

TAUNTON DEANE BOROUGH COUNCIL

Licensing Committee Meeting on 24 January 2005

Report of the Chief Solicitor

Terms of Reference, Scheme of Delegation and other Matters Relating to the Functioning of the Committee

1. Purpose of Report

- 1.1 To establish the terms of reference of the Licensing Committee, the frequency of its meetings, agree a scheme of delegation and to identify Members training needs.

2. Summary

- 2.1 The Council has established a Licensing Committee to discharge the Council's functions under the Licensing Act 2003 on its behalf. The Committee will need to agree its terms of reference. It has power to establish sub-committees and to delegate certain of its functions to those sub-committees and to an officer or officers of the Council. This report sets out the terms of reference, the frequency of meetings, recommends a scheme of delegation and seeks to establish Members' training needs.

3. Background

- 3.1 At its meeting on the 14 December 2004, the Council approved the establishment of a Licensing Committee comprising of 15 Members to be selected on a proportional basis.
- 3.2 At the same meeting the Council approved a Licensing Policy, which included a proposed scheme of delegation of licensing functions.
- 3.3 This is the first meeting of the Licensing Committee and it is appropriate to establish its terms of reference and other matters relating to the conduct of its business.
- 3.4 Section 9(2) of the Licensing Act 2003 provides that regulations may make provision about the proceedings of Licensing Committees and their Sub-Committees including provision about the validity of proceedings and the quorum for meetings. The regulations can also determine arrangements for public access to these meetings and the publicity to be given to them.
- 3.5 The Act also provides for the Licensing Committee to arrange for the discharge of any of its functions by a Sub-Committee established by it or in certain circumstances an officer of the Licensing Authority.

4. Terms of Reference

- 4.1 The Committee's terms of reference will be to discharge the Council's licensing functions under the Licensing Act 2003. At present the Council also has in place the Licensing Board which deals with a variety of matters under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Acts 1976 and 1982. It would be sensible for all these new and old licensing functions to be re-delegated to this committee and for the previous Licensing Board to be therefore wound up. You are recommended to seek the Council's approval to these steps being taken.

5. Scheme of Delegation

- 5.1 The Licensing Act 2003 enables you to establish one or more sub-committees consisting of three Members of this Committee. Matters of principle should be decided by this committee and you are requested to agree to establishing more than one sub-committee consisting of three of your Members to deal with matters which can be delegated to them as set out below.
- 5.2 It is difficult at this stage to be categoric about the membership of sub-committees and it would ease the administrative burden if you were to delegate to the Member Services Manager, in consultation with the Chairman of this Committee, the right to select three Members from amongst your number to form a sub-committee on each occasion such a sub-committee needs to meet.
- 5.3 The Licensing Policy, which was accepted by the Council, sets out details of the way in which particular matters should be dealt with under delegated powers. The matters to be delegated and whether it is to be delegated to a sub-committee or to an officer is set out in the table below. It is suggested that the delegation to an officer should be to the Head of Environment and Leisure.

| Matter to be dealt with | Sub Committee | Head of Environment and Leisure |
|-------------------------------------------------------------------------------------------------------------------|-----------------------------------|------------------------------------|
| Application for personal licence | If a Police objection | If no objection made |
| Application for personal licence with unspent convictions | If a Police objection | If no objection made |
| 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 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 |
| Application 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 a police objection to a temporary event notice | All cases | |

- 5.4 The scheme of delegation should be kept under review and you will receive regular reports on decisions taken by the officer under this arrangement to enable that review to take place.

6. Frequency of Meetings

- 6.1 It is unnecessary for the Licensing Committee to meet as part of the Council's regular cycle of meetings but it is expected to meet three or four times a year. The meetings will take place in the evening at The Deane House but otherwise in accordance with any regulations, which the Government may make concerning the meetings.
- 6.2 The sub-committees will meet on dates and times to be appointed to deal with the particular matters delegated to them as detailed above. It is suggested that there should be some flexibility about the date, time and location for these meetings depending on the nature and form of the business to be conducted.
- 6.3 The Government have made regulations, which will govern how the Licensing Sub-Committees will deal with matters that are referred to them. These regulations cover numerous issues including the procedure to be followed at hearings. The Council has a procedure document for the conduct of its Licensing Board and a similar document for hearings will be produced for your approval at your next meeting.

7. Training

- 7.1 All members will have had the opportunity to attend the training sessions concerning the outline of the Licensing Act 2003 and it is intended that further and more intensive training will be provided to this Committee's members on the particular details of the Licensing legislation and their functions under it. Only trained members will be expected to participate in hearings.
- 7.2 If Members have identified particular matters or issues on which they wish to be trained they are requested to make these issues known as soon as possible so that proper arrangements can be made to deal with them.

8. Impact on Corporate Priorities

- 8.1 The impact relates to the Environment and Delivery corporate priorities.

9. Conclusion and Recommendations

- 9.1 The Licensing Committee needs to establish its terms of reference, scheme of delegation and identify its training needs.
- 9.2 You are therefore recommended as follows:-
 - 9.2.1 To approve the terms of reference set out in paragraph 4 above.
 - 9.2.2 To approve the establishment of sub-committees as detailed in paragraph 5 above.
 - 9.2.3 To agree to meet on the basis set out in paragraph 6 above.
 - 9.2.3 To approve the scheme of delegation to the sub-committees and officers detailed in paragraph 5 above.
- 9.3 To recommend to the Council that it:-
 - (a) delegates to you all the powers and duties of the Council previously exercised by the Licensing Board from 23 February 2005;

(b) winds up the Licensing Board from the same date.

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