
Report of City Solicitor

Report to General Purposes Committee

Date: 28th October 2013

Subject: Functions in relation to the Late Night Levy

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| Are specific electoral Wards affected? If relevant, name(s) of Ward(s): | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Are there implications for equality and diversity and cohesion and integration? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Is the decision eligible for Call-In? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Summary of main issues

1. The Police Reform and Social Responsibility Act 2011 introduced power for the licensing authority to apply the late night levy requirement to its area.
2. On 1st October 2013 an amendment to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 specified that powers and functions in relation to the late night levy requirements are Council functions. It is therefore necessary to make provision within the Council's constitution for the way in which these functions will be exercised.
3. This report sets out proposals in relation to the way in which the various decisions surrounding the potential application and consideration of the late night levy should be taken, and the relevant amendments to the Constitution consequential on these recommendations.

Recommendations

4. General Purposes Committee are asked to recommend the proposals set out in this report to Full Council.

1 Purpose of this report

- 1.1 This report sets out proposals to amend the constitution to reflect the designation of functions in relation to the late night levy as Council functions.
- 1.2 General Purposes Committee are invited to recommend the proposed amendments to Council.

2 Background information

- 2.1 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended set out details of how functions of local authorities should be treated under Executive Arrangements.
- 2.2 Schedule 1 of the Regulations provides details of those functions which may not be carried out by the authority's executive. These are known as council functions.
- 2.3 An amendment to the regulations which came into effect on 1st October 2013 included powers and functions in relation to the late night levy within the functions listed in Schedule 1, making these functions of the licensing authority council functions. This report then is entirely focussed on the decision making and accountability framework relating to the Late Night Levy and does not consider at all any policy decisions relating to it.
- 2.4 Members though will recall that Executive Board considered a report on the Late Night Levy in September 2013. The outcome being that the Scrutiny Board (Resources and Council Services) was asked to consider the matter further and make recommendations. That scrutiny process is still on-going.

3 Main issues

- 3.1 The Police Reform and Social Responsibility Act 2011 sets out in sections 125 to 139, provisions in relation to the application of the late night levy requirement. The provisions enable each Licensing Authority to consider the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6 am, and, having regard to those costs, to apply a late night levy to raise revenue.
- 3.2 The legislation provides for a number of decisions to be made by the Licensing Authority. The amendment to the Functions and Responsibilities Regulations outlined above, provides that these are Council functions. There is no requirement that the functions are dealt with by full Council alone and they can therefore be delegated to a Council Committee or to an officer to exercise on behalf of full Council.
- 3.3 In consultation with the City Solicitor, the Chief Officer (Elections, Licensing and Registration) has considered the various decisions to be made in accordance with the legislation and would recommend that the Council's constitution is amended as follows:-

Decision to be Reserved to Full Council

- 3.4 It is proposed that full Council should reserve responsibility for any decision to:-

- apply or disapply the late night levy in the Leeds area;
- to set the date on which the levy should start if it is decided to apply it;
- to determine what proportion of the net amount of levy payment (subject to the statutory minimum of 70%) should be paid to the relevant policing authority.

3.5 It is recommended that the Functions of Full Council – Part 3 Section 2A of the Constitution, should be amended as set out at Appendix A to this report in order to reserve these decisions to full Council.

Decisions to be delegated to Licensing Committee and to the Assistant Chief Executive (Citizens and Communities)

3.6 The Act provides that the Licensing Authority shall determine the ‘late night supply period’ which will apply to the late night levy in its area.

3.7 Similarly the Act provides that the Licensing Authority may apply exemptions and reductions in the late night levy to such permitted categories of business as it shall determine in accordance with the regulations.

3.8 Both Licensing Committee and the Assistant Chief Executive have expertise and experience in relation to the impact of the supply of alcohol during the hours of midnight and 6 am and in relation to the businesses which would attract the late night levy necessary to:-

- set the late night supply period;
- determine which categories of business, if any, should benefit from a permitted exemption to the levy; and
- determine which categories of business, if any, should benefit from a permitted reduction in the levy.

3.9 It is proposed that the remaining functions in relation to the late night levy should be delegated concurrently to the Licensing Committee and the Assistant Chief Executive (Citizens and Communities). This proposal is reflected in the draft Terms of Reference of Licensing Committee - Part 3 Section 2B of the Constitution, as set out at Appendix B to this report and the Officer Delegation Scheme – Council Functions Assistant Chief Executive (Citizens and Communities) – Part 3 Section 2C of the Constitution, as set out at Appendix C to this report.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 the Chief Officer (Elections, Licensing and Registration) has advised the Chair of Licensing of the new legal framework and how the requirements might be reflected in the Leeds City Council Constitution. The Chair is content with the recommendations set out in this report.

- 4.1.2 The Leader has also been advised and is content as to the recommendations set out in this report.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications for this report.

4.3 Council policies and City Priorities

- 4.3.1 The Council's Constitution reflects the practice and procedure adopted by the Council in relation to the delegation of functions and the way in which decisions are made. The proposed amendments to the Constitution reflect the Council's value of being open, honest and trusted.

4.4 Resources and value for money

- 4.4.1 The proposed delegations from Council to Licensing Committee and to the Assistant Chief Executive (Citizens and Communities) ensure that appropriate decisions are taken in the appropriate manner, making best use of the Council's resources in this regard.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The amendment to the Functions and Responsibilities Regulations requires an amendment to the Council's constitution to reflect that functions in relation to the late night levy have now been included in the list of Council functions.

4.6 Risk Management

- 4.6.1 There are no implications for this report.

5 Conclusions

- 5.1 The amendment to the Functions and Responsibilities Regulations requires an amendment to the Council's constitution to reflect that functions in relation to the late night levy have now been included in the list of Council functions.

6 Recommendations

- 6.1 General Purposes Committee are requested to recommend the proposed amendments to the Constitution, as set out at Appendices A, B and C to this report to Council.

7 Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.