



Lewes District Council

To all Members of the Licensing Committee

A meeting of the **Licensing Committee** will be held in the **Telscombe Room, Southover House, Southover Road, Lewes** on **Thursday, 28 July 2016 at 10:00** which you are requested to attend.

Please note the venue for this meeting which is wheelchair accessible and has an induction loop to help people who are hearing impaired.

This meeting may be filmed, recorded or broadcast by any person or organisation. Anyone wishing to film or record must notify the Chair prior to the start of the meeting. Members of the public attending the meeting are deemed to have consented to be filmed or recorded, as liability for this is not within the Council's control.

27/04/2017

Catherine Knight
Assistant Director - Corporate Services

Agenda

- 1 Minutes (page 3)**
- 2 Apologies for Absence/Declaration of Substitute Members**
- 3 Declarations of Interest**
Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.
- 4 Urgent Items**
Items not on the agenda which the Chair of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances as defined in Section 100B(4)(b) of the Local Government Act 1972
- 5 Written Questions from Councillors**
To deal with written questions from Councillors pursuant to Council Procedure Rule 12.3 (page D8 of the Constitution)

6 Delegation of Street Trading Powers to Seaford Town Council (page 6)

7 Date of Next Meeting

To note that the next meeting of the Licensing Committee will be called as necessary

For further information about items appearing on this Agenda, please contact
Zoe Downton at Southover House, Southover Road, Lewes, East Sussex
BN7 1AB. Telephone 01273 471600

Distribution: Councillors S Adeniji, W Botting, B Bovington, M Chartier, P Gander,
S Gauntlett, J Harrison-Hicks, A Loraine, I Linington and S Murray

Licensing Committee

Minutes of a meeting of the **Licensing Committee** held in the **Telscombe Room, Southover House, Southover Road, Lewes** on **Tuesday 26 January 2016** at **13.30pm**.

Present:

Councillors S Adeniji (Chair), B Bovington, M Chartier, P Gander, J Harrison-Hicks, I Linington and S Murray

Officers Present:

R Brittle, Committee Officer
A Couper, Lawyer
S Lindsay, Licensing Officer

	Minutes	Action
15	Minutes	
	The minutes of the meeting held on 26 November 2015 were approved as a correct record and signed by the Chair.	
16	Apologies for Absence/Declaration of Substitute Members	
	Apologies for absence had been received from Councillors W Botting and S Gauntlett.	
17	Urgent Items	
	The Chair had agreed, in accordance with Section 100B(4)(b) of the Local Government Act 1972, that Membership of the Licensing Committee be considered as a matter of urgency in order that the Committee could make it decisions based on the most recent information which was available and delays in confirming the membership of the committee could be avoided.	
18	Membership of the Licensing Committee	
	<u>Resolved:</u>	
	18.1 That it be noted that Councillor I Linington had replaced Councillor S Osborne on the Licensing Committee for the remainder of the municipal year 2015/2016.	
19	Updating of Lewes District Council's Gambling Statement of Principles	
	The Committee considered Report No. 19/16, which set out the revised Gambling Statement of Principles as required by the Gambling Act 2005.	

The Act required Licensing Authorities to prepare and publish a Statement of Principles for a three year period.

The Licensing Officer explained that the Act placed a duty upon the Council to ensure that the Statement of Principles promoted the three licensing objectives. They were:

- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime.
- Ensuring that gambling was conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited.

The amended Statement of Principles had been the subject to a three month consultation, which had included members of the gambling trade, responsible authorities, current licence holders and elected Members.

The Licensing Officer highlighted the changes in the Statement, which included updated contact details, and the inclusion of details regarding representations which would not be taken into account.

The statutory guidance stated that licensing authorities would find it useful to complete their own risk assessments (referred to as Local Area Profiles) of the local environment as a means of 'mapping out' local areas of concern, which could be reviewed and updated to reflect changes to the local landscape. The Licensing Officer however, advised the Committee that conducting a Local Area Profile would not be useful for the Council as since the implementation of the Gambling Act in 2005, the Council had only received one application to extend existing licensing premises, and no new premises had applied. There had also been a closure of three betting shops in Lewes.

Resolved:

- 19.1** That the revised Gambling Statement of Principles, as set out in Report No. 19/16 be noted;
- 19.2** That authority be delegated to the Director of Service Delivery to make any amendments to the draft statement in accordance with the Committee's comments;
- 19.3** That the Scrutiny Committee recommends that the amended statement be approved by Council; and
- 19.4** That the Licensing Committee agrees that it does not require the Director of Service Delivery to complete a Local Area Profile at this

time.

The meeting ended at 13:50pm

S Adeniji

Chair

Agenda Item No: 6 **Report No:** 104/16

Report Title: Delegation of Street Trading Powers to Seaford Town Council

Report To: Licensing Committee **Date:** 28 July 2016

Cabinet Member: Councillor Paul Franklin

Ward(s) Affected: All Seaford wards

Report By: Ian Fitzpatrick, Acting Director Service Delivery

Contact Officer(s)-

Name(s): Ed Hele
Post Title(s): Service Manager, Environmental Health
E-mail(s): ed.hele@lewes.gov.uk
Tel No(s): (01273) 661104

Purpose of Report:

That Licensing Committee consider Seaford Town Council's request that street trading powers be delegated to them in relation to specified streets in Seaford.

Officers Recommendation(s):

It is recommended that Licensing Committee—

- 1** Consider the request from Seaford Town Council to delegate street trading powers from Lewes District Council to them in relation to specified streets in Seaford.
- 2** Make a recommendation to full Council –
 - (i) on whether to grant and on what terms, or refuse the request; and
 - (ii) if the recommendation is to grant the request, that full Council authorise the Director of Service Delivery to make all necessary arrangements to give effect to that decision, including the power to enter into a delegation agreement on behalf of Lewes District Council.

Reasons for Recommendations

- 1** Seaford Town Council wish to have direct control over street trading in certain areas of Seaford and have put a formal request to Lewes District Council to that effect. The request merits full and proper consideration.

Licensing Committee is the appropriate body to consider policy matters relating to street trading. However, the decision on whether to delegate Council regulatory powers to a parish council is a matter for the full Council, having regard to any recommendation from this Committee.

Information

- 2.1** Street trading is generally unlawful unless licensed by a local authority. To control the location and type of street trading across the district, Lewes District Council ('LDC') has adopted the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') enabling it to designate any street within its area as a prohibited, licence or consent street.
- 2.2** Since 2014 the whole of LDC's area has been a designated consent area, making it unlawful for any street trading to take place across the district without the necessary consent, unless a relevant exclusion applies.
- 2.3** This designation is now considered wider than necessary. Street trading tends to be concentrated in town centres and popular tourist areas, and it will be proposed in a future report that LDC's consent area be narrowed to encompass these areas alone.
- 2.4** Mindful of that future proposal, Seaford Town Council ('STC') have asked that the following streets remain consent streets: Station Approach, Clinton Place, Sutton Road, Broad Street, Church Street, Church Lane, High Street, Place Lane, South Street, Saxon Lane, Marine Parade, The Esplanade, and all streets 50 metres inland from Marine parade and the Esplanade.
- 2.5** STC have also asked that the power to manage street trading, in respect of those streets named at 2.4 above, be delegated to them. The formal request is set out in the e-mail of 18 May 2016 from STC's Town Clerk (reproduced at Appendix 1) and explains how STC's close liaison with the Chamber of Trade on a number of projects makes it very aware of the needs of Seaford town centre and seafront businesses. With its local knowledge of the potential impact of new traders on residents and existing businesses in the town, it is considered that STC is best placed to regulate street trading activity in those areas.
- 2.6** It is recommended that street trading powers for those streets listed at 2.4 above be delegated to STC, subject to the provisions set out in paragraph 2.10 below. Pending the outcome of LDC's review of the consent area which currently covers the whole district, those parts of Seaford outside the zone that STC would administer under delegated powers would continue to be administered directly by LDC.
- 2.7** If the recommendation at 2.6 above were approved, there would be no immediate change to the geographical extent of the street trading consent area across the district. However, it would mean that, in relation to those Seaford streets listed at 2.4 above, STC would manage street trading functions.

- 2.8** When LDC review the extent of the designated street trading area across the district, it will have due regard to STC's wishes as to which streets in Seaford should remain within a consent area.
- 2.9** The 1982 Act confers a power on district councils to designate any street in their district as a prohibited, licence or consent street is conferred on district councils. Whilst a district council may, in relation to specific streets, delegate that power to the parish council in whose area those streets are located, ultimate responsibility for discharging the street trading function lies with the district council.
- 2.10** In practice this would mean STC carrying out street trading functions in relation to specified streets in Seaford for and on behalf of LDC. The scope and duration of STC's street trading powers would be set out in a delegation agreement between LDC and STC. It is recommended that Council authorise the Director of Service Delivery to draft such an agreement and to consult with STC over the final version prior to completion.
- 2.11** The delegation agreement with STC should, in particular, provide for:
- Scope and limitations of delegated powers
 - Duration and basis for renewal
 - Monitoring
 - Support from LDC
 - Termination
 - Liability for costs of street trading enforcement
 - Indemnification of LDC against costs etc arising from STC's exercise of delegated powers
 - Effect on the agreement of any changes to LDC's Street Trading Policy made during the currency of the agreement
- 2.12** In the list above, 'support from LDC' would include training of STC staff in how to exercise delegated street trading powers effectively. LDC's Environmental Health officers have the necessary expertise to provide this.

Financial Appraisal

- 3.1** Street trading licence fees should not exceed the costs of the procedures and formalities involved in administering applications. In view of this, the costs of enforcing the street trading regime against unlicensed operators must not be reflected in licence fees charged by a local authority. This requirement is equally applicable to STC, should they be given delegated powers to administer street trading across certain parts of Seaford.
- 3.2** The delegation agreement would require STC to meet in full the costs of enforcing the street trading regime across the area for which they are

responsible. If the delegation of powers is agreed, there will be no significant impact on this Council's budget.

Legal Implications

- 4.1** Under section 101 of the Local Government Act 1972, LDC may arrange for the discharge of any of its functions by another local authority (which, in the context of this report, would include STC). An arrangement such as this may only be authorised by resolution of LDC sitting in full Council, and may be qualified by reference to a delegation agreement entered into with the body carrying out the functions on behalf of the district council.

If authorised, the delegation would permit STC to carry out street trading powers across specified parts of Seaford in the name of LDC. As with any delegation, the delegating body (LDC in this instance) retains the right to exercise its powers in its own name at any time, should it be necessary.

- 4.2** The formula a local authority must apply in setting its street trading licence fees, as detailed in the Financial Appraisal above, was established by the Court of Appeal in *R (on the application of Hemming) v Westminster City Council* [2013].

Risk Management Implications

- 5** I have completed a risk assessment. No new risks will arise if the recommendations are not implemented. The following risks will arise if the recommendations are implemented, and I propose to mitigate these risks in the following ways:

The delegation agreement would limit STC's exercise of delegated powers to a defined period; make renewal subject to satisfactory performance; and put in place controls aimed at ensuring the powers were exercised lawfully and in accordance with LDC's current Street Trading Policy.

Despite the training LDC would provide, there is a risk that STC might exercise delegated street trading powers incorrectly or otherwise unlawfully, giving rise to costs, damages or liabilities. To mitigate this risk, the delegation agreement would indemnify LDC against the financial effect of STC's improper exercise of delegated powers.

Equality Screening

- 6** There are no equality implications arising from this report.

Background Papers

Lewes District Council Street Trading Policy 2014

Appendices

Appendix 1: E-mail of 18 May 2016 from Town Clerk, Seaford Town Council, to Service Manager, Environmental Health

From: Ed Hele
Sent: 18 July 2016 09:44
To: Ed Hele
Subject: FW: Street trading

From: James Corrigan [<mailto:James.Corrigan@seafordtowncouncil.gov.uk>]
Sent: 18 May 2016 09:34
To: Ed Hele
Subject: RE: Street trading

Dear Ed

Thank you for your email the contents of which I note and have discussed with relevant parties here.

Seaford Town Council is mindful that its current strategic plan and the vision set by Seaford Impact will lead to additional publicity and tourism for the seafront area of Seaford. This will also achieve the aspired increase in footfall for the Town Centre area of Seaford. It is expected that this will raise the profile of the area making it more attractive to speculative Street Traders to visit the area. Seaford Town Council works very closely with the Chamber of trade on many projects and has many crossover relationships so is very aware of the needs of Town Centre and Seafront businesses. That is how Seaford Town Council was able to discuss the proposed lifting of the consent area for the whole of Seaford proposed by Lewes District Council. Unlike Lewes and Newhaven it was not proposed to retain a consent area anywhere in Seaford.

As a result it was agreed by Seaford Town Council, Seaford Impact and the Chamber of Trade that the power to manage the consent streets would best be delegated to Seaford Town Council to manage. This would include determining how many consents should be permitted in any given consent area. The Town Council would then be able to increase the number of consents on the seafront as the footfall and consequential trade increases. This would be done in close liaison with local businesses and as a result of regular observations by Town Council staff and Councillors.

Accordingly Seaford Town Council would request the following ;

That Lewes District Council Designates Marine Parade, the Esplanade and 50 metres inland from said streets as a consent area. Also that Lewes District Council designates Station Approach, Clinton Place, Sutton Road, Broad Street, Church Street, Church Lane, High Street, Place Lane, South Street and Saxon Lane as Consent Streets.

That Lewes District Council delegates the power to determine the number of consent licences to allocate and the issuing of said licences to Seaford Town Council. Also the power to enforce, in close partnership with Lewes District Council, the control of the Consent areas where transgressions occur.

Happy to discuss further if you wish.

Kind regards

James Corrigan
Town Clerk
Seaford Town Council
37 Church Street
Seaford
East Sussex
BN25 1HG

t: 01323 894870

e: james.corrigan@seafordtowncouncil.gov.uk

w: www.seafordtowncouncil.gov.uk