

LICENSING AND REGULATION COMMITTEE

8 FEBRUARY 2005

LICENSING ACT – UPDATE ON PUBLICITY AND IMPLEMENTATION

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: Howard Bone Tel No: 01962 848552

RECENT REFERENCES:

LR111 – Licensing Act Delegation Arrangements – 14 December 2004

LR113 – Licensing Policy – Consultation Responses – 14 December 2004

EXECUTIVE SUMMARY:

This report updates Members on the implementation of the Licensing Act 2003, and the procedure to be followed at meetings where applications are being considered. The fees have now been set, and the report gives details of these. Finally, authority is sought for officers to make representations on behalf of the City Council as a responsible authority.

RECOMMENDATIONS:

- 1 That delegated authority be given to each Director to make representations on behalf of the City Council as a Responsible Authority under the Licensing Act 2003.
- 2 That the position on timetable and fees be noted.
- 3 That the procedure in Appendix 1 be adopted as the procedure to be used when hearing applications by the Licensing Sub-Committee.

LICENSING AND REGULATION COMMITTEE

8 FEBRUARY 2005

LICENSING ACT – UPDATE ON PUBLICITY AND IMPLEMENTATION

REPORT OF CITY SECRETARY AND SOLICITOR

DETAIL:

1 Introduction

- 1.1 Members will be aware that the City Council has been working for some time to prepare for the implementation of the new arrangements for liquor and public entertainment licensing which are introduced under the Licensing Act 2003.
- 1.2 This report updates Members on the progress of the implementation, and gives details of the fees (which have now been finalised). It also seeks authority for officers to make representations on behalf of the Council, in response to applications.

2 Timetable

- 2.1 The timetable for implementation has not changed. There has been no change to the “First Appointed Day”, which remains 7 February 2005. Therefore, applicants will be able to submit conversion and variation applications from 7 February onwards.
- 2.2 Regulations setting out the process for applying for licences under the Act were made on 12 January 2005, and come into force on the First Appointed Day. Regulations setting the fees chargeable for applications were made on 20 January 2005. Given the fact that the content of the regulations, and the format of the application forms, have only just been finalised, it is likely that many applicants will not be ready to submit their applications immediately, and any peak of application submission may therefore be later in the transition period than might otherwise have been the case.
- 2.3 The end of the transition period (the Second Appointed Day) has still not yet been fixed, although the indications remain that this will be November 2005.

3 Fees

- 3.1 Members will recall that these are to be set centrally. Two sets of regulations have been made to prescribe the fees, one covering transitional conversion applications, the other covering all other applications.
- 3.2 Draft fee regulations were issued for consultation in November 2004. Local authorities and LACORS (the local authority body which collectively advises on licensing issues) made representations on the fee levels contained in the draft regulations, to the effect that the fees which were proposed would not cover the costs which local authorities would incur in dealing with applications.
- 3.3 As a result, the fees included in the regulations have been increased. A banded system of fees, based on rateable values, has been retained, but the initial fees

range from £100 for small premises up to £635 for the largest premises (the range was previously £80-£500) and annual fees will be £70-£350 (previously £40-£225).

- 3.4 Multipliers will be used for band D and E premises, increasing the fees due from larger premises which are exclusively or primarily selling alcohol. None of the premises in the Winchester District would be affected by this multiplier.
- 3.5 An additional fee is payable, again on a banded system, where premises which sell alcohol seek to vary their licence during the transitional period. This fee will be between £20 and £120.
- 3.6 Large events such as Homelands would also be subject to an additional fee (both initial and annual). The fee is dependent upon the level of attendees at the event.

4 Publicity Arrangements

- 4.1 It is proposed to prepare weekly lists of applications received, similar to the weekly list of planning applications. These lists would be posted on the Council's website. They could also be sent to Parish Councils (either by email or hard copy), if Parishes were interested in receiving this information.
- 4.2 The Regulations make provision for new and varied applications to be advertised by a notice displayed on the premises on blue paper at least A4 in size. They must also be advertised in a local newspaper at least once during the period of ten days following submission of the application.
- 4.3 It is also proposed to prepare a weekly list of applications in ward order, and send this to Members, so that local members can be aware of applications submitted.

5 Representations - Delegation to Officers

- 5.1 Members will recall that the City Council has a dual role, as licensing authority on the one hand, and as a Responsible Authority (which can therefore make representations) on the other. The term "Responsible Authority" includes the local planning authority, the local authority which exercises statutory functions over control of pollution and harm to human health, and the enforcing authority for health and safety matters. The City Council will be a Responsible Authority under the first two of these categories, and (in the majority of premises) under the third also.
- 5.2 In order to ensure that representations can be made as appropriate, it is important for the relevant Directors to be authorised to make relevant representations on behalf of the City Council in its role as a Responsible Authority. It is therefore recommended that authority is delegated to each Director to make relevant representations under the Act on behalf of the City Council to the Licensing Authority.

6 Procedure

- 6.1 The Licensing Act (Hearings) Regulations 2005 make provision for the conduct of a hearing where this is required to determine an application. Broadly, the procedure is up to the Licensing Authority to determine, although the Regulations provide that the hearing should take the form of a discussion led by the Authority (i.e. the Sub-Committee), and cross examination should only be permitted if it the Sub-Committee consider that it is required to properly deal with the matter in question.

- 6.2 In addition, each party should be allowed an equal maximum period of time to present their case.
- 6.3 Appendix 1 sets out a modified form of the existing procedure, which officers feel could usefully be adopted as the procedure for hearings.

OTHER CONSIDERATIONS:

7 CORPORATE STRATEGY (RELEVANCE TO):

- 7.1 This report covers issues which affect the Community Safety, Economic Prosperity, and Cultural and Leisure Opportunities of the Corporate Strategy.

8 RESOURCE IMPLICATIONS:

- 8.1 Budgetary provision has been made towards the additional costs of implementing the new system. The revision in fee levels may reduce the extent to which this provision will need to be called on.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Appendix 1 - Licensing Sub-Committee Procedure

Licensing Sub Committee - Procedure for Hearing Licensing Applications

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, the hearing will take the form of a discussion led by the Sub-Committee. Cross-examination will not be permitted unless the Sub-Committee consider it necessary to properly consider the matter.

Written objections, representations and petitions will be circulated with the Agenda and Report and will be taken into account by Members of the Sub-Committee. Only those who have made "relevant representations" within the meaning of the Licensing Act 2003 will be entitled to be heard as of right by the Sub-Committee.

1. The Chairman will set out the procedure to be followed in the hearing
2. The Sub-Committee will consider any request under Regulation 8(2) of the Licensing Act 2003 (Hearings) Regulations 2005 for a person to appear at the hearing (such permission not to be unreasonably withheld). [Note - anyone who has been formally notified of the hearing by the Council will be entitled to be heard by the Sub-Committee, and will not need to seek permission to appear].
3. Licensing and Registration Manager will introduce the Report.
4. The Members may ask questions of the **Licensing and Registration Manager**.

Responsible Authorities who have made representations will then be allowed to introduce their representations. The Sub-Committee may ask them questions, and (subject to the permission of the Sub-Committee) the Applicant or representative may ask them questions.

5. **Environmental Health Officer:-** a) representations b) questions from Sub-Committee [c) questions from Applicant/representative, if Sub-Committee allow]]
6. **Police:-** a) representations b) questions from Sub-Committee [c) questions from Applicant/representative, if Sub-Committee allow]]
7. **Fire Service:-** a) representations b) questions from Sub-Committee [c) questions from Applicant/representative, if Sub-Committee allow]]
8. **Child Protection Team:-** a) representations b) questions from Sub-Committee [c) questions from Applicant/representative, if Sub-Committee allow]]
9. **Local Planning Authority:-** a) representations b) questions from Sub-Committee [c) questions from Applicant/representative, if Sub-Committee allow]]
10. **Health and Safety Executive:-** a) representations b) questions from Sub-Committee [c) questions from Applicant/representative, if Sub-Committee allow]]
11. **Trading Standards:-** a) representations b) questions from Sub-Committee [c) questions from Applicant/representative, if Sub-Committee allow]]

Persons who have made Relevant Representations (within the meaning of the Licensing Act 2003) will then be allowed to introduce their representations. The Sub-Committee may ask them questions, and (subject to the permission of the Sub-Committee) the Applicant or representative may ask them questions.

12. **Persons making Relevant Representations:-** a) representations b) questions from Sub-Committee [c) questions from Applicant/representative, if Sub-Committee allow]
13. The **Applicant** or representative may address the Sub-Committee, as follows:- a) clarification of any points which the Licensing Authority has given notice of (Regulation 7(1)(d) of the Licensing Act 2003 (Hearings) Regulations 2005 b) address the Sub-Committee.
14. Members of the Sub-Committee may ask questions of the **Applicant** or representative
15. The Committee will retire to consider the application in camera with only the City Secretary and Solicitor's representative and Committee Administrator in attendance. The Committee will reach its determination and notify the applicant of the decision in accordance with Regulations 26 – 29 of the Licensing Act 2003 (Hearings) Regulations 2005.