

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Rob Walker – Assistant Director of Commissioning

To: Licensing Committee

(Author: Fiona Inston – Licensing and Business Support Manager)

Subject: Licensing Authority as Responsible Authority under the Licensing Act 2003

Purpose: Determine how the Licensing Authority will discharge its function as a Responsible Authority under the Licensing Act 2003

Recommendation:

To agree the procedure under which the Licensing Authority will discharge its functions as a Responsible Authority under the Licensing Act 2003.

1.0 BACKGROUND

- 1.1 The Police and Social Responsibility Act 2011 came into effect on 25th April 2012. Section 103 of that Act amends the Licensing Act 2003 to make the Licensing Authority a Responsible Authority. This is in addition to the existing Responsible Authorities.
- 1.2 South Holland District Council is the Licensing Authority within the district. The Licensing Committee has responsibility for discharging licensing functions on behalf of the Licensing Authority. Therefore delegation from the Committee is requested to establish how the role of Responsible Authority will be carried out. Section 10 of the Licensing Act 2003 permits the Licensing Committee to discharge certain functions to an officer of the Licensing Authority.
- 1.3 All Responsible Authorities are entitled to make representations in relation to applications for grant, variation or review of a premises licence or club premises certificate. Representations must be relevant and relate to the promotion of one or more of the four licensing objectives. It is for the Licensing Authority to determine when there are appropriate grounds to make representations. For further information on determination of applications please refer to the Licensing Act 2003 and the Guidance issued under section 182 of the Licensing Act 2003.
- 1.4 The role of Responsible Authority needs to be separated from the role of Licensing Officer. For more information and explanation on Licensing Authorities acting as Responsible Authorities please see paragraphs 9.13 to 9.19 of the Guidance issued under section 182 of the Licensing Act 2003 (a link to this document can be found at the bottom of this report).

2.0 OPTIONS

2.1 The Licensing Committee are requested to consider:

- a) Delegation of the Responsible Authority function to the following officer posts: Licensing & Business Support Manager, Food, Health & Safety Manager and Environmental Protection Manager. These posts are shared between Breckland Council and South Holland District Council.
- b) Supporting the proposal to examine each application or problem premises on a case by case basis in conjunction with other Responsible Authorities if appropriate, taking into account the requirement to promote the licensing objectives and to have regard to the Council's Statement of Licensing Policy and the Guidance issued under section 182 of the Licensing Act 2003.

3.0 REASONS FOR RECOMMENDATION(S)

3.1 In order to protect the impartiality of the Licensing Authority, to reduce the possible conflict of interest and to ensure a fair hearing it is necessary to separate the role of Responsible Authority from the process of handling applications and servicing the Licensing Committee. These duties are currently carried out by the Licensing Officer and there is no further scope for separation of roles within the Licensing Team.

3.2 It is felt that the Environmental Health Managers provide the best available separation of roles and knowledge of Licensing and so are best placed to carry out the Responsible Authority duties on behalf of the Licensing Authority.

4.0 EXPECTED BENEFITS

4.1 The benefits of formalising the arrangement is that we have robust procedures and delegation in place to exercise the Council's duties under the Licensing Act 2003.

5.0 IMPLICATIONS

5.1 Carbon Footprint & Environmental Issues

5.1.1 None

5.2 Constitution & Legal

5.2.1 Decisions made by and on behalf of the Licensing Authority may be subject to challenge in the courts.

5.2.2 It is proposed to delegation of the Responsible Authority function to the following officer posts: Licensing & Business Support Manager, Food, Health & Safety Manager and Environmental Protection Manager.

5.3 **Contracts**

5.3.1 None

5.4 **Corporate Plan**

5.4.1 None

5.5 **Crime and Disorder**

5.5.1 None

5.6 **Equality and Diversity & Human Rights**

5.6.1 None

5.7 **Financial**

5.7.1 None

5.8 **Risk Management**

5.8.1 Failure to have clear distinction between the role of the licensing officer and the responsible authority in cases which require hearings etc could result in appeals or judicial review.

5.9 **Staffing**

5.9.1 None

5.10 **Stakeholders / Consultation**

5.10.1 None

5.11 **Other**

5.11.1 An amendment to South Holland's District Council Statement of Licensing Policy to reflect the Committee's decision would be necessary. The policy is to be updated in due course to reflect further legislative changes due in October 2012.

6.0 WARDS/COMMUNITIES AFFECTED

6.1 All

Background papers:-

Licensing Act 2003 www.legislation.gov.uk/ukpga/2003/17/contents

Police and Social Responsibility Act 2011 – Part 2
www.legislation.gov.uk/ukpga/2011/13/contents/enacted

Amended Guidance issued under Section 182 of the Licensing Act 2003
www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing

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Appendices attached to this report:

None