

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 22nd May 2009
Report of: Kate Khan
Title: Delegation of Functions (Expedited Reviews)

1.0 Purpose of Report

- 1.1 The purpose of the report is seek approval for the delegation of functions relating to expedited reviews under the Licensing Act 2003 from the Licensing Committee to the Licensing Sub-Committee.

2.0 Decision Required

- 2.1 The Licensing Committee is requested to delegate the following functions to the Licensing Sub-Committee established under the Licensing Act 2003, subject to the proviso that the Chairman or Vice Chairman of the full Committee has the discretion to refer matters to the full Licensing Committee if the item is particularly significant or controversial in nature

- 2.1.1 determination of interim steps pending summary review (sections 53A(2)(a) or 53B of the Licensing Act 2003)

- 2.1.2 any function under section 53C of the Licensing Act 2003 (review following review notice), in a case where relevant representations (within the meaning of section 53C(7)) have been made.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 None

5.0 Legal Implications

- 5.1 The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 prescribe that the functions set within paragraphs 2.1.1 and 2.1.2 are not to be the responsibility of the Executive.

- 5.2 Section 10 of the Licensing Act 2003 provides that a licensing committee may arrange for the discharge of any functions exercisable by it by a sub-committee

established by it. Section 10 also provides that the functions within paragraph 2.1.1 and 2.1.2 may not be discharged by an officer of the authority.

6.0 Risk Assessment

- 6.1 There is a risk of legal challenge to decisions taken by the licensing authority if a body taking such decisions does not have the correct delegation to do so.

7.0 Background and Options

- 7.1 At its meeting on 9th December, Council resolved to delegate to the Licensing Committee licensing functions under the Licensing Act 2003 to the Licensing Committee.
- 7.2 Members will recall that at its meeting on 19th December 2008 the Committee resolved to delegate the majority of its functions under the Licensing Act 2003 to a Sub-Committee of three members established in accordance with the provisions of the 2003 Act.
- 7.3 The functions set out within paragraphs 2.1.1 and 2.1.2 of the report were not delegated to the Sub-Committee and so currently sit with the full Licensing Committee. Given the short timeframe for decision-making in cases of expedited reviews (i.e. a decision about interim steps to be taken within forty-eight hours of receipt of a review application under section 53A) it is suggested that delegation to the Sub-Committee will expedite the process.

8.0 Overview of Day One, Year One and Term One Issues

- 8.1 It is advantageous to have this delegation in place as soon as possible within Year One to ensure that any future expedited reviews can be dealt with by a Sub-Committee.

9.0 Reasons for Recommendation

- 9.1 The recommendations are made to ensure that there is delegation of these specific functions to the Licensing Act Sub-committee, which will facilitate the provision of an efficient licensing service.

For further information:

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Background Documents:

None