

**CHILTERN DISTRICT COUNCIL  
LICENSING AND REGULATION COMMITTEE - 18 OCTOBER 2012**

---

*Background Papers, if any, are specified at the end of the Report*

**AMENDMENTS TO LICENSING ACT 2003 OFFICER DELEGATIONS**

*Contact Officer: Ian Snudden 01494 732057*

**RECOMMENDATIONS**

**That Members consider the amended scheme of delegations in *Appendix* and recommend the amendments to the Constitution Committee**

**Background**

- 1 As a consequence of the Police Reform and Social Responsibility Act 2011 a number of changes were brought into effect, reported separately.
- 2 These legislative changes mean that the Local Authority, in the form of the Licensing Authority, can make representations in its own right in addition to the powers it already has for planning and environmental health to make representations. The Home Office guidance issued under section 182 of the 2003 Act recommends that the person making any representation on behalf of the local authority should not be the same person who writes or presents the report. In a small authority keeping these functions separate may be a challenge, but it is not envisaged that these powers will be used often and the opportunity may present itself to review the delegation as the Joint Working exercise between South Bucks and Chiltern Councils develops.
- 3 This report now seeks, amongst other new/amended delegations, the necessary amendments to delegations for the Head of Health and Housing to act in the capacity of a responsible authority on behalf of the licensing authority. This delegation is recommended rather than a delegation to a named officer but will rely on the Head of Health and Housing ensuring in further delegating this power as provided for under Standing Orders to an individual officer, that he respects the Guidance.
- 4 Prior to the amendments to the 2003 Act created by the new sections 55A and 92A unpaid licence fees were recovered as a civil debt and in some case ended up in the hands of bailiffs for recovery purposes whilst premises continued to trade with a licence still in force. This was a particularly unsatisfactory situation and the new powers requiring suspension of licences where licences fees are not paid is particularly welcome.

- 5 New powers given to licensing authority as a result of amendments to the 2003 Act arising from the 2011 Act requiring enable local authorities to suspend premises licences and club premises certificates if annual licence fees are not paid when due. Section 55A and section 92A of the 2003 Act set out these new powers.
- 6 Further new powers include powers to object to and impose conditions upon Temporary Event Notices (“TEN”), are set out in Part 5 of the 2003 Act.
- 7 Prior to the commencement of the 2011 Act the only person able to make representations in relation to a TEN was the chief officer of police which had to be limited to the “prevention of crime and disorder” licensing objective. The 2011 Act amended the 2003 Act to allow the local authority responsible for minimising or preventing the risk of pollution of the environment or harm to human health, namely Environmental Health, to object to TENs on the basis of any of the licensing objectives. The Head of Health and Housing already has delegated authority as a responsible authority where the Council has health and safety responsibility and pollution prevention responsibilities. This report therefore seeks to include the power to object to TENs alongside the existing delegations held by the Head of Health and Housing.
- 8 As a consequence of the request to expand the current delegation to allow the Head of Health and Housing to object to a TEN, the power delegated to the Licensing Sub-Committee to consider objections to a TEN, which is currently limited to considering objections made by the Police, requires expansion. Therefore it is recommended that power to consider objections from any relevant person (the new terminology introduced by the 2011 Act) is delegated to the Licensing Sub-Committee, but in all other cases, the Head of Health and Housing retains delegated authority to deal with TENs.
- 9 Where the licensing authority receive a representation in respect of a TEN it is now able, as a result of the new section 106A, where it considers it appropriate to do so for the promotion of the licensing objectives, to impose conditions on a TEN, provided those conditions are also imposed on a premises licence or club premises certificate for the same premises. It is proposed that this authority to impose conditions on a TEN be delegated to Head of Health and Housing
- 10 In summary, approval is sought for:
  - a) the delegation of powers to Act as responsible authority for the purpose of making representations and applying for the review of licences to the Head of Health and Housing;
  - b) the delegation of powers to suspend premises licences and club premises certificates where licence fees are not paid to the Head of Health and Housing;

- c) the delegation of powers to impose conditions upon Temporary Event Notices to the Head of Health and Housing; and
- d) the delegation to object to Temporary Event Notices be delegated to the Head of Health and Housing.
- e) Amendment to the delegation to determine TENS to Licensing Sub-Committee where an objection made by a relevant person.

11 **Appendix** details the agreed delegation of licensing decisions and licensing functions of the Licensing Committee, Sub-Committee and Licensing Officers, with the proposed new delegations/amendments added in bold type.

**Background Papers:**

---