

# LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

## Agenda Item 18

Brighton & Hove City Council

**Subject:** *Licensing functions reserved to committee*

**Date of Meeting:** 27<sup>th</sup> November 2008

**Report of:** *Director of Strategy and Governance*

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**Wards Affected:** All

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report summarises the licensing and registration functions which are reserved to this committee following the implementation of the new constitution.

#### 2. RECOMMENDATIONS:

- 2.1 That this report is noted.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS

- 3.1 Under the new constitution functions carried out by the local authority are broadly characterised as either executive or non executive functions. Thus decisions that are executive decisions are taken at cabinet level or executive member level or delegated to officers as appropriate. Non-executive decisions are taken by full council but may be capable of being delegated down to the relevant licensing committee or the governance committee or to officers.
- 3.2 What constitutes an executive or non-executive function is prescribed by the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) Regulations 2000 as amended (henceforth the 'Regulations'). Schedule 1 to these Regulations lists all the functions and their relevant statutory provisions that are non-executive functions. So by default any function not specifically mentioned in that schedule is an executive function.
- 3.3 The following non-executive functions are carried out by the Non-Licensing Act 2003 Committee and delegated to officers as appropriate:
- The power to licence hackney carriages and private hire vehicles
  - The power to licence drivers of hackney carriages and private hire vehicles

- The power to licence operators of hackney carriages and private hire vehicles
  - The power to licence sex shops and sex cinemas
  - The power to licence performance of hypnotism
  - The power to licence premises for acupuncture, tattooing, ear-piercing and electrolysis byelaws
  - The power to licence market and street trading
  - The power to licence zoos
  - The power to grant permission for provision etc of services, amenities, recreation and refreshment facilities on highway and related powers
- 3.4 This is not an exhaustive list of all the licensing functions listed in the schedule as many of these will be dealt with by officers and are not likely to come to committee. The full list of functions is at Appendix 1.
- 3.5 The Regulations further state (at Regulation 2) that the function of imposing any condition, limitation, or other restriction on an approval, consent, licence , permission or registration granted (and listed in the schedule) and the functions of determining any other terms to which any such approval licence etc is subject is not to be an executive function. Also the function of amending, modifying or varying or revoking is not to be an executive function. Therefore all policy issues relating to these functions for instance the restriction or not of taxi numbers or changes in conditions or policy issues relating to street trading or sex establishments, will be reserved to this committee and to full Council if appropriate.
- 3.6 The only exception to this is the fixing of Hackney Carriage fares which comes under section 65 of the 1976 Local Government (Miscellaneous Provisions) Act and is not specifically mentioned in Schedule 1 to the Regulations and by default is an executive function. Because this committee has developed expertise in this area new arrangements have been proposed to cabinet to retain an open and transparent system. It is thus proposed to continue to use the licensing committee to hear the taxi fare proposals and representations and to make recommendations. To do this the licensing committee will sit as an advisory committee established by the executive and with identical membership to the licensing committee. These new arrangements are detailed in the report of the Director of Strategy and Governance entitled Taxi Tariff setting under the new Constitution to the 20<sup>th</sup> November cabinet meeting which is attached at Appendix 2.
- 3.7 The provisions relating to tables and chairs on the highway are likely to be dealt with by the sub-committee, the licensing panel, along with any other appeal type decision for which other arrangements have not been made such as appeals against street trading consents or street collection permits.
- 3.8 The main committee may also act in an advisory capacity to full council concerning the making, amendment or revoking of byelaws which are within its terms of reference. The last example of this was when the committee recommended to full council the adoption of byelaws for the regulation of acupuncture, electrolysis, tattooing, cosmetic piercing and semi-permanent skin colouring business.

#### **4. CONSULTATION:**

- 4.1 The report has been drafted in consultation with the Head of Law and the Head of Environmental Health and Licensing

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### 5.1 Financial Implications:

There are no direct financial implications associated with this report

Karen Brookshaw      *Date: 12/11/08*

##### 5.2 Legal Implications:

The legal implications are contained in the body of the report

*Lawyer Consulted:                      Rebecca Sidell                      Date: 14/11/08*

##### 5.3 Equalities Implications:

There are no direct equalities implications

##### 5.4 Sustainability Implications:

There are no direct sustainability implications

##### 5.5 Crime & Disorder Implications:

There are no direct crime and disorder implications

##### 5.6 Risk and Opportunity Management Implications:

The functions identified in the report for the licensing committee are consistent with national legislation and good practice

##### 5.7 Corporate / Citywide Implications:

The arrangements will preserve a proper member oversight of the licensing function and are in line with the Council's corporate priority of open and effective city leadership

## **SUPPORTING DOCUMENTATION**

Appendices:

- 1 - Scheme of Licensing Delegation
- 2 - Taxi Tariff setting under the new Constitution – Report to Cabinet  
20 November 2008