

CAMBRIDGE CITY COUNCIL

REPORT OF: Jas Lally
Head of Refuse and Environment

TO: Licensing Committee

25/06/2012

WARDS: All

DELEGATION OF FUNCTIONS UNDER THE LICENSING ACT 2003

1 INTRODUCTION

- 1.1 On 25 April 2012, certain provisions of the Police Reform and Social Responsibility Act 2011 came in to force which amended parts of the Licensing Act 2003. The changes, which are summarised in paragraph 3.1 of the report, have imposed additional duties on the Licenising Authority and it therefore seems appropriate to review the delegation of licensing functions under the Licensing Act 2003.
- 1.2 All licensing functions, save for the determination of the Statement of Licensing Policy under section 5(1) of the Licensing Act 2003, are delegated to the Licensing Committee by virtue of section 7(1) of the Licensing Act 2003 and paragraph 5.5 of the Cambridge City Council Constitution. The Licensing Committee can therefore delegate functions under the Licensing Act 2003 without subsequent approval needed from the Civic Affairs Committee.
- 1.3 The proposed scheme of delegation of licensing functions under the Licensing Act 2003 in the interest of achieving speed, efficiency and cost-effectiveness is shown in paragraph 3.6 of the report.

2. RECOMMENDATIONS

2.1 Members are recommended:

To delegate licensing functions under the Licensing Act 2003 to the Licensing Sub-Committees and the Head of Refuse and Environment as set out in paragraph 3.6 of the report.

3. BACKGROUND

- 3.1 On 25 April 2012, the Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 as follows:
- 3.1.1 The Licensing Authority and Local Authority responsible for public health became responsible authorities;
 - 3.1.2 The vicinity test for those who make a representation was removed and 'interested parties' became 'other persons';
 - 3.1.3 The evidential burden on Licensing Authorities has been reduced, so instead of the Sub-Committee having to take 'necessary steps' to promote the licensing objectives when determining an application, they must now take 'appropriate steps' to promote the licensing objectives;
 - 3.1.4 A Late Temporary Event Notice may now be accepted up to 5 working days prior to the event instead of 10 working days, and the Environmental Protection Team are now a consultee for all Temporary Event Notices received by Cambridge City Council in addition to the Chief Officer of Cambridgeshire Constabulary. Where an objection notice is served in response to a late temporary event notice, the Licensing Authority must serve a counter notice and the event cannot go ahead. The time limits for temporary event notices have been relaxed such that an event may last for up to 168 hours instead of 96 hours and events may now take place on no more than 21 days in a calendar year, instead of 15 days;
 - 3.1.5 A Premises Licence or Club Premises Certificate must be suspended for non-payment of the statutory annual fee unless the amount payable is disputed, or non-payment is due to an administrative error in which case, a 21 day grace period is provided; and
 - 3.1.6 The Statement of Licensing Policy must now be reviewed at 5 yearly intervals instead of 3 yearly intervals.
- 3.2 The Secretary of State has also published new Guidance under section 182 of the Licensing Act 2003 that reflects the above changes. The Guidance refers to the administration, exercise and delegation of functions (para 13.61-13.63) and provides that *"Many of the decisions and functions will be purely administrative in nature and statements of licensing policy should underline the principle of delegation in the interests of speed, efficiency and cost-effectiveness."* The Statement of Licensing Policy states that such administrative decisions will be delegated to Officers.

- 3.3 It is therefore proposed that the suspension of Premises Licences and Club Premises Certificates for non-payment of annual fees is delegated to the Head of Refuse & Environment in the interest of speed, efficiency and cost-effectiveness of the service. This is a duty that the Licensing Authority must carry out unless the amount payable has been disputed in advance or there is an administrative error, in which case a 21-day grace period is given.
- 3.4 It is proposed that where objection notices are received in response to late temporary event notices, the serving of counter notices is delegated to the Head of Refuse & Environment. This is because there is no discretion given to the Licensing Authority and a counter notice must be served.
- 3.5 It is also proposed that the responsible authority function of the licensing authority is delegated to the Head of Refuse & Environment. Where this power is used to make a representation or apply to review an authorisation, there will be clear distinction between the Officer acting as the responsible authority and the Officer presenting the report to the Sub-Committee. To achieve this separation, the responsible authority function will be delegated by the Head of Refuse & Environment to the Environmental Health Manager whilst any reports or advice to Sub-Committees will continue to be provided by and on behalf of the Head of Refuse & Environment.
- 3.6 The proposed scheme of delegation of licensing functions is therefore:

Matter to be Deal With	Full Committee	Sub Committee	Head of Refuse & Environment
Matters relating to maintenance of the Public Register (s.8)			All cases
Application for a Premises Licence / Provisional Statement / Club Premises Certificate		If relevant representation is made	If no relevant representation is made
Application to vary a Premises Licence / Club Premises Certificate		If relevant representation is made	If no relevant representation is made
Decision whether to consult other responsible authorities on minor variation applications			All cases
Determination of minor variation applications			All cases
Application to Vary a Designated Premises Supervisor (DPS)		If a Police Objection is made	If no Police Objection is made

Request to be Removed as a DPS		All cases
Determination of an application to vary a Premises Licence at a community premises to include the alternative licence condition	If a Police objection is made	If no Police objection is made
Application to Transfer a Premises Licence	If a Police Objection is made	If no Police Objection is made
Application for an Interim Authority Notice	If a Police Objection is made	If no Police Objection is made
Application to review a Premises Licence / Club Premises Certificate	All cases	
Decision on whether a representation is irrelevant, frivolous, vexatious etc		All cases
Decision to make a representation when the Licensing Authority is the relevant Licensing Authority		All cases
Decision to make a representation when the Local Authority is a consultee and not the relevant authority considering the application		All cases
Suspension of a Premises Licence / Club Premises Certificate for non-payment of annual fee		All cases
Withdrawal of a Club Premises Certificate where the Club Ceases to be a Qualifying Club under the Act (s.90)		All cases
Acknowledgement of a temporary event notice		All cases
Determination of an objection to a standard temporary event notice	All cases	
Serving of a counter-notice to a late temporary event notice where an objection notice is received		All cases
Serving of a counter-notice to a temporary event notice where Permitted Limits are		All cases

Exceeded		
Application for the Grant / Renewal of a Personal Licence	If a Police Objection is made	If no Police objection is made
Determination of an Objection Notice in Response to a Notification of Convictions Coming to Light after Grant / Renewal of a Personal Licence	All cases	
Updating of Premises Licences (under s.56), Club Premises Certificates (under s.93) and Personal Licences (under s.134)		All cases
Issuing copies of Premises Licences and Summaries (under s.25), Club Premises Certificates and Summaries (under s.79), Temporary Event Notices (under s.110) and Personal Licences (under s.126) due to theft, lost etc.		All cases
Authorisation of Officers Generally under the Act and specifically under Parts 3 and 4 and section 108(5)		All cases
Instigation of proceedings for an offence		All cases

4. CONSULTATIONS

4.1 No statutory consultation is required and as all licensing functions, save for the determination of the Statement of Licensing Policy, are delegated to the Licensing Committee by virtue of section 7(1) of the Licensing Act 2003 and paragraph 5.5 of the Cambridge City Council Constitution, the Licensing Committee can delegate functions under the Licensing Act 2003 without subsequent approval from the Civic Affairs Committee.

5. OPTIONS

5.1 The Committee may resolve to:

5.1.1 Delegate licensing functions under the Licensing Act 2003 to the Licensing Sub-Committees and the Head of Refuse and Environment as set out in paragraph 3.6 of the report

5.1.2 Delegate licensing functions under the Licensing Act 2003 in any other way.

6. CONCLUSIONS

- 6.1 Cambridge City Council has a duty to carry out its licensing functions and ensure an efficient and cost-effective service is provided. The proposed delegation of functions is within the Committee's powers and will ensure that functions are carried out efficiently and within the statutory timescales.

7. IMPLICATIONS

(a) Financial Implications

The delegation of powers will ensure that a cost-effective service is provided. The licence fees cover the cost of carrying out all licensing functions.

(b) Staffing Implications

Existing staff resources will carry out the proposed delegated functions..

(c) Equal Opportunities Implications

There are no apparent equal opportunities implications.

(d) Environmental Implications

There are no apparent environmental implications.

(e) Community Safety

There are no apparent community safety implications.

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

- [Licensing Act 2003](#)
- [Police Reform and Social Responsibility Act 2011](#)
- [Guidance Published by the Secretary of State under section 182 of the Licensing Act 2003](#)
- [The Cambridge City Council Constitution](#)

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