

REPORT OF:	HEAD OF ENVIRONMENTAL HEALTH SERVICES
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TO:	LICENSING COMMITTEE
DATE:	8 MARCH 2007

AGENDA ITEM NO:	5	WARD(S) AFFECTED:	ALL
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SUBJECT:	LICENSING ACT 2003: EXERCISE OF DELEGATED FUNCTIONS BY OFFICERS
PURPOSE OF THE REPORT:	TO ADVISE THE COMMITTEE ON THE NUMBER OF DECISIONS MADE BY OFFICERS UNDER THE ACT
RECOMMENDATIONS:	
<ol style="list-style-type: none"> That the Committee note the level of activity as detailed at Annex 2. 	

Background

- Paragraph 3.62 of the Guidance issued by the Department for Culture, Media and Sport (DCMS) under Section 182 of the Licensing Act 2003 states that 'the Licensing Committees should receive regular reports on decisions made by officers so that they maintain an overview of the general situation.' In future the level of activity will be reported to each Licensing Committee.
- The functions delegated to officers are identified in Annex 1.

Factors for Consideration

- The activity level of the delegated functions is shown in Annex 2. The first column of figures relates to activity pre Second Appointed Day (24th November 2005) and is followed by 3 monthly periods thereafter.
- Generally the level of activity, on both administrative changes and temporary events, is above that originally estimated from data supplied by East Surrey Magistrates' Court under the previous statutory regime. This local experience reflects the national position and was confirmed in the minutes of a national meeting of County licensing Groups held in October 2006, and attended by Dianne Mitchell, Licensing Manager on behalf of the Surrey Group.
- The number of applications with no relevant representations in relation to the applications with relevant representations has remained relatively constant at around 50%. This pattern is not reflected throughout Surrey or in the limited national data available, which indicates much higher percentages without representations. This is most likely due to the practice adopted by many other authorities, of asking objectors to withdraw their representations once

an application has been mediated thus allowing the officers to decide the application. This alternative approach has continued to cause officers concern particularly in relation to the objector's loss of appeal rights once a representation has been withdrawn, and the legitimacy of officers determining what is an amended application. This latter point could also be significant in relation to the subsequent enforceability of the conditions attached.

6. The higher numbers of transfers of premises licences in the November - February 2005 quarter and August - November 2006 quarter, were due to the insolvency of the off-licence chains, Unwins and Newlord respectively. The legislation provides special arrangements, known as an interim notice, which allows the continuation of the premises licence when the holder of a licence dies suddenly or becomes bankrupt or mentally incapable. Under this process, notification must be given to the licensing authority within 7 days, however this period was found to be impracticable to the receivers who chose to use the transfer process instead.

Resource Implications

7. Although the level of officer activity is above that originally anticipated, this report is not requesting additional funding.
8. The increased income generated has been included in the budget setting process for 2006/07. The new statutory regime has only been in full operation since November 2005 and therefore there is insufficient data at this stage to allow comparisons or identify any significant trends in the income streams.

Conclusions

9. In general the level of activity has been higher than originally anticipated. During the transition period and immediate period following, it was possible to handle the additional activity by exercising flexibility within the Licensing team and postponing other enforcement activities.
10. One of the main issues with licensing activities is the lack of control over the number of applications or representations received, particularly in response to other legislative changes. For example the forthcoming ban on smoking which will come into effect on 1 July 2007 under the Health Act 2006 and may lead to a number of public houses and other similar premises applying to vary their licences to allow customers to smoke outside.

Background Papers:

Documents

Annex 1 : Table of Delegations of licensing functions

Annex 2: Activity level of delegated functions to officers