

**EXETER CITY COUNCIL**

**LICENSING COMMITTEE  
24 JULY 2012**

**COUNCIL  
16 OCTOBER 2012**

**MINOR AMENDMENTS TO CONSTITUTION TO DELEGATE NEW FUNCTIONS UNDER  
THE LICENSING ACT 2003**

**1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to ensure that following recent amendments to the Licensing Act 2003 the functions of the Council, as the Licensing Authority are delegated to the appropriate level and addressed in the Constitution.

**2 BACKGROUND**

- 2.1 On the 25<sup>th</sup> April 2012 the Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 ('the Act') resulting in a requirement for minor amendments to be made to the Council's Constitution

- 2.2 The necessary changes to the Constitution are detailed below. The relevant paragraphs from Part 3 Responsibility for Functions of the Licensing Sub-Committee and Assistant Director Environment have been reproduced and the amendments are shown in *italics*;

(a) Licensing Sub-Committee

11. To determine whether to give a counter notice following a police *and/or local authority environmental health* objection to a *Standard* Temporary Event Notice

(b) Assistant Director Environment

- 4.34 Licensing Act 2003 (to the extent permitted by section 10). In particular to determine:

- *the giving of a counter notice for Late Temporary Event Notices*
- *whether to make representations as a Responsible Authority*
- *the issue of a notice of suspension of licence for non payment of the Annual Fee*

- 2.3 The reasons for these changes are:

(a) Licensing Sub-Committee

There are now two forms of Temporary Event Notices ('TENSs'), Standard and Late TENSs. Late TENSs are dealt with in paragraph (b) i) below. In the case of Standard TENSs the Local Authority exercising its environmental health functions ('Environmental Health') is now permitted to make representations in relation to

any of the Licensing Objectives. The Licensing Sub Committee should determine whether or not a counter notice should be in response to a Standard TEN where relevant representations are received by the Police or Environmental Health.

(b) Assistant Director Environment

- i) Late TENs can be given up to five working days but no earlier than nine working days before the event is scheduled. Where an objection is received from the Police or Environmental Health the event shall not go ahead and a counter notice must be given
- ii) The Licensing Authority is now a Responsible Authority for the purposes of the Licensing Act 2003. It is essential to achieve a separation of responsibilities within the Licensing Authority to ensure procedural fairness and eliminate conflicts of interest. Government guidance suggests delegating this function of Responsible Authority to the Assistant Director Environment who then allocates a Principal Licensing Officer within the authority to exercise the function of Responsible Authority. The Principal Licensing Officer will not be involved in the application process and will deal with the application on behalf of the Licensing Authority separately.
- iii) The Licensing Authority may suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.

2.4 The Council has delegated its Licensing functions under the Licensing Act 2003 to the Licensing Committee and the Licensing Committee can exercise its powers to delegate some of these functions to the Licensing Sub-Committee or Officers in order to promote and maintain the efficient operation of the Licensing Authority.

### **3. RECOMMENDED**

That the Council adopts the changes the Constitution to reflect the minor new delegations and minor amendments to the existing delegations to the Licensing Sub Committee and the Assistant Director Environment.

### **ASSITANT DIRECTOR ENVIRONMENT**

Local Government (Access to Information) Act 1972 (as amended)  
Background papers used in compiling this report: None