



<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	18 <sup>th</sup> September 2013
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Licensing Officer <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706451
<b>SUBJECT:</b>	Licensing Act 2003 – Licensing Authority as Responsible Authority

**1. PURPOSE OF THE REPORT**

1.1 To inform Members of the Licensing Committee of the arrangements put in place for the Licensing Authority to carry out its function as a Responsible Authority.

**2. EXECUTIVE SUMMARY**

2.1 The Police Reform and Social Responsibility Act 2011 added licensing authorities to the list of Responsible Authorities under the Licensing Act 2003. The aim of this change in legislation is to ensure licensing authorities are better able to respond quickly to the concerns of local residents and businesses by taking actions they consider appropriate to tackle irresponsible premises without having to wait for representations from other Responsible Authorities.

**3. POWER TO MAKE THE DECISION**

3.1 Licensing Act 2003 and the Police Reform and Social Responsibility Act 2011.

**4. BACKGROUND INFORMATION**

4.1 Licensing Authorities are now empowered to fulfil the same functions as other Responsible Authorities under the Licensing Act 2003 including:

- i. Making relevant representations relating to new licence applications and licence variations
- ii. Requesting that the licensing authority review an existing licence

- iii. Making representations regarding the potential cumulative impact of an application in an area where there is a special policy in place regarding cumulative impact.

- 4.2 The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a Responsible Authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.
- 4.3 Licensing authorities are not expected to act as Responsible Authorities on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these bodies have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as Responsible Authority.
- 4.4. Licensing Authorities would expect other Responsible Authorities to intervene where the basis for the intervention falls within the remit of that other Responsible Authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other Responsible Authority.
- 4.5 The 2003 Act enables licensing authorities to act as Responsible Authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other Responsible Authorities.
- 4.6 It is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the Licensing Sub Committee comprising of Elected Members who are advised by a Licensing Officer if it is required. Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority. In these cases, licensing authorities should allocate the different responsibilities to different Licensing

- 4.7 Officers or other Officers within the local authority to ensure a proper separation of responsibilities. The Officer advising the Licensing Sub Committee (i.e. the authority acting in its capacity as the licensing authority) must be a different individual to the Officer who is acting for the Responsible Authority.
- 4.8 The Officer acting for Responsible Authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the Officer acting as Responsible Authority and the Officer handling the licence application regarding the merits of the case. Communication between these Officers in relation to the case should remain professional and consistent with communication with other Responsible Authorities. Representations, subject to limited exceptions, must be made in writing.
- 4.9 It is for the Licensing Authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities.
- 4.10 It is therefore suggested that the Senior Community Enforcement Officer be allocated the role as the Responsible Authority for Licensing
- 4.11 The Senior Community Enforcement Officer will not have any involvement in the application process, but will sets up a separate file to consider the application for the authority in its capacity as Responsible Authority, engaging with other Responsible Authorities where appropriate and determining whether the authority acting as a Responsible Authority wants to make a representation.
- 4.12 The two Senior Licensing Officers will receive and process applications. Communication between the Officer exercising the function of Responsible Authority and the Officer processing the application should remain formal and consistent with how communications would be with other Responsible Authorities.
- 4.13 For all future Sub Committee hearings, the Officer acting as the Responsible Authority for Licensing should be seated with the other Responsible Authorities, to ensure that the public perception of separation of roles has been fulfilled.

## 5. **RECOMMENDATION**

- 5.1 That Members approve that the Senior Community Enforcement Officer be delegated the function of Responsible Authority on behalf of Licensing.

