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**IMPLEMENTING THE LICENSING ACT 2003**

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**Responsible Cabinet Member(s) - Councillor Stephen Harker,  
Consumer and Environmental Services Portfolio**

**Responsible Director(s) - John Buxton, Director of Development and Environment**

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**Purpose of Report**

1. To report on progress in implementing the Act and to seek approval to the proposed policy and the changes required to the Council's Constitution.

**Background**

2. A previous report considered the proposals on the preparations for implementing the Act, including the Draft Licensing Policy and this report was subsequently submitted and approved by Council in September (Min ref 47/Sep/04).

**Licensing Policy**

3. A copy of the Draft Policy Statement was submitted to each of the statutory consultees and other organisations identified as having an interest in the consultation process. In addition a series of consultation meetings were held with:
  - (a) On Licences
  - (b) Off Licences
  - (c) Takeaways
  - (d) Clubs
  - (e) Residents
  - (f) Statutory Consultees
4. Only a few representations have been received. Some of these were on the pro-forma provided with the draft and summarised in **Appendix 1**. Some were relatively simple to respond to whilst others are more complex and require more consideration, in particular the responses from the British Beer and Pub Association and Police response, Officers have held a meeting with the Police to discuss their response. The consultation period ended on 30 November 2004 and Officers have reviewed the draft Policy having regard to representations.
5. Several of the representations relate to supporting reasons for the Policy not the Policy itself. The reasons were included to assist the Licensing Committee, applicants and consultees in understanding the Policy. In addition it is intended to provide further guidance which will assist in the preparation of their applications and operating schedules.

## **Licensing Committees and Panels**

6. The Council Resolution required details of proposals as to how Committees and Panels will hear representations and objections. The Department of Culture, Media and Sport (DCMS) published draft regulations providing details of the proposals for Committee hearings. Various options were included as to periods of time within which hearings are to be held. The Government's definitive procedure will be known when the Regulations are published. Officers will prepare detailed procedures and carry out training with Members prior to the implementation. The DCMS have estimated that 65% of applications in the transition period may include a request to vary conditions or hours and this gives an indication of the workload. It is also estimated that on average in each Licensing Authority area there will be 27 Hearings in the transitional period (9 months), 11 in the next year and 7 in subsequent years.

## **Training**

7. Arrangements are in hand for training for Members of the Licensing Committee in conjunction with other authorities and more detailed training within the Authority.

## **Constitutional Amendments**

8. Details of amendments needed to the Constitution are given in **Appendix 2** and cover:
  - (a) Changes to the current delegated powers to Licensing Committee.
  - (b) Responsibility for local choice, functions (insertion of establishment of a Licensing Panel and its delegated power).
  - (c) Amendments to the scheme of delegation to officers (including powers under the Licensing Act 2003 and Anti Social Behaviour Act 2003).

## **Service Delivery**

9. A Licensing and Parking Manager has been recruited and commenced employment on 1 December 2004. The new posts of Principal Licensing Officer and Admin Assistant have also been filled. These officers will develop the administrative system required to deliver the service. Consultation has also been carried out by the DCMS on the application forms, registers and licences and the relevant regulations are awaited. Procedures for consulting with statutory consultees, the Fire Brigade and Police in relation to applications will be developed.

## **Anti Social Behaviour**

10. Sections 40 and 41 (Closure of Noisy Premises by Approved Environmental Health Officers) came into force on 31 March 2004. This is a new power which complements the new licensing regime when the Licensing Authority issues a Premises Licence. The Chief Executive is given power to make a 'Closure Order' in respect of premises with a Premises Licence or Temporary Licence, for up to 24 hours if there is public nuisance from noise from the premises. The Chief Executive may authorise an Environmental Health Officer to exercise this power. It is recommended that the Chief Executive authorises the Environmental Health Manager to carry out this function.

## Financial Implications

11. The Government published its long awaited consultation on fees for licenses, certificates and notices on 4 November and the consultation runs until 21 December 2004. The suggested fees are linked to Non-Domestic Rates.

		Licence Cost £	Annual Fee £
Band A	£0 - £4,300	80	40
Band B	£4,301 - £33,000	150	125
Band C	£33,001 - £87,000	250	175
Band D	£87,001 - £125,000	350	200
Band E	£125,001 and over	500	225

Personal Licence            £37  
Temporary Event Notice   £21

12. On the basis of these, officers have estimated the income from Premises Licenses in the transition period (7 February 2005 to 7 November 2005) as £62,470 and subsequent years as £46,600. There will be other income from fees associated:
- (a) with variations to licenses (based on rateable value); and
  - (b) small administrative fees associated with notifications of changes and Special Events Notices.
13. In addition in the first year and every 10 years (2015, 25 etc) there will be an estimated income of £16,650 from Personal Licence fees. However £5 of each £37 fee will be taken to pay for the National Licensee Registration Scheme.
14. It is still not possible to determine with accuracy a budget as experience is required before operating costs can be fully assessed but it is likely that in 2005/06 the income will cover the Council's costs. The Government has agreed to carry out a review of fees etc in the light of operating experiences.

## Outcome of Consultation

15. Extensive consultation was carried out and is identified in detail in the Licensing Policy above and in Appendix 1. As a result the draft Policy was substantially amended by Officers in consultation with the Portfolio Member and Chair of Licensing Committee and is attached **Appendix 3** for consideration.

## Legal Implications

16. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

## **Section 17 of the Crime and Disorder Act 1998**

17. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This report will have a significant impact on the prevention of crime and disorder as the Council has to have regard to public safety, prevention of nuisance and prevention of crime and disorder when carrying out its licensing functions and this is reflected in the Licensing Policy.

## **Council Policy Framework**

18. The issues contained within this report are required to be considered by Council as they address constitutional changes in respect of establishing a Licensing Panel and its Delegated Power, amendments to the Scheme of Delegation to Officers. The Licensing Policy will provide the framework within which applications for licences et under the Licensing Act are determined.

## **Conclusion**

19. The Licensing Act 2003 places new duties and responsibilities on the Council and in order to administer the Act it is necessary to approve a Licensing Policy and to amend the Constitution to enable effective administration of applications within the statutory time periods.

## **Recommendation**

20. Council are requested to :-

- (a) Amend the Constitution as set out in **Appendix 2**.
- (b) Approve the Licensing Policy as set out in **Appendix 3**.

## **Reasons**

21. The recommendations are supported by the following reasons :-

- (a) To ensure that the new duties and responsibilities placed on the Council by the Licensing Act 2003 can be effectively administered.
- (b) To ensure that there is a policy framework within which the Licensing Panel can make decisions on applications under the Act.

**John Buxton**  
**Director of Development and Environment**

## **Background Papers**

- 1 Responses to Consultation
- 2 Constitutional Amendments

## **Appendices**

- 1 Representations Received
- 2 Amended Constitution
- 3 Licensing Policy

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