

MAIDSTONE BOROUGH COUNCIL

LICENSING COMMITTEE

27 AUGUST 2009

REPORT OF THE DEMOCRATIC SERVICES MANAGER

Report prepared by Neil Harris

1. REVIEW OF DEVOLVED POWERS

1.1 Issue for Decision

1.1.1 To consider the delegations of the functions of the Committee in relation to Licensing matters.

1.2 Recommendation of the Democratic Services Manager

1.2.1 That the report be noted.

1.3 Reasons for Recommendation

1.3.1 Currently the delegation of the functions of the Licensing Committee is as follows:-

"All functions delegated to the Director of Prosperity and Regeneration / Democratic Services Manager except that the determination of policy, setting the level of fees and charges, consideration of appeals against any license and the making of an order identifying a place as a designated public place for the purposes of Police powers in relation to alcohol consumption which is the responsibility of the Licensing Committee."

1.3.2 I set out below how this delegation functions in practice..

Determination of Policy

The Committee is the sole determinant of policy and as an example on this agenda is a report suggesting an amendment to the street trading consent policy which will need to be agreed by this committee. The officers then need to implement the Council's street trading consent scheme in accordance with that policy as agreed by Members. In

addition the Council's licence regime is governed in its operation by legislation and is required to follow this legislation which details for determining an application for a licence.

Setting level of Fees and Charges

It is for this Committee to set the fees and charges for the licenses under its control though many have a statutory fee. The Council also sets the maximum tariff for hackney carriage and private hire vehicles.

Consideration of appeals against any license

This is the power which enables this Committee to hear any appeal from an applicant for licence when I have refused that licence. It would mean that if I refuse a Hackney Carriage and Private Hire licence the applicant could then ask for the licence to come to the Committee if they wished. This particular system has worked effectively for the Licensing Committee over many years now with very few instances where appeals have come to the Committee though recently the Committee has considered appeals in accordance with the process under the street trading consent policy.

Order identifying a place as a designated public place for the purposes of Police powers in relation to alcohol consumption

This is a very specific matter and obviously would require the Committee to determine whether they would wish to go for an order on this purpose.

- 1.3.3 This delegation has been in place for many years and has worked very effectively during this period. You can be assured that if any matter needed to come before the Members it would be brought to them in accordance with this delegation but equally if I felt that the issue was of sufficient controversy I would also seek to bring it to Members and in those instances would not implement my delegation.

1.4 Alternative Action and why not Recommended

- 1.4.1 The Committee could decide that they wish to have more powers in relation to the issuing of licenses but this would increase the workload of the Committee significantly as they would have to determine which licenses they wished to receive and they would actually have to then determine each individual licence.

1.5 Impact on Corporate Objectives

- 1.5.1 There is no significant impact on Corporate Objectives arising from this report.

1.6 Risk Management

1.6.1 This Committee could bog itself down in detailed work of the Council if it decides to start allocating individual licence applications and could result in the remaining work that it actually undertakes not being completed. It would also lead to delays in the service.

1.7 Other Implications [Insert an 'X' in the boxes below to indicate if the recommendations will have any implications in the specified area]

1.7.1

| | |
|--|-------------------------------------|
| 1. Financial | <input type="checkbox"/> |
| 2. Staffing | <input type="checkbox"/> |
| 3. Legal | <input checked="" type="checkbox"/> |
| 4. Equality Impact Needs Assessment | <input type="checkbox"/> |
| 5. Environmental/Sustainable Development | <input type="checkbox"/> |
| 6. Community Safety | <input type="checkbox"/> |
| 7. Human Rights Act | <input type="checkbox"/> |
| 8. Procurement | <input type="checkbox"/> |
| 9. Asset Management | <input type="checkbox"/> |

1.7.2 Legal issues are dealt with in the report.

1.8 Background Documents

1.8.1 None