

The Borough Council of Newcastle-under-Lyme

Payment of Annual fees in connection with the Premises Licences and Club Premises Certificate

Submitted by Principal Solicitor

**Portfolio - Safer Communities
Wards Affected - All**

Purpose of the Report

Recommendation

That authority be delegated to the Chief Executive or Head of Business Improvement, Central Services and Partnerships to suspend Premises Licences and Club Premises Certificates under the Licensing Act 2003 if the Licensee fails to pay the annual fee.

That it be recommended to Full Council that the Scheme of Delegation be updated to include the delegation for suspension of Premises Licences and Club Premises Certificates.

Background

The functions of the licensing authority under the Licensing Act 2003 other than the adoption of the Statement of Licensing Policy are exercisable by this committee.

One of the problems with the Licensing Act 2003 was that it gave licensing authorities no effective recourse for non-payment of fees. A fee was treated as a civil debt, enforceable by claim in the County Court, which was rarely economic to pursue.

Issues

Section 55A of the act now requires the licensing authority to suspend the premises licence if the licensee has not paid the annual fee.

The authority may not suspend during a grace period of 21 days provided that during that period the failure to pay was due to an administrative error or, before or at the time the fee became due, the holder notified the Authority in writing that the holder disputed liability.

These provisions are not without difficulty in that authorities may not know that there has been an administrative error. If there has been such an error then any suspension would be unlawful.

It is therefore recommended that prior to serving a notice of suspension authorities ascertain from the licence precisely why the fee has not been paid. If however the authority determines to suspend the licence it must give two working days' notice of the suspension. A licensee then has the option of either preventing the suspension taking effect (or as the case may be) cause it to come to an end by paying the requisite fee.

Similar provisions apply to club premises certificates under Section 92A of the Act.

Members are asked to note that the suspension of the licence or certificate must be carried into effect and that it is not discretionary. That being the case and in order to avoid having to convene a meeting of the Licensing Committee to make the decision to suspend the licence / certificate when fees are not paid the Committee are being asked to delegate this function to the officers referred to in the recommendation.

Proposal

That the Committee recommend to the licensing authority that the Scheme of Delegation be updated in accordance with the recommendations in order to facilitate the recovery of annual fees.

Outcomes linked to Sustainable Community Strategy and Corporate Priorities

- Creating a cleaner, safer and sustainable Borough
- Creating a healthy and active community
- Transforming our Council to achieve excellence

Legal and Statutory Implications

This is a duty incorporated into the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2011.