

**Agenda Item No: 14**

**Report No: 134/16**

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

**Report To: Council**

**Date: 13 October 2016**

**Cabinet Member: Councillor Paul Franklin**

**Ward(s) Affected: All Seaford wards**

**Report By: Ian Fitzpatrick, Director of Service Delivery**

**Contact Officer(s)-**

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**Purpose of Report:**

To seek Council approval for the delegation of street trading powers to Seaford Town Council, in respect of specified streets in Seaford.

**Officers Recommendation(s):**

- 1** To delegate the Council's street trading powers to Seaford Town Council in respect of those streets in Seaford listed in paragraph 2.4 of report no.104/16 to Licensing Committee of 28 July 2016 (see Appendix 1) and subject to the terms and conditions of a delegation agreement to be entered into between the Council and Seaford Town Council.
- 2** To grant delegated authority to the Director of Service Delivery to take all necessary measures to give effect to the delegation recommended above, including authority to draft, negotiate, execute (and subsequently vary, extend, terminate and enforce, as appropriate) the delegation agreement with Seaford Town Council.

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**Reasons for Recommendations**

- 1** Seaford Town Council ('STC') wish to have direct control over regulated street trading in certain parts of Seaford and have put a formal request to Lewes District Council ('LDC') to that effect. Licensing Committee has considered the request and recommends its approval by Council, subject to the controls and safeguards set out in a formal delegation agreement between the parties.

The decision on whether to delegate Council regulatory powers to a parish council is a matter for full Council, having regard to the recommendation of Licensing Committee.

## **Information**

### **2**

- 2.1** Report no.104/16 to Licensing Committee (reproduced at Appendix 1) sets out the legislative framework for the regulation of street trading by district councils; STC's reasons for requesting delegated powers to manage street trading in certain parts of their town; and the governance issues concerning such an arrangement.
- 2.2** Licensing Committee considered the report on 28 July 2016 and recommends that Council approve the delegation of street trading powers to STC on terms set out in a delegation agreement between the two bodies. For reference, a copy of the minutes of that meeting is provided at Appendix 2.
- 2.3** Under the delegation, STC would exercise statutory street trading powers in parts of Seaford on behalf and in the name of LDC. Ultimate responsibility for the exercise of those powers remains with LDC, which explains the need for a delegation agreement specifying STC's obligations and liabilities. The agreement will also detail any limitations on the geographical and operational extent of STC's delegated powers.
- 2.4** Licensing Committee asked officers to provide full Council with the key provisions of the delegation agreement that would, if Council agreed the delegation, need to be executed with STC. Accordingly, the Council's lawyers have prepared the Heads of Terms set out in Appendix 3.
- 2.5** The proposed initial period of delegation is five years. LDC would provide the training and advice STC needs in order to manage street trading effectively, but the delegation agreement would allow LDC to terminate the arrangement early if the powers were not exercised by STC on LDC's behalf in the proper manner.
- 2.6** As a financial safeguard, the agreement would require STC to indemnify LDC against costs, fees, penalties etc. incurred by LDC in consequence of any breach by STC of its obligations under the agreement.
- 2.7** All other controls over the perceived risks associated with the delegation are detailed in the Heads of Terms.
- 2.8** If Council approve the delegation, the Council's lawyers will prepare a formal delegation agreement based on the Heads of Terms at Appendix 3, and officers will consult STC over the content. LDC's street trading powers in relation to designated streets in Seaford will not be formally delegated to STC unless and until LDC and STC agree the delegation agreement.

### **Financial Appraisal**

**3** (See report 104/16 to Licensing Committee)

### **Legal Implications**

**4** (See report 104/16 to Licensing Committee)

### **Risk Management Implications**

**5** (See report 104/16 to Licensing Committee)

### **6 Equality Screening**

There are no equality implications arising from this report

### **Background Papers**

**7** Lewes District Council Street Trading Policy 2014

### **Appendices**

Appendix 1: Report no.104/16 to Licensing Committee of 28 July 2016

Appendix 2: Minutes of Licensing Committee of 28 July 2016 in respect of report no.104/16

Appendix 3: Heads of Terms for delegation agreement