

Wolverhampton City Council

OPEN DECISION ITEM

Committee / Panel	LICENSING COMMITTEE	Date	14 NOVEMBER 2012
Originating Service Group(s)	EDUCATION AND ENTERPRISE		
Contact Officer(s)/ Telephone Number(s)	COLIN PARR x0105		
Title/Subject Matter	<u>STREET TRADING REVIEW OF DECISION MAKING</u>		

RECOMMENDATIONS

Councillors of the Licensing Committee are recommended to:

- (i) Approve the proposed delegation to the Licensing Manager to grant, renew and revoke street trading consents.
- (ii) Approve the proposed delegation to the Licensing Manager to create and relocate and delete street trading pitches in consultation with Highways and Landscape Services.
- (iii) Endorse the introduction of an appeal process and approve the proposed delegation to the (Head of Regulatory Services).

REVIEW OF DECISION MAKING

1.0 PURPOSE OF REPORT

- 1.1 To seek the endorsement and approval of the proposed decision making process and for the proposed delegations in relation to the Council's street trading function.

2.0 BACKGROUND

- 2.1 The Licensing Committee has responsibility for a wide range of licensing functions. These relate principally to the issue of licences, permits, consents and their enforcement.
- 2.2 The licensing system is configured to allow the proper discharge of functions and operates through the Licensing Committee either taking decisions themselves or through the delegation of decisions to employees.
- 2.3 On 30 May 2012 a report was presented to Licensing Committee on a delegation scheme allowing a balance of responsibilities to enable the service to be delivered in an efficient and effective manner. This report was influenced through the learning experiences the service has made through Systems Thinking, specifically attempting to ensure that where appropriate decision making is as close to the front line as possible.
- 2.4 The Licensing Committee endorsed the delegation scheme which included a list of the current and proposed delegations to employees for a range of decisions and authorised the Strategic Director for Education and Enterprise to delegate decisions to employees.
- 2.5 The current delegation authorised the Head of Regulatory Services, in relation to the creation, relocation or deletion of street trading pitches.

3.0 PROPOSED DELEGATION OF STREET TRADING FUNCTION

- 3.1 Following a report to Petitions Committee on 19 October 2012 regarding the creation and relocation of a street trading pitch the Petitions Committee recommended that the Licensing Committee be asked to consider introducing an appeals process into their scheme of delegations in the interests of natural justice.
- 3.2 It is proposed that the Licensing Committee delegate powers to the Licensing Manager, to grant, renew and revoke street trading consents and to create, relocate and delete street trading pitches in consultation with highways and Landscape Services.
- 3.3 It is further proposed that in accordance with the recommendation of the Petitions Committee, the Licensing Committee endorse the introduction of a right of appeal against the above decision, which would extend to the granting, renewing and revocation of street trading consents to the Head of Regulatory Services.

4.0 LEGAL IMPLICATIONS

- 4.1 In accordance with provisions in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 streets within Wolverhampton have been designated as consent streets. This is a street in which street trading is prohibited without the consent of the district council. Therefore, this legislation gives the Council the power to give consent for the trading in a particular street. Further, Section 111 of the Local Government Act 1972 gives the Council the power to do anything which is incidental to the discharge of any of their functions which could include the designating of pitches.

- 4.2 The Licensing Authorities (Functions and Responsibilities) (England) Regulations 2000 Schedule 1 specifies a range of functions which are not to be an executive responsibility and this includes licensing and registration functions.
- 4.3 The Licensing Committee has been appointed to exercise the Council's functions relating to the processing, determination and management of licensing. Specific powers and duties are listed in the Council's constitution and where appropriate, some of these can be delegated to employees.
- 4.4 One of the main principles of the Constitution is the need to be able to ascertain who is responsible for any decision made by or on behalf of the Council and this is particularly so for employee delegations which must be comprehensive.
- 4.5 There is no statutory right of appeal against decisions relating to street trading consents or pitches however, the Council are not prohibited from having an internal appeals process. [SH/02112012/B]

5.0 FINANCIAL IMPLICATIONS

- 5.1 The proposals contained in this report can be met through the existing Licensing budget and should generate efficiencies in the utilisation of Councillor and employee resources. [TK/31102012/M]

6.0 EQUAL OPPORTUNITIES IMPLICATIONS

- 6.1 The agreement of criteria relating to employee decisions will be subject to employee scrutiny to ensure the proposals are in accordance with the Council's Equal Opportunities Policy and the requirements of the Human Rights Act 1998.

7.0 ENVIRONMENTAL IMPLICATIONS

- 7.1 Many of the functions for which the Committee has responsibility have a bearing on environmental issues.