Section 5B(2) – Authorised to issue fixed penalty notices for the offence of failing to produce a waste transfer notes;

CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994 (Unauthorised Campers):

Authorised to:-

- (1) **Section 77** – Issue a Direction(s)
- (2) **Section 78** – Obtain Removal Orders;

DOGS (FOULING OF LAND) ACT 1996:

Section 4 – Authorised to issue Fixed Penalty Notices;

ENVIRONMENTAL PROTECTION ACT 1990:

- (1) **Section 34A(2)** – Authorised to issue fixed penalty notices for the offence of failing to furnish waste carriers licence;
- (2) **Section 47(2)** – Authorised to serve Notice in respect of receptacles for commercial or industrial waste;
- (3) **Section 47ZA(2)** – Authorised to issue fixed penalty notices for offences in relation to waste receptacles;
- (4) **Section 59** – Authorised to serve Notice requiring removal of waste unlawfully deposited;
- (5) **Section 71** – Authorised to respond to notices seeking information;
- (6) **Section 88** – Authorised to issue **fixed penalty notices** for the offence of **leaving litter**;

- (7) **Section 92** – Authorised to serve Litter Abatement Notices and Litter Clearing Notices;
- (8) **Sections 93 & 94** – Authorised to serve Street Litter Control Notices;
- (9) **Section 94A(2)** – Authorised to issue fixed penalty notices for offences relating to street litter control notices and litter clearing notices;
- (10) **Schedule 3(A)** – Authorised to issue fixed penalty notices for offences in relation to unauthorised distribution of literature on designated land;

HEALTH ACT 2006:

Authorised to carry out the enforcement functions pursuant to Part 1, Chapter 1, including the issue of fixed penalty notices;

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 (as amended):

Authorised to serve **Statutory Notices** pursuant to:-

Section 16 – Requisition for information;

Part II (Hackney Carriages and Private Hire Vehicles) – that the following powers be delegated to persons from time to time holding the post of Licensing Enforcement Officer:-

- (1) Suspension of licences;
- (2) Requiring information under Section 57;
- (3) Inspection of vehicles, issue of notices and suspension of licence under Section 68;
- (4) Issue of notice requiring return of plate or disc, or driver's badge;

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982:

Section 29 – Authorised to take all steps necessary for the protection of buildings;

Schedule 4, paras.3 and 7 – Authorised to issue, renew or refuse Street Trading Licences and Street Trading Consents;

NOISE ACT 1996 (as amended by the CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005):

Section 8 – Authorised to issue fixed penalty notices for offences in relation to noise from licensed premises;

PUBLIC HEALTH ACTS (AMENDMENT) ACT 1907:

Section 31 – Authorised to serve notices in respect of fencing lands adjoining public streets;

REFUSE DISPOSAL (AMENITY) ACT 1978:

Authorised to issue Notices and arrange for removal of vehicles;

Section 2(A)1 - Authorised to issue fixed penalty notices for offences in relation to abandoning a vehicle;

TOWN AND COUNTRY PLANNING ACT 1990 (as amended);

Section 225 – Authorised to remove or obliterate any placard or poster displayed illegally in the Borough provided that written notice has been given to anyone who can be identified as the person responsible for the display;

STATUTORY POWERS OF ENTRY:

The persons from time to time holding the post of an officer of the Enforcement Section authorised to enter land and premises pursuant to the statutory provisions in that behalf contained in the following Acts and any other Acts and Regulations incorporating the said provisions:

- (1) Building Act 1994;
- (2) Clean Air Act 1993;
- (3) Criminal Justice and Public Order Act 1994;
- (4) Environmental Protection Act 1990;
- (5) Local Government (Miscellaneous Provisions) Act 1982;
- (6) Refuse Disposal (Amenity) Act 1978;

Additionally:-

- (7) Gambling Act 2005 – Authorised to enter premises pursuant to powers contained in the Act;
- (8) Licensing Act 2003 – Authorised to enter land and premises pursuant to the statutory provisions in that behalf contained in Sections 59, 96, 108 and 179 of the Act;

GENERAL:

Byelaws – Officers of the Enforcement and Regulatory Services Section are authorised to enforce the Byelaws of the Council.