

LICENSING AND REGULATION COMMITTEE

8 October 2003

LICENSING ACT 2003 – DELEGATION ARRANGEMENTS FOR LICENSING POLICY

REPORT OF CITY SECRETARY AND SOLICITOR

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RECENT REFERENCES:

1. LR81- Licensing Act 2003 – Implementation Plan (30 July 2003).

EXECUTIVE SUMMARY:

Members will be aware that under the terms of the Licensing Act 2003, the Council is required to adopt a Licensing Policy, following a prescribed consultation process. The Licensing Policy will have to be taken into account when considering applications for, and reviews of, licences under the Act.

The majority of all functions under the new arrangements are to be dealt with by a Licensing Committee, which will have to be established by the Council.

This report proposes that the power to approve the Licensing Policy is delegated by Council to the Licensing and Regulation Committee.

RECOMMENDATIONS:

- 1 That Council be recommended to delegate all decisions concerning the adoption of the City Council's Licensing Policy under the Licensing Act 2003 to the Licensing and Regulation Committee

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#### Report of City Secretary and Solicitor

#### DETAIL:

##### 1 Introduction

- 1.1 As Members will be aware, the Licensing Act 2003 brings in new arrangements for the licensing of various activities, including the sale and supply of alcohol, and the provision of public entertainment, and late night refreshment. All these activities will be regulated by district councils. A transition period is planned to be provided, to allow a changeover from the existing licensing regime to the new arrangements, and it is thought that this will commence in March 2004.
- 1.2 Before the transition arrangements start, the Council will have to adopt a Licensing Policy. This will set out its approach to licensing under the Act, and must include statements on a number of specific items.
- 1.3 This report sets out the process under which the Licensing Policy will have to be approved, and recommends that Council be asked to delegate final approval of the Policy to the Licensing and Regulation Committee.

##### 2 Delegation Arrangements under the Licensing Act 2003.

- 2.1 The draft Guidance which has been issued suggests a delegation scheme for the various functions which will have to be carried out under the Act by the Licensing Authority and its officers. It is planned to bring a report setting out a proposed delegation scheme to the next meeting of the Committee on 5 November 2003, subject to the appropriate regulations having been issued by then.
- 2.2 Under the Act, all matters under the Licensing Act 2003 are expressly referred by the Act to the Licensing Committee, which must discharge these functions on behalf of the City Council as licensing authority. However, the approval of the Licensing Policy is excluded from this general delegation. This means that Full Council could reserve the power to adopt the Licensing Policy, or it could delegate this function to the Licensing and Regulation Committee.
- 2.3 Members may consider that the adoption of the Policy is a decision which should be retained by Full Council. The Constitution reserves to Full Council the power to approve certain major decisions such as adoption of the Community Plan, Local Plan and Budget, amongst other things. Plans or strategies for promoting or improving economic, social or environmental well-being are also included in the Policy Framework, but it is not considered that the Licensing Policy falls within this category.
- 2.4 There are however advantages for the adoption of the Licensing Policy being delegated to the Licensing and Regulation Committee. The Committee will be able to consider in detail the draft policy and the results of the consultation exercise which will be carried out. Any Members wishing to comment on the policy would be able to make representations to the Committee.

- 2.5 As indicated above, the Licensing Policy must be adopted before the new arrangements commence. The timetable for the new arrangements is not yet known, but it may well be necessary to deal with adoption in a relatively short timescale, and if the policy had to be referred to Full Council for final adoption, this may make a proper process of consideration much more difficult.
- 2.6 A group of officers from Hampshire districts have been working on a model policy for Hampshire, with a view to adopting similar policies across Hampshire. This would make it easier for consultees interested in the policies of several districts (e.g. the Police, interest groups, representatives of the trade, etc) to consider and comment on these policies, and would mean a more uniform approach to licensing in Hampshire. The production of a model policy will not prevent individual districts altering the policy to reflect the particular needs of that district.
- 3 Review of Designation of Public Places for Control of Alcohol Consumption.
- 3.1 The Council last considered whether or not to adopt byelaws controlling consumption of alcohol in public places in 2000. As part of the City Council's Community Safety Strategy, a review of this issue was planned for 2003. It is intended to carry out a consultation exercise, as part of this review, in conjunction with the consultation on the draft Licensing Policy, as many of the consultees will be interested in both matters.
- 3.2 The powers of the Licensing and Regulation Committee set out in the constitution include the designation of public places for the purpose of police powers in relation to alcohol consumption (which is now the relevant power), and therefore this would not have to be referred to Full Council. It is proposed to bring a report on the issue to the next meeting of the Committee, to take the review forward, as set out in 3.1 above.

#### OTHER CONSIDERATIONS:

##### 4 CORPORATE STRATEGY (RELEVANCE TO):

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

##### 5 RESOURCE IMPLICATIONS:

- 5.1 Although officer time and other resources will be required to prepare the licensing policy and carry out the review of powers on alcohol consumption, the delegation of the power to adopt the licensing policy will not have any resource implications.

#### BACKGROUND DOCUMENTS:

1. Draft Guidance (version 2.6) on Licensing Act 2003 issued by Secretary of State for Culture, Media and Sport

#### APPENDICES:

None