
PROTOCOL FOR COUNCILLORS AND OFFICERS DEALING WITH LICENSING MATTERS

Responsible Cabinet Member(s) – Councillor Stephen Harker, Consumer and Environmental Services Portfolio
Responsible Director(s) – John Buxton, Director of Development and Environment

Purpose of Report

1. To seek Council's approval of a new Protocol in relation to Licensing matters.

Background

2. The Licensing Act 2003 transfers responsibility to Councils for all 'Licensable Activities'. The 2003 Act lists four Licensable Activities, these in brief are (i) the sale by retail of alcohol, (ii) the supply of alcohol by clubs, (iii) the provision of regulated entertainment and (iv) the provision of late night refreshment. Under the 2003 Act there are 2 types of Licences which can be applied for in relation to the 'licensable activities', these include Personal Licences for the sale of alcohol and Premises Licences. Applications must be made by 6th August, 2005 in order to convert existing Licences into new Licences under the 2003 Act regime. The Council has established a Licensing Act 2003 Committee which has delegated the power to hear contested applications to Sub-Committees consisting of three Members selected from the Licensing Committee.

Licensing Protocol

3. The 2003 Act transfers the responsibility of liquor licensing from local Magistrates to Local Councils. As such the position of Local Ward Members, who may or may not sit on the Licensing Committee, can give rise to situations of conflict of interest and may raise issues in relation to other matters such as the rules of natural justice (i.e. bias). A Protocol already exists for Councillors and Officers dealing with Planning Matters and the proposed Licensing Protocol, attached in the Appendix, has been based on the existing Planning Protocol. The attached Protocol is designed to assist and guide Members and Officers in relation to Licensing matters. Compliance with the Protocol is likely to reduce the number of complaints made to the Standards Board for England, and also reduce the number of appeals to the Magistrates Court against decisions of the Licensing Sub-Committees.

Legal Implications

4. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

5. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Council Policy Framework

6. Although not a policy issue, the issues contained within this report are required to be considered by Council as they address constitutional changes in establishing a Licensing Protocol for Members and Officers dealing with Licensing Matters.

Conclusion

7. The Licensing Act 2003 places new duties and responsibilities on the Council and in order to administer the Act and reduce the scope for complaints or appeals it is considered advisable to amend the Constitution to incorporate the attached Protocol for Councillors and Officers dealing with Licensing matters.

Recommendation

8. Council are requested to :-

Amend the constitution by incorporating the Licensing Protocol as set out in the Appendix.

Reasons

9. The recommendation is supported by the following reasons :-

To ensure the new duties and responsibilities placed on the Council by the Licensing Act 2003 can be effectively administered.

**Paul Wildsmith,
Director of Corporate Services**

Background Papers

Existing Protocol relating to Planning Matters, approved by Council and contained in the Council's Constitution.

Appendices

Protocol for Councillors and Officers dealing with Licensing Matters.

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