

LICENSING AND REGULATION COMMITTEE

30 JULY 2003

LICENSING ACT 2003 – IMPLEMENTATION PLAN

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: HOWARD BONE Tel No: 01962 848552

RECENT REFERENCES:

LR 77 - Licensing Bill 2003 - Update Report (25 March 2003)

LR 73 - Licensing Bill and implications for community safety strategy (11 December 2002)

EXECUTIVE SUMMARY:

Report LR77 updated Members on the progress of the Licensing Bill 2003. Members agreed that a report should be brought back when the Bill had been passed, setting out an implementation plan for introducing the new system.

The Bill has now received Royal Assent. Although Regulations and Guidance have yet to be published, it is believed that a transition period will commence in March 2004 (the “first appointed day”), during which applications to convert and extend existing licences will be received and dealt with. The transition period is likely to end in January 2005 (the “second appointed day”), and until this date, any applications under the new provisions will remain dormant. At the end of the transition period, all licences issued under the previous legislation will cease, and the “dormant” licences issued under the new provisions will take effect.

The first six months of the transition period will be for applicants to submit applications under the new provisions. The Licensing Authority will have two months from receipt of an application to determine it. The transition period will extend to nearly nine months, to allow time for the Licensing Authority to deal with applications submitted near the end of the six months application period.

New premises licences will not require renewal, although requests can be made to review them on certain grounds. Personal licences will remain in force for 10 years before requiring renewal.

There will be a need for resources to be made available to process applications in the

transition period, and to deal with the increased number of premises in the longer term. Additional staff will be required to deal with new applications, and administration/enforcement after the transitional period, as well as administering the current licensing arrangements (including taxis) which will not be affected by the legislative changes. Report LR84 gives details of the staffing issues which will result from the new legislation.

This report sets out a timetable and implementation plan to deal with the new arrangements.

RECOMMENDATIONS:

- 1 That Members approve the implementation plan set out in the report.
- 2 That training for Members in respect of the new arrangements be arranged as set out in the Implementation Plan, subject to comments from Members.

LICENSING AND REGULATION COMMITTEE

30 JULY 2003

LICENSING ACT 2003 – IMPLEMENTATION PLAN

REPORT OF CITY SECRETARY AND SOLICITOR

DETAIL:

1 Introduction

- 1.1 The Committee considered a report on the Licensing Bill 2003 at its meeting of 25 March 2003 (LR 77 refers), and resolved that the City Secretary and Solicitor be instructed to prepare an implementation plan and report back to the Committee once the Bill has received Royal Assent.
- 1.2 The Bill has now completed its passage through Parliament, and this report sets out an implementation plan for the new legislation.

2 Legislation

- 2.1 In most respects, the new arrangements will be as set out in report LR77. A copy of this report is attached as Appendix 1. Although many changes were suggested during the discussions on the Bill, relatively few amendments were incorporated into the Act. For convenience, the report at Appendix 1 has been updated with latest information on dates and changes introduced in the Act since the report was written, and these amendments are shown ~~struck through~~ and underlined.
- 2.2 As a result of late changes to the Bill, the exemption which allowed recorded music and/or up to two musicians in a bar will be incorporated into the new arrangements. Incidental live and recorded music will be exempted from licensing, and unamplified, live music in small venues will be treated exceptionally to ensure traditional and amateur folk music thrives.
- 2.3 The Act sets out the framework under which the new arrangements will operate, but the detailed provisions concerning the timetable for implementation, the requirements for preparing and consulting on the Licensing Policy, and fees, will be contained in regulations and guidance which has yet to be published, although it is planned to bring this secondary legislation in by the end of September 2003, after Parliament has resumed. Drafts are expected to be published during August.
- 2.4 Permits for gaming machines in licensed premises are currently issued by the Licensing Justices. Permits for machines in other premises are issued by the City Council. The Government proposes to introduce a Gambling Bill in Autumn 2003, to provide that the local authority will issue all permits for gaming machines. The expected timetable is such that the transfer of this function to the City Council will probably occur some time in late 2004/early 2005.

3 Timetable

- 3.1 It is understood that the new arrangements will be introduced in a transitional way. Two key dates will be set out in regulations, known as “appointed days”.

- 3.2 The first appointed day will start the process of introducing the new system. It is anticipated to be a date before the end of March 2004. By this date, Licensing Authorities will have had to have adopted a Licensing Policy, setting out how it will implement the new arrangements, and what policies it will apply when dealing with applications. Before adopting the policy, relevant interested parties (such as the police, trade and residents representatives, etc) must be consulted. It is expected that the Licensing Policy must therefore be adopted by mid-March 2004 (by full Council unless this is delegated to the Licensing Committee).
- 3.3 Once the transition period starts, applications may be submitted under the new arrangements. Premises operating under existing on/off-licences, and licensees of such premises, will have "grandfather rights", and be entitled to equivalent licences under the new arrangements, as of right.
- 3.4 Subject to detailed provisions in the Regulations, it is likely that applications to convert (or convert and vary) existing licences will have to be submitted within the first six months of the transition period. If this is not done, existing licences will expire at the end of the transition period, and a new licence (under the new provisions) would have to be applied for, without the benefit of the "grandfather rights" which existing licences have.
- 3.5 These applications will be dealt with during the transition period, but any licences granted will not come into force until the end of the transition period. Applications might be for:-
- Licences for new premises (e.g. buildings to be constructed, or existing buildings to be converted to a new use which requires a licence);
 - Conversion of existing licences, in the same terms. This would mean that premises would be licensed under the new arrangements under the same restrictions as under the existing legislation. A pub with an on-licence for normal permitted hours could therefore convert this to a new licence allowing sale of alcohol during the same periods of the day. Similarly, a nightclub with a justices on-licence, and a special hours certificate and public entertainment licence allowing sale of alcohol until 1.00 am, could apply for a new licence to allow entertainment and alcohol sales until 1.00 am;
 - Variation of existing licences, to extend hours/activities. The operator of a pub with an on-licence and currently closing at 11.00pm (normal permitted hours), which wished to open under the new arrangements until 12.00 midnight each night, would apply for a licence, specifying these varied hours.
- 3.6 Licensing Authorities will have two months to deal with applications. If no decision is made within that time, the new licence is deemed to have granted (if it is a conversion application) or refused (where the application is for new premises, or varied terms). Applicants whose applications have been either refused expressly, or deemed to have been refused, may appeal to the Magistrates' Court.
- 3.7 The transition period ends with the "Second Appointed Day", which is likely to be January 2005. This allows six months for applications for be submitted, and two months from submission for the applications to be determined. At the end of the transition period, all licences issued under the previous arrangements cease, and the dormant licences issued during the transitional period come into force.

- 3.8 During the transition period, although it will be possible to apply for licences under the 2003 Act, premises will still have to be licensed under existing legislation for the activities which they are carrying on, e.g. justices on-licence for sale of alcohol, public entertainment licence for music and dancing, etc. Enforcement, and applications to transfer or vary licences, will remain with the existing agencies, until the transition period ends.
- 3.9 Appendix 2 sets out the likely timetable for implementation, and the milestones which will have to be met.

4 Applications.

- 4.1 The Magistrates' Courts have until now been unable to provide lists of existing premises, although it is hoped that records for the Portsmouth area may be obtained from the Clerk shortly. However, the Council's own public entertainment and food inspection records have been used to prepare a list of premises likely to be affected by the new legislation, and in respect of which applications for new licences will have to be dealt with. It may well be that there are other premises (which will require a licence but which are not covered by the existing public entertainment/food inspection arrangements) which have not been included in these figures, and similarly there are premises included in the estimates which may not require or seek a licence under the new arrangements.
- 4.2 It is believed that a total of at least 372 premises will require a premises licence. Based on this information, approximately 620 personal licence applications are expected. The table below breaks these figures into types of premises.

Type of Premises	Estimated Number (Premises Licences)	Estimated Number (Personal Licences)
Large premises (e.g. Hotels, schools etc providing entertainment and alcohol)	14	28
Public Houses (with Special Hours Certificate) – up to 400 capacity.	10 ¹	30
Public Houses (with Special Hours Certificate) – up to 150 capacity.	15 ²	24
Public Houses (no Special Hours Certificate)	138	276
Off Licences	61	122
Restaurants	46	92
Theatre Licences	8	0
Cinema Licences	3	6

¹ 6 of these have been referred to Committee due to representations received

² 6 of these have been referred to Committee due to representations received

Type of Premises	Estimated Number (Premises Licences)	Estimated Number (Personal Licences)
Clubs	21	42
Late Night Takeaways	9	0
Village Halls	47	0
Total	372	620

- 4.3 It is proposed to write to the occupiers of all premises which are believed to be affected by the new Act, when the Licensing Policy has been prepared. This mailshot will indicate that the licensing policy has been published for consultation, and set out the arrangements for commenting on the draft Policy. It will also include a questionnaire, seeking information as to what applications are expected from the premises, and when these are likely to be submitted, in order to plan the handling of applications.
- 4.4 It is difficult to gauge how many premises will seek to widen their activities and lengthen their opening hours. Those that do wish to take advantage of the new flexibilities will have to submit a variation application, and these may well attract representations from the Police, local residents, and other interested parties. This will require a hearing, and (if the applicant is unhappy with the outcome) an appeal to the Magistrates' Court. As will be seen from the table, there are several premises whose applications for public entertainment licences have been taken to Committee in the past, due to representations made. If such premises were to apply to extend their hours of operation or activities under the new arrangements, representations may be expected, leading to a hearing. What cannot be estimated at this stage is the number of premises without entertainment licences and special hours certificates, whose operators will seek to extend hours under the new provisions. In such cases, at least a proportion are likely to raise representations, again leading to a hearing.
- 4.5 Applicants who wish to vary their activities may also submit a conversion application to preserve their existing licensed operations at the premises ("grandfather rights"). Although these cannot be the subject of representations, they may add to the caseload to be dealt with.
- 4.6 As well as premises applications, applications for personal licences will have to be dealt with. Provided applicants are suitably qualified (either as existing licence holders, or having completed appropriate courses) and have no relevant criminal convictions, the licence must be granted. Nevertheless, the number of such applications (620 as set out above) will require both assistance in explaining the system and completing the application forms, and administrative resources to record details of the application and issue the licence.

5 Consideration of Applications

- 5.1 The Act requires a Committee to be appointed of between 10 and 15 Members. The existing Licensing and Regulation Committee (consisting of 11 Members) could be designated by Council to carry out this task, although given the fact that there may

have to be a considerable number of hearings, it may be necessary to appoint additional Members to the Committee, to deal with the increased workload associated with applications requiring hearings.

- 5.2 Under Section 7(1) of the Act, all matters relating to the discharge of a licensing authority's licensing functions are deemed to be delegated to the statutory Licensing Committee (established under Section 6). This does not apply to the determination of the licensing policy, which would have to be approved by full Council (or possibly also involving Cabinet, if preparation of the policy were to be designated an executive function). It appears that it would be possible for the Council to delegate the approval of the Licensing Policy, but the implementation plan has been prepared on the basis that approval by full Council will be required.
- 5.3 A delegation scheme will have to be prepared, setting out at what level applications will be dealt with. The draft guidance suggests that the full Committee should only deal with applications where representations from the Police are received. Other "contested" applications should be dealt with by panels of no more than three Members, and all other applications should be delegated to officers.
- 5.4 As the Licensing Policy needs to set out how applications will be handled, it is likely that the delegation scheme will have to be established by the publication of the draft policy. A report proposing changes to the Constitution to deal with this aspect of the new system will be brought to Committee on 8 October 2003 (for approval by Council on 29 October 2003).

6 Fees

- 6.1 Although the definitive level of fees is not known, they will be set centrally, and are likely to range from £100 to £500 for the initial premises licence, and up to £100 annually thereafter. Village Halls and Church Halls will be exempt. Personal licences will attract a single fee (for the 10 year life of the licence) of around £50. It is not yet possible to provide realistic estimates of the likely annual income.
- 6.2 The Council has approved base budget provision of £60,000 to cover the additional costs of the new system. In due course it is intended that fees will cover the cost of administration, less the cost of any licences which have to be issued free of charge by statute. Fees will be set nationally and may not cover the full costs incurred locally. The number of complaints received will affect the level of service which has to be provided locally.

7 Licensing Policy

- 7.1 The requirement for a licensing policy to be prepared before the start of the transition period has been carried into the new Act, and therefore the details are as set out in Section 3 of Report LR77 (Appendix 1).
- 7.2 Officers from Hampshire authorities have been working on a draft policy, based on the draft guidance already issued. It is hoped that this can be used as a starting point for Winchester's Licensing Policy. An internal working group of officers from various departments, including Environmental Health, Building Control, and Planning, will be formed, in the first instance to advise on the preparation of the licensing policy, and thereafter to plan how applications and requests for reviews will be handled.

7.3 As will be seen from the Implementation Plan in Appendix 2, it is planned to draft this in September and October 2003, for approval as a consultative draft in November 2003. Once approved, the draft will be publicised in the following ways:-

- Public notices in local papers
- Website (full copy of draft, and comment form)
- Press release
- Contact with trade representatives (possibly Pubwatch for Winchester town, and nominations from the local branch of the British Institute of Innkeeping for the rest of the District)
- Mailshot to occupiers of all premises likely to be affected by new arrangements (copies of policy to be sent out on request)
- Copies to Police, Fire Authority, Parish Councils, representatives of the trade (e.g. as nominated by Pubwatch, British Institute of Innkeeping), local businesses (chamber of commerce, Winchester City Centre Management), local residents' associations, and any other persons as specified in the regulations.
- Open meetings for trade and residents (one in Winchester, one in the Southern Parishes) to set out the licensing policy, and encourage comments on the draft policy.

7.4 As set out in Section 5 above, the implementation plan has been prepared on the basis that the Policy will be approved by full Council. The results of the consultation process will be collated and a revised draft presented in February 2004 for approval to Committee and Council.

8 Member Training

8.1 As the system is completely new, full training of Members who will be dealing with applications will be required.

8.2 In the draft implementation plan, two sessions are proposed, one before the Licensing Policy is drawn up, the other in the New Year prior to the transition period commencing. External trainers may be available to provide this training.

9 Involvement of other Council Departments

9.1 Specialist advice on particular aspects of licensing applications is provided by the Environmental Health and Building Control Sections. Input from these Sections is likely to continue under the new arrangements (e.g. advice on the contents of operating plans submitted with applications, numbers of customers proposed, noise mitigation measures, etc).

9.2 The legislation allows "responsible authorities" to make representations to the Licensing Authority, seeking the review of a licence. "Responsible authorities" include the local planning authority, the enforcing authority for health and safety matters, and the local authority responsible for dealing with pollution of the environment or harm to human health. In this way, various departments of the Council will be able to formally request that a licence is reviewed,

- 9.3 Reviews can also be requested by interested parties, which includes persons living in the vicinity of the premises, businesses in the area, and representative groups of such persons.
- 9.4 It is likely therefore that other Council departments will be involved in new applications, or applications which involve a change in opening hours or activities. Their involvement will also be required where licences are reviewed, either as a result of representations from these departments, or from other interested parties. The licensing policy will also require input from various departments in its formulation.
- 9.5 As mentioned in Section 7 above, it is proposed that an internal working group of officers is formed to oversee the preparation of the draft licensing policy. This group will be used to plan internal procedures and resourcing to deal with applications and requests for reviews.
- 9.6 Support from other areas of the City Secretary and Solicitor's Department will also be required, to deal with committee administration, hearings, and legal advice to the Committee and panels. As in the case of the other Council departments, demand for these services is likely to be greatest during the transitional period, although it will continue thereafter with the need for dealing with new applications, variations, and reviews.

10 Computer Systems

- 10.1 All licences are currently dealt with using a module of the CAPS system (which is also in use by Planning and Environmental Health. The cost of this should be included in the normal maintenance fee, but CAPS have not yet confirmed the position.
- 10.2 Officers have been involved in discussions with CAPS on modifications to the existing software to allow the system to deal with applications under the new legislation, and it is expected that the revised software will be installed and tested in good time before the transition period commences.

OTHER CONSIDERATIONS:

11 CORPORATE STRATEGY (RELEVANCE TO):

- 11.1 The licensing function affects the objectives of promotion of a thriving local economy, and promoting a healthier, safer and more caring community.

12 RESOURCE IMPLICATIONS:

- 12.1 It is clear that significant resources will be required to prepare the licensing policy.
- 12.2 Additional staffing and financial resource is likely to be needed to handle to transitional applications. Thereafter, the focus will be more on enforcement and dealing with complaints, and handling cases where representations for a review are made.

- 12.3 Base Budget provision of £60,000 has been made for the next financial year (2003/04). There is a possibility that transitional funding from the Government may be possible.
- 12.4 Report LR84 elsewhere on the agenda deals with the immediate staffing requirements in the City Secretary and Solicitor's Department. As mentioned above, the Officer Working Group will consider whether there are any other requirements as the detailed impact is assessed as more details become available.
- 12.5 There will be fee income from annual fees, although at this stage it is not possible to give estimates of the level of this income.

BACKGROUND DOCUMENTS:

Draft Guidance issued by DCMS

APPENDICES:

APPENDIX 1 - Report LR77 (Revised)

APPENDIX 2 – Implementation Plan

LICENSING AND REGULATION COMMITTEE25 March 2003LICENSING BILL 2003 – UPDATE REPORTREPORT OF CITY SECRETARY AND SOLICITORContact Officer: Howard Bone/Fred Masters Tel No: 01962 848552/848218RECENT REFERENCES:

LR73 - Licensing Bill and implications for community safety strategy - 11 December 2002

EXECUTIVE SUMMARY:

This report updates Members on the progress of the Licensing Bill 2003, and indicates the likely timetable and actions which will be needed if the Bill is passed.

RECOMMENDATIONS:

- 1 That Members note the position concerning the Licensing Bill.
- 2 That the City Secretary and Solicitor be instructed to prepare an implementation plan and report back to the Committee once the Bill has received Royal Assent.

LICENSING AND REGULATION COMMITTEE25 March 2003LICENSING BILL 2003 – UPDATE REPORTREPORT OF CITY SECRETARY AND SOLICITORDETAIL:1 Introduction

1.1 The Government issued a White Paper in 2000 setting out its proposals to reform the licensing laws, and inviting comments from interested persons. Following this consultation process, the Licensing Bill was announced in the Queen's Speech in November 2002, and has completed its progress through the House of Lords, prior to moving on to the House of Commons stages,

1.2 Current indications are that the Government is aiming to progress the Bill to Royal Assent by July 2003, with a transition period of six months starting in ~~January~~ March 2004, and the new arrangements in place (and all existing legislation repealed) by ~~July 2004~~ January 2005.

2 Outline of Proposals

2.1 The Bill aims to replace the existing laws on liquor licensing, public entertainment, club registrations, cinemas, theatres, and late night refreshment houses, with a single licensing system, administered primarily by district councils. Magistrates, who currently deal with liquor licensing, will now only deal with appeals from district council decisions.

2.2 All existing licences would be replaced by two new licences:-

- Premises Licence
- Personal Licence

2.3 The Premises Licence will not be time-limited. Rather than a system of annual renewals, premises licences will continue automatically unless and until the licence is reviewed by the licensing authority, following representations by the police or local residents (amongst others). Premises Licences will be issued following an application, which must include an operating schedule. This document is prepared by the applicant, and sets out details of how the premises will run, whether entertainment and/or alcohol will be provided, the hours of operation, and the actions which will be taken to ensure that the premises do not cause a nuisance.

2.4 A Personal Licence will be required by anyone who wishes to be able to run premises where alcohol will be supplied. The licences will last for ten years, and will only be reviewable in the meantime if the police so request, following the conviction of the licensee for a "relevant offence" (e.g. supply of drugs, etc.). ~~It had originally been proposed that each licensing authority was to maintain records for those applicants to whom they had granted personal licences, although this was amended in the Lords so that personal licences will be issued by a central authority.~~ Licensing

Authorities will maintain records of personal licences which they have issued, and Personal Licence Holders will have to notify their “home” authority when they move (but not the authority whose district they move into). The Government will be reviewing the possibility of having a central database for Personal Licence Holders.

- 2.5 Unlike the present “fit and proper person” test, a personal licence must be granted to any applicant who has passed a relevant qualification (as prescribed), and has no “relevant convictions” (again to be prescribed), to be demonstrated by production of a Criminal Records Bureau search result. The issuing of the licence will therefore be administrative, rather than judicial, in nature.
- 2.6 Where alcohol is to be supplied, there will need to be a designated premises supervisor, who should hold a Personal Licence. The identity of the designated premises supervisor must be notified to the police and the licensing authority, and any changes to the post must be similarly notified.
- 2.7 Guidance on the legislation will be issued by the Secretary of State, and Licensing Authorities will be required to have regard to such guidance. A draft has been prepared, and this gives some indication of how licensing authorities will be expected to administer the new system. A copy of the draft guidance has been placed in the Members’ Room.
- 2.8 The new system was reported as opening the way to drinking being possible “24 hours a day”. Although permitted hours are removed, applicants will still have to specify the hours they wish to be allowed to open, and overcome any legitimate and lawful objections made which relate to the licensing objectives as set out in the Bill. There will be no obligation on licensees to open 24 hours per day.

3 Licensing Policy

- 3.1 Each licensing authority will be required to produce a licensing policy, setting out the authority’s approach, and including certain statements as set out in the national guidance to be issued by the Secretary of State.
- 3.2 Before a policy is adopted, the licensing authority must carry out consultation. Those persons to be consulted will include the police, fire and rescue service, representatives of the trade, and representatives of the business and residential communities.
- 3.3 The policy must include statements on the licensing authority’s approach to children, and the options available to limit access to premises by children. The new provisions aim to generally lift the current restrictions on children in licenses premises, and thereby assist family access to premises, whilst at the same time ensuring that children are properly protected. The provisions will not however introduce a “right” for parents to bring their children into premises, and the guidance makes it clear that licensees will not be obliged to have children in their premises if they do not wish to do so.
- 3.4 The policy will set out the Council’s duties in respect of crime and disorder, and the other controls available to deal with anti-social behaviour.
- 3.5 The policy must link with other relevant strategies and policies, and must emphasise that the licensing regime will not duplicate other legislation such as planning or public health controls.

3.6 The policy will have to be in place before licensing authorities begin issuing licences under the new system. On current indications, this means that the policy must have been prepared and issued by the City Council by ~~January 2004~~March 2004. Given the need for consultation to be carried out, this will be one of the first tasks to be undertaken by the City Council once the Bill has been passed.

4 Timetable

4.1 Currently, it is expected that the Bill will receive Royal Assent in **July 2003**. There will then be a period when local authorities will be able to prepare for the transition to the new system. During this time, a number of matters will have to be dealt with:-

- the licensing policy will have to be drafted, consulted upon and agreed by the Council;
- staffing requirements will have to be assessed, and arrangements for additional or temporary staff made;
- computer systems will have to be introduced or modified;
- training for Members will be required;
- the new system, and the transitional arrangements, will have to be publicised.

4.2 The Secretary of State will then make an order setting the “First Appointed Day”. This will be the start of the transition period, and is expected to be ~~January~~ **March 2004**. From that day, existing licensees will be able to apply to convert their existing licences, and new applicants will be able to apply for licences under the new rules. Any licences issued during the transitional period will be provisional until the end of the transition period.

4.3 The Secretary of State will then make a second order, setting the “Second Appointed Day”. This will be the end of the transition period, and the date when provisional licences issued during the transitional period are made effective. Any licences issued under the old law and not converted will lapse. This is expected to be ~~July 2004~~January 2005.

5 Transitional Arrangements

5.1 All existing licence holders will have “grandfather” rights, and be entitled to convert their licences to licences under the new system. In normal circumstances, licensees with justices’ on-licences will be able to apply for, and be granted “as of right” a personal licence, without having to obtain the required qualification.

5.2 Licensees will be able to apply for an equivalent licence to that they currently hold, on the same terms. Thus, existing on-licences with public entertainment licences and special hours certificates will be able to apply for a premises licence for the provision of entertainment and alcohol, on the days and for the hours allowed under the present licences/certificates held by the premises. The licensing authority will have **two months** to grant (or refuse, with appropriate and lawful reasons) these applications, otherwise they are deemed to have been granted.

5.3 If they wish, existing licensees may apply at the same time to vary the licence, e.g. to extend the hours. Thus, premises with an on-licence (but no public entertainment licence or special hours certificate) currently limited to the usual permitted hours, may

apply to open until say Midnight each weekday and 1.00 on Fridays and Saturdays. Such variation applications will have to be dealt with by the licensing authority, and any duly made representations will have to be considered as part of that process. Alternatively, licensees might apply under the existing legislation for longer hours (using the special hours certificate route) and then (if successful) apply to convert under the transitional provisions.

- 5.4 It is expected that all transitional applications will have to be dealt with within the transition period of six months. Depending on the extent to which licensees seek to increase hours, this may mean a significant workload for the initial period of the new legislation.
- 5.5 Members will note therefore that existing licence holders will be able to convert to new licences, effectively as of right, provided they do not seek to change the hours of operation or type of entertainment provided. There will not therefore be an opportunity for these to be reviewed at the transition stage. The new arrangements will therefore build on the hours of operation as existing, and local residents will not therefore be able to object to such transitional applications, as it will be presumed that having been granted a licence, the operation of the premises during those hours is acceptable. It is therefore extremely unlikely that there will be a reduction in the pattern of opening for premises in the district.

6 Fees

- 6.1 The Government has made it clear that fees will be set centrally, probably in a range from £100 to £500 for the initial application, and an annual fee (at a much lower level) to cover ongoing enforcement work thereafter.

7 Other matters

Cumulative Impact

- 7.1 It will be possible to introduce a policy where the number of premises has reached a level where the licensing objectives are likely to be compromised if further premises are granted licences. Such policies will be exceptional, and only capable of introduction if certain criteria can be shown to exist.

Zoning

- 7.2 The draft guidance indicates that any form of zoning (either within a town, or between different parts of the district) will not be acceptable, on the basis of experience in Scotland.

Conditions

- 7.3 Large numbers of standard conditions will not be acceptable. Fewer, simpler, conditions are expected, to tie down the operating plan provided by the applicant. Such conditions as are imposed should be tailored to the premises concerned.

Decision making

- 7.4 The model scheme of delegation in the guidance provides for officers to deal with all applications which do not attract representations. Applications where the police make representations would be dealt with by the full licensing committee of perhaps eleven members. All other "contested" applications (e.g. where residents are

opposing the application) would be dealt with by a panel of no more than three members.

Temporary Events

7.5 A "notice" procedure will allow temporary events for up to 500 people to take place without having to obtain a full premises licence, provided the police do not object. There is no facility for other parties to object to such notices. There are limitations on how many notices can be given per year per premises.

7.6 Events such as Homelands would be outside this procedure, and it is likely that a premises licence of limited duration (i.e. the two days of the event) would have to be applied for each year, in a similar way to that current practice.

8 Future Action

8.1 The likely position under the new arrangements is now clearer, thanks to the publication of the draft guidance, and the progress of the Bill through the House of Lords. There are still some aspects (e.g. fees) which have not yet been clarified, and if the timetable proposed by the Government is to be met, there will be a great deal of work to be done between now and ~~January 2004~~March 2004.

8.2 The first task will be to prepare and consult on a licensing policy, so that this can be adopted by the Council by ~~December 2003~~February 2004, in time for the start of the transition period.

8.3 It is suggested that officers commence work on the policy, so that it can be issued for consultation as soon as possible after the Bill has been passed. An implementation plan will also be prepared, and brought to the Committee at a future meeting.

OTHER CONSIDERATIONS:

9 CORPORATE STRATEGY (RELEVANCE TO):

9.1 The licensing function affects the objectives of promotion of a thriving local economy, and promoting a healthier, safer and more caring community.

10 RESOURCE IMPLICATIONS:

10.1 It is clear that significant resources will be required to prepare the licensing policy.

10.2 Additional staffing and financial resource is likely to be needed to handle transitional applications. Thereafter, the focus will be more on enforcement and dealing with complaints, and handling cases where representations for a review are made.

10.3 The Council has made base budget provision of £60,000 to cover the additional costs of the new system in the City Secretary and Solicitor's Department. In due course it is intended that fees will cover the cost of administration, less the cost of any licences which have to be issued free of charge by statute. Fees will be set nationally and may not cover the full costs incurred locally. The number of complaints received will affect the level of service that has to be provided locally.

BACKGROUND DOCUMENTS:

Licensing Bill

Draft Guidance issued by Department for Culture, Media and Sport.

