

Report to: Licensing Committee

22nd October 2004

Report by: Stephen Kerr

LICENSING ACT 2003 – THE NEW COMMITTEE AND DELEGATIONS

1. The purpose of this report is to:
 - (a) set out the way that the Licensing Act 2003 ("the Act") requires the reference and delegation of functions to committees and officers;
 - (b) make recommendations to committee and through committee to the Council concerning the way delegations are made and;
 - (c) explain how the new work of the Committee might be managed.

Recommended:

1. The Council, as licensing authority for the purposes of the Licensing Act 2003, be recommended to approve as from 7th February 2005 -
 - (1) the creation of a Licensing Committee of 15 members delegated to carry out the licensing functions of the City Council with regard to the Licensing Act 2003.
 - (2) That sub-committees of the Licensing Committee be formed to comprise 3 members empanelled from the Licensing Committee to deal with:
 - (a) the functions set out in the annexed Schedule, and
 - (b) any other licensing function delegated to the Licensing Committee
 - (3) That Licensing Matters (under the Licensing Act 2003) be delegated to the Head of Legal and Democratic Services, other than: the formulation or review of policy; the functions identified in recommendation (2) above; matters reserved to the Licensing Committee or a sub-committee by the Council's Statement of Policy and matters advised to be dealt with by members in Government Guidance issued under Section 182 of the Act
 - (4) That the Head of Legal and Democratic Services be authorised to empanel members from the Licensing Committee to serve on Licensing Sub-Committees, which may be empanelled from time to time as appropriate to carry out statutory functions.

- (5) That separate licensing sub-committees and officers, be authorised to carry out their functions concurrently where that is in the interests of the good management of the Council's licensing functions.
 - (6) That the current functions delegated to the Council's Licensing Committee be delegated to the new Licensing Committee established for the purpose of carrying functions under the Licensing Act 2003.
2. That in the event of a Head of Legal and Democratic Services not being appointed before 7th February 2005 the functions delegated to the Office be undertaken by the Deputy Monitoring Officer until such appointment is made.
 3. That the Council be recommended to appoint the 15 Members of the new Licensing Committee at the next Council Meeting.
 4. That, acting in accordance with Local Government and Housing Act 1989 s.17, appointments to Licensing Sub Committees shall not be made on the basis of proportionality between political groups.

5. **Background**

The Licensing Act 2003 ("the Act") introduces a new licensing system and substantial new functions become the responsibility of the City Council. This has necessitated the appointment of staff and committee minute 10/04 and General Purposes minute 7/04 authorised a new staffing structure which is in the process of being implemented in accordance with the requirements of the service. These new functions include, the licensing of premises used for supply of alcohol, provision of regulated entertainment and late night refreshment.

6. The Act came into force on 10 July and essential government regulations are in the process of being formulated. Of the new Licensing functions, some are entirely new and others such as alcohol licensing are being taken over from the Magistrates. These are important new functions for local authorities, especially for cities such as Portsmouth where there is a concentration of licensed premises. The time within which the systems have to be established is short. The Council must have a fully operational system to process applications by 7th February 2005. The existing Magistrates system continues for existing licences until November 2005 when the entire system becomes a local authority responsibility.

7. **The New Licensing Committee**

The Act provides that each licensing authority, which in Portsmouth is the Council, must establish a "Licensing Committee" consisting of at least 10 but not more than 15 members. The composition of the Committee must be in political proportionality but in order to meet the practical requirements of the new functions, proportionality is not

proposed for sub-committees. Section 7 of the Act refers to Licensing Committees all matters relating to the discharge by the Councils of the new licensing functions. For practical reasons, it has been recommended that from the membership of the Committee, sub-committees (each of 3 persons) are formed for the purposes of carrying out the Committee's licensing functions, for example the hearing of formal applications. It would not be the intention to appoint standing deputies; in effect any other Members of the Licensing Committee would be a "standing deputy", to be called upon to act at short notice if required.

8. These delegations do not extend to issues relating to the determination or revision of the Council's policy with respect to the exercise of its licensing functions: policy matters are reserved to the Council itself.
9. The existing licensing functions undertaken by the Committee continue to be needed, for example licensing of taxis and private hire vehicles. This report recommends that those existing functions be delegated to the new "successor" Licensing Committee in addition to the new licensing functions. All Licensing functions requiring a hearing of applications relating to the grant, variation or revocation of a licence should ordinarily be dealt with by the new sub-committees.
10. The work of sub-committees is likely to be intense at times and flexibility is likely to be required in order to provide sufficient sub-committees to meet the need to provide consideration of licensing matters in a timely manner. It is in order to ensure as far as possible that the Council can provide a sub-committee to hear those issues described in the Schedule that it is proposed that the composition of sub-committees is not governed by political proportionality.
11. The Licensing functions not proposed to be dealt with by the Licensing Committee or officers in the following circumstances:
 - Should the Licensing Committee be unable to exercise its functions for lack of members and this is not expected to occur with any regularity; the function must be exercised by the Council itself;
 - the formulation and revision of the licensing policy must be carried out by the Council itself;
 - It is possible, but not recommended, for the new licensing powers to be dealt with separately from the existing ones.

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Stephen Kerr
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15th October 2004

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John Haskell
Democratic Services Manager