

LICENSING COMMITTEE

Licensing Act 2003 – Changes to Scheme of Delegation 6 June 2024

Report of Licensing Manager

PURPOSE OF REPORT

To authorise the Monitoring Officer to amend the scheme of delegation to allow the Chief Officer (Governance) to determine applications/variations for premises/club certificates where all parties agree a hearing is unnecessary in accordance with Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005 despite representations being made.

This is to dispense with determination hearings where applicants/responsible authorities have agreed conditions through mediation and both parties agree a hearing is not necessary.

This report is public.

RECOMMENDATIONS

- (1) That members of Licensing Committee agree to amend the scheme of delegation, and.
- (2) Refer decision to Monitoring Officer to formally amend the relevant sections of the Councils Constitution.

1.0 Introduction

- 1.1 Lancaster City Council are the Licensing Authority, with responsibility for determination of premises licence applications, made under s17 of the Licensing Act 2003. There is a statutory requirement to advertise such applications for a period of 28 days in which time representations in favour or against the application can be submitted. Any representation submitted must relate to the likely impact of the grant of the licence on one or more of the four licensing objectives which are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 1.2 Under the terms of the Licensing Act 2003 (Hearings) Regulations 2005 if representations are received from any person(s) or responsible authority during the statutory consultation period; the Licensing Authority must hold a hearing to determine the application. Unless parties agree it is not necessary.
- 1.3 Under the current Licensing Committee scheme of delegation, it is only the Licensing Sub-Committee that can determine applications (where representations have been received). Currently the Lancaster City Council Constitution requires a Sub-Committee

to convene, along with Democratic Services and Licensing Officers, along with applicant/responsible authority representation.

- 1.3 Often hearings are being held to determine a premises licence application where conditions have been agreed, deeming the hearing unnecessary.

2.0 Proposal Details

2.1 It is necessary therefore to make a change to the Councils Constitution/Officer scheme of delegation to allow the Chief Officer (Governance) to determine applications/variations for premises/club certificates where all parties agree a hearing is unnecessary despite representations being made.

2.2 A clear and detailed audit trail will be maintained by the Licensing Authority and records kept of decisions made.

3.0 Options

3.1 Options available to members are:

- a) To authorise the Monitoring Officer to amend the scheme of delegation to the Chief Officer of Governance to the following:

“...determine applications for Premises Licences/Club Premises Certificates where all parties agree a hearing is unnecessary in accordance with Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005 despite representations being made.” and

“...determine applications to vary Premises Licences/Club Premises Certificates where all parties agree a hearing is unnecessary in accordance with Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005 despite representations being made.”

- b) Dismiss the request and maintain the current scheme of delegation in respect of Licensing Sub-Committee Hearings where representations have been received and not withdrawn.

4.0 Conclusion

4.1 The Licensing Authority receives new and variation applications to premises licences under the terms of the Licensing Act 2003. As part of those applications, members of the public, responsible authorities and other persons may raise an objection to the application based on one of the four licensing objectives.

During the 28-day statutory consultation period it is common for responsible authorities to contact an applicant to discuss their application and operating schedule, often reaching an agreement to amended or improved conditions.

Under the current scheme of delegation in these circumstances, a Licensing Sub-Committee is convened to determine the application.

- 4.2 The purpose of this report is to amend the Chief Officer (Governance) scheme of delegation and refer the decision to the Monitoring Officer to update the relevant sections of the Councils constitution.
- 4.3 Feedback has suggested that the current decision-making process is unnecessary, given that all parties agree on any amendments and would prefer to dispense with the requirements to hold a Sub-Committee hearing.
- 4.4 A clear audit trail will be maintained of decision made under the updated delegation.

**CONCLUSION OF IMPACT ASSESSMENT
(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing):**

[Insert Conclusion of Impact Assessment]

LEGAL IMPLICATIONS

Legal have been consulted and have no objection to the proposal.

Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005 allows for hearings to be dispensed with if all parties agree. LCC Constitution currently requires the Licensing Sub Committee to make the determination when relevant representations are made.

FINANCIAL IMPLICATIONS

Disposing of hearings as detailed in the report will have positive resource implications, allowing officers and elected members to prioritise other service matters.

OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces

None Identified.

SECTION 151 OFFICER'S COMMENTS

None.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and agrees to this delegation in the interests of efficiency and to amending the Scheme of Delegation to reflect this.

BACKGROUND PAPERS

Not Applicable

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