

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING COMMITTEE

9 MAY 2013

REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011 DESIGNATION OF OFFICERS TO ACT ON THE COUNCIL'S BEHALF AS A RESPONSIBLE AUTHORITY UNDER THE LICENSING ACT 2003

1. Purpose of Report

- 1.1 To seek approval to delegate a licensing authority function to officers. This delegation would enable officers to carry out the function of a Responsible Authority on behalf of the Licensing Committee.

2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1 The Council must also promote the following licensing objectives when undertaking its function as the licensing authority:
- The prevention of crime and disorder
 - The prevention of public nuisance
 - Public Safety
 - The protection of children from harm.

The above have clear links to the Bridgend County Borough Council Improvement Priorities around developing the local economy, tackling health issues and encouraging healthy lifestyles.

The proposed delegation of powers will in turn support the corporate priority of making the best use of resources when fulfilling the role of licensing authority.

3. Background

- 3.1 Under the remit of the Government's 'Rebalancing the Licensing Act' agenda, a number of changes have been made to the licensing regime. One such change, introduced by the Police Reform and Social Responsibility Act 2011 was to give the Council, as the licensing authority, greater powers and flexibility by making it a Responsible Authority in its own right. This initiative provides the licensing authority with an opportunity for early intervention when there are concerns about the impact of licensed premises on local communities. This report sets out the respective roles of Responsible Authorities and the factors to be considered when determining whether the Licensing Committee should delegate this role to officers.
- 3.2 The Licensing Committee exercises the function of licensing authority on behalf of Council. The Licensing Act provides for the Council to delegate all licensing authority functions to its Licensing Committee with one exception; the approval of

the Statement of Licensing Policy. Therefore the power to approve delegation of functions to officers vests in the Licensing Committee.

3.3 Officers within the Licensing Team provide advice to applicants, process applications and liaise with the other Responsible Authorities such as the South Wales Police and Public Protection Department. The Licensing Committee has also delegated some decision making functions to officers and these follow the guidelines set out in the statutory guidance to local authorities issued by the Home Office. The overriding principle is that where there are no public objections to an application and no other representations from Responsible Authorities, and all parties agree, there is no need to hold a committee hearing to determine the application. As a consequence, the application is determined by an officer and the licence issued to the applicant.

3.4 The current Responsible Authorities provide a wide range of professional advice to the licensing authority and individual Licensing Sub-Committees. These are often in the form of representations to individual applications. These bodies are:

South Wales Police
South Wales Fire and Rescue Service
Council Public Protection Department
Council Planning Department
Local Safeguarding Board
Local Health Board
Health and Safety Executive

3.5 The legislative changes mean that the licensing authority shares the same status as the above agencies and department. It is, however, necessary to set up a framework to discharge this function. A similar framework has existed in respect of the Gambling Act 2005 since its inception where licensing officers have delegated powers to exercise these functions on behalf of the licensing authority. The Licensing Committee has designated officers within the Licensing Team as Responsible Authority officers who are able to assess applications, visit premises, consider current policies and statutory guidelines and make representations as to whether an application will have an adverse impact on the licensing objectives.

3.6 As set out in the statutory guidance licensing authorities or their officers are not expected to act as Responsible Authorities on behalf of other parties such as local residents, community groups, local Councillors or Members of the Licensing Committee as there are mechanisms in place for these groups to submit representations in their own right. The change to legislation means that it is now possible for a specialist licensing officer to make representations on behalf of the licensing authority in respect of an application or submit a review application including where other Responsible Authorities or Interested Parties have failed to take action or are unable to do so.

4. Current situation / proposal

4.1 There are two separate licensing officer functions; the Licensing and Registration Officer and her team deal with policy and administration. The Licensing Enforcement Team act as authorised officers for the purposes of enforcement and compliance with the Licensing Act 2003.

- 4.2 At present is it envisaged that if Members were minded to delegate the function of Responsible Authority to an officer, the framework would operate at two levels. This is to ensure that the authority acts in full regard of the statutory Guidance to ensure a separation of responsibilities within the authority to ensure procedural fairness and to eliminate conflicts of interest. This separation can be achieved by allocating distinct functions (i.e. those of licensing authority officer and responsible authority officer) to different officers within the Public Protection Department.
- 4.3 The Guidance issued by the Home Office states that it is for the Licensing authority, and therefore the Licensing Committee to determine how the separate roles are divided to ensure an appropriate separation of responsibilities.
- 4.4 Firstly, it is proposed that the function of Responsible Authority officer is delegated to the persons occupying the post of Licensing Enforcement Officer (LIC) LRS 0001 within Legal and Regulatory Services. There are two officers in post at present. As these officers do not have delegated powers to determine and issue licences there is a proper separation of responsibilities in place.
- 4.5 Secondly it is proposed that the Licensing and Registration Officer (LIC) (LRS 001) and Senior Licensing Assistant (LIC) (LRS 001) are also designated as Responsible Authority officers. This is in the expectation that licensing officers would seek to make representations primarily with a view to providing Members with specialist licensing information on policy matters, drafting or re-drafting of conditions, and acting as a mediator between other Responsible Authorities and the applicant to ensure that all relevant information is brought to light before an application is determined.
- 4.6 These proposals do not alter the expectation that the Responsible Authorities named in paragraph 3.4 above will continue to intervene by way of review or in response to an application where an issue clearly falls within their remit. For example, it is expected that the Police will take the lead on crime and disorder issues and the Council environmental health team will continue to make representations and provide advice on public nuisance issues. It is not therefore thought likely that there would be circumstances where either the Licensing and Registration Officer or Senior Licensing Assistant would seek to exercise the power to review a licence independently of other Responsible Authorities.
- 4.7 To ensure procedural fairness and eliminate conflicts of interest regard must be given to the statutory guidance which requires proper separation of responsibilities within the Authority. For example, procedures will be in place to ensure that the officer who supports the Licensing Sub-Committee on a particular application (or who determines an application should the need for a hearing be waived), will be a different individual to the officer who has made representations acting in the role of Responsible Authority.

5. Effect upon Policy Framework & Procedure Rules

- 5.1 None

6. Equality Impact Assessment

6.1 There are no equality implications attached to this report.

7. Financial Implications

7.1 There are no financial implications to this report.

8. Recommendation

8.1 Committee is requested to approve the following proposal to delegate the function of a Responsible Authority Officer to act on behalf of the licensing authority to the following postholders:

8.2 Licensing and Registration Officer:
Senior Licensing Assistant:
Licensing Enforcement Officer– two post holders

P A Jolley

Assistant Chief Executive, Legal and Regulatory Services 2 May 2013

Contact Officer: **Lee Jones**
Group Manager Public Protection

Telephone: (01656) 643251

E-mail: Lee.Jones@bridgend.gov.uk

Postal Address Civic Offices, Angel Street, Bridgend, CF31 4WB

Background documents

Licensing Act 2003: Guidance to local authorities available at
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/98101/guidance-section-182-licensing.pdf