


Agenda Item No:	14	
Committee:	COUNCIL	
Date:	25 FEBRUARY 2015	
Report Title:	AMENDMENT TO THE COUNCIL'S CONSTITUTION - LICENSING	

1 Purpose / Summary

To consider proposed amendments and approve the additions in relation to the Licensing Act 2003 as contained in the scheme of delegation within the Councils Constitution and the Councils Statement of Licensing Policy under the Act.

2 Key issues

- The Licensing Act 2003 has been amended by the Police Reform and Social Responsibility Act to give the status of Responsible Authority to the Licensing Authority. This requires the Council to update the Constitution to reflect legislative changes.
- The proposed amendments and additions to the scheme of delegation will improve the efficiency of the licensing service.
- The proposed amendments of the schemes of delegation will reduce the risk of legal challenge to the licensing process.
- The proposed amendments have been taken directly from the guidance issued under section 182 of the Licensing Act 2003
- The proposed amendments also help to address feedback received from Licensing Committee review panel members in relation to their role and function at a hearing..
- Licensing Committee considered and recommended the amendments at their meeting on the 27th January 2015

3 Recommendations

It is recommended that:

- Members approve the recommended additions and amendments for delegations under the Licensing Act 2003 as detailed within this report.
- Part 3, Table 4, Section 105 of the Constitution will be deleted and replaced with the detail as outlined in Appendix A
- Authorises the Monitoring Officer to make those amendments suggested in Appendix A of the Report to the Constitution.

Wards Affected	All Wards
Forward Plan Reference	Not applicable
Portfolio Holder(s)	Cllr. David Oliver, Portfolio Holder with responsibility for Licensing.
Report Originator(s)	Kim Winterton, Licensing Manager, tel: 01354 622542, email: kwinterton@fenland.gov.uk Rory McKenna, Senior Solicitor, Litigation, tel 01354 622452, email:rmckenna@fenland.gov.uk
Contact Officer(s)	Carol Pilson, Corporate Director, cpilson@fenland.gov.uk Richard Cassidy, Corporate Director, richardcassidy@fenland.gov.uk
Background Paper(s)	The Licensing Act 2003 Amended Guidance issued under Section 182 of the Licensing Act 2003.

4 Background / introduction

- 4.1 The Licensing Act 2003 has been amended by the Police Reform and Social Responsibility Act to give the status of Responsible Authority to the Licensing Authority to enable the Licensing Authority to make objections or representations to applications for the grant or variation of a Premises Licence or Club Premises Certificate, a Provisional Statement, a Minor Variation, to make a Review Application of a Premises Licence or Club Premises Certificate and make representations regarding the potential cumulative impact of an application where such a policy is in place.
- 4.2 The Licensing Authority is a Responsible Authority under the Gambling Act 2005 with that function delegated to officers of the Licensing Team and for those matters to be determined by the Members of the Licensing Sub Committee.
- 4.3 A copy of the new recommended delegations to be approved and to be included in the Councils Constitution is attached at Appendix A.

5 Conclusions

- 5.1 Members approve the recommended additions and amendments for delegations under the Licensing Act 2003 as detailed within this report.
- 5.2 Part 3, Table 4, Section 105 of the Constitution will be deleted and replaced with the detail as outlined in Appendix A



APPENDIX A - Revised Delegation of Functions

Delete existing Part 3, Table 4, Section 105 of the Constitution which states:

“To administer and decide on Licensing applications including those under the Licensing Act 2003 where no objections have been made, or have been withdrawn”

and replace with:

Matters to be dealt with	Sub Committee	Officers
Application for a Personal Licence	If Police objection	If no objection made
Application for Personal licence with unspent convictions	All Cases	
Application for premises licence/club premise certificate	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn
Application for provisional statement	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn.
Application to vary premises licence/club premises certificate.	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn.
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Application for interim authorities	If police objection	All other cases
Application to review premises licence/club	All cases	

premises certificate		
*Decision on whether a complaint is frivolous or vexatious		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on a minor variation		All cases
Determination of minor variation application		All cases
Making a representation on behalf of the Licensing Authority		Corporate Director
Initiating a Review on behalf of the Licensing Authority		Corporate Director

*To determine whether a complaint is frivolous or vexatious the following procedure will apply:

The Licensing Manager will draft a report and make a recommendation which will be reviewed by the Corporate Director, the Chairman of Licensing and a Legal Officer.

If in the opinion of the Head of Service for Licensing and the Chairman of Licensing the recommendation is accepted, the Licensing Manager's decision will be countersigned by the Corporate Director and Chairman of Licensing.

If in the opinion of the Corporate Director and the Chairman of Licensing there are wider issues to consider the matter will be placed before a Licensing Committee Hearing.