

ITEM NUMBER:

**REPORT TO
STANDARDS COMMITTEE**

17TH MAY 2004

**JOINT REPORT OF
CHIEF EXECUTIVE OFFICER AND
SOLICITOR TO THE COUNCIL**

PORTFOLIO: ENVIRONMENT

**LICENSING ACT 2003 : CONSTITUTIONAL CHANGES :
REVISIONS TO LICENSING COMMITTEE ARRANGEMENTS**

1. SUMMARY

- 1.1 Standards Committee is invited to consider the terms of this Report and to offer comments to the Council Annual Meeting on 21st May 2004. The Report involves recommendations to Council (at para. 2.2) which involve changes to the Council's Constitution to implement the Licensing Act 2003.
- 1.2 The Licensing Act 2003 ('the Act') introduces wide-ranging changes to the regulation of licensing for liquor, entertainment and late night refreshments. These changes include transferring the entire role of the administration of licensing for such matters from the Licensing Justices and Magistrates Courts to Local Authorities. In our Borough, Sedgefield Borough Council will become the Licensing Authority.
- 1.3 It is therefore necessary for arrangements to be established to deal with the new licensing functions, including appointing a new Licensing Committee. It will be necessary to make a series of amendments to the Constitution to allocate duties and powers between full Council, the new and existing Licensing Committees, and to review the delegation of powers to Officers.
- 1.4 The main recommendation is to establish a new committee as Licensing Committee 2, comprising 15 members to cover liquor licence functions and associated licensing. Although the new Act is yet to be fully implemented, it is considered appropriate to put these arrangements in place now in order to be prepared for the substantial workload which is anticipated and to enable the necessary induction and training to be directed to the new committee members.

2. RECOMMENDATIONS

- 2.1 The Committee is asked to consider the Report generally, including the recommendations at para. 2.2 below and to offer comments to the Council.
- 2.2 It is recommended that Council:
 - (a) rename the existing Licensing Committee as 'Licensing Committee 1' whose remit shall be miscellaneous licensing, including taxis, street trading.

- (b) establish a new Licensing Committee comprising 15 members to undertake the statutory functions of the Licensing Act 2003 (named the 'Licensing Committee 2') whose remit shall be functions under the Act and related licensing.
- (c) resolve the Constitution be amended as necessary to implement the above decisions.
- (d) To receive further reports upon the coming in to force of the Act and the relevant provisions thereunder.

3. THE NEW LICENSING AUTHORITY FUNCTIONS

Background

- 3.1 The Act appoints the Council of a district in England to be the 'Licensing Authority'. [Section 3(1)]. Hence, Sedgefield Borough Council shall become the Licensing Authority for this area.
- 3.2 The Act and accompanying guidance details a structure for each Authority to deal with the decision making process for the various functions under the Act which includes licensing and enforcement for retail of liquor, entertainments (including cinemas etc), and late night refreshments.

Licensing Functions

- 3.3 A Licensing Policy must be prepared, approved by Council, published and then reviewed [section 5]. A draft Policy will be prepared and submitted to Council for adoption in due course.
- 3.4 The Act provides that the new Committee should be established to undertake functions under the Act. This committee must have at least 10 and not more than 15 members [section 6]. Whilst there appears to be no legislative requirement for 'political balance', it is considered appropriate, in order to achieve an open, fair and impartial administrative arrangement, that the composition of the new committee be nonetheless established in accordance with that principle.
- 3.5 It would be inappropriate for a member who has any interest in any premises Licensed or with a Registration Certificate under the Licensing Act 1964 or to be so under the Act, to be appointed to and serve upon the new Committee.
- 3.6 The Act provides that the new Committee must discharge all functions of the licensing authority except for the approval and renewal of the Policy Statement [section 7(1) & (2)].
- 3.7 The new Committee may discharge any function of the authority, which relates to a matter referred to that committee but which is not a licensing function [section 7(3)].
- 3.8 The new Committee should not be given power to deal with any other matters, unless they are related to matters otherwise before the committee as part of its licensing functions. Many of those functions presently dealt with by this Council's

existing Licensing Committee must remain to be dealt with by that committee rather than by the new Licensing Committee. The Appendix to this Report explains the division of responsibility in more detail.

- 3.9 The new Committee will have statutory power to establish sub-committees and to delegate powers to officers, to meet the workload that is anticipated in respect of the new functions.
- 3.10 The Act received Royal Assent in July 2003. Applications for the new form of licences can be made to new Licensing Authorities after the 'first appointed day'. There will be a transitional period until the 'second appointed day' in which existing licensees, and registered clubs must apply for their new form of licences. The new Committee will need to be ready to deal with applications by the 'first appointed day'; appropriate induction and training will be focused upon the members of the new Committee.
- 3.11 This date has not yet been notified but an announcement is expected in the near future and is likely to nominate a date approximately 6 months from the date of the announcement. Although, recent indications are the first appointed day may now become the 1st January 2005.
- 3.12 Sedgefield Borough has approximately 350 licensed premises. All will have to apply for a new premises licence during a period of approximately six months.
- 3.13 However, many are likely to apply in the first days and weeks after the first appointed day. An application for a licence must be processed within very short time scales and it is possible that many applications may need to be dealt with by sub-committees, particularly in the first few weeks or months.

4. CORPORATE POLICY IMPLICATIONS

- 4.1 This Report represents the first step in fulfilling statutory duties under the new Act. Further reports, including a Policy Statement, are envisaged in the short term.

5. RESOURCE IMPLICATIONS

- 5.1 There are major costs implications in implementing the provisions of the Act and these have been discussed in an earlier Report from the Director of Neighbourhood Services to the existing Licensing Committee dated 26th January 2004.
- 5.2 Some staff have already been identified to manage the implementation and undertaking of the licensing functions. There will be a considerable input required from members of the new Licensing Committee, particularly sitting as sub-committees. There will be a significant staffing impact for Legal and Democratic Services, in addition to relevant officers from the Neighbourhood Services Department, particularly during the early months after the first appointed day.
- 5.3 This report will also have implications for the Members' Allowance Scheme at Part 6 of the Constitution and a further report is intended.
- 5.4 However, the individual recommendations contained in this report do not have any specific financial implications.

6. CONSULTATION

- 6.1 Both Management Team and relevant operational officers have been consulted in the preparation of the Report. As this Report recommends changes to the structure of the Council's Committees, the Standards Committee has been consulted upon the Report. The results of that consultation will be indicated at the Council meeting.

7. OTHER MATERIAL CONSIDERATIONS

- 7.1 The establishment of a new Committee under the Licensing Act 2003, publication of a licensing policy and undertaking the licensing functions are statutory duties under the Act.
- 7.2 Whilst this Report reflects the available guidance, it is likely that further information will be published which may clarify the manner of discharge of the new functions. Further Reports will follow where appropriate.

8. OVERVIEW AND SCRUTINY IMPLICATIONS

- 8.1 There has not been any prior consultation or engagement at this stage. It is anticipated that wider consultation will take place ahead of the formulation of the Council's Policy Statement.

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Key decision:

Background Papers:

Licensing Act 2003
Explanatory Notes to Licensing Act 2003
Draft Guidance under s182 Licensing Act 2003 (March 2004)
Report of Director of Neighbourhood Services to Licensing Committee - 26th January 2004

Examined by Statutory officers:

	Yes	Not applicable
1. The Report has been examined by the Council's Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S 151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The Report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**RETAINED FUNCTIONS FOR EXISTING LICENSING COMMITTEE
TO BE RENAMED “LICENSING COMMITTEE 1”**

	Functions	To duplicate
	Licensing and registration functions (insofar as not covered by any other paragraph of this Schedule)	
1.	Power to issue licences authorising the use of, and as a caravan site (“site licences”).	
2.	Power to licence the use of moveable dwellings and camping sites.	
3.	Power to licence hackney carriages and private hire vehicles.	
4.	Power to licence drivers of hackney carriages and private hire vehicles.	
5.	Power to licence operators of hackney carriages and private hire vehicles.	
6.	Power to register pool promoters.	
7.	Power to grant track betting licences.	
8.	Power to licence inter-track betting schemes.	
9.	Power to grant permits in respect of premises with amusement machines.	Y
10.	Power to register societies wishing to promote lotteries.	
11.	Power to grant permits in respect of premises where amusements with prizes are provided.	Y
15.	Power to licence sex shops and sex cinemas.	Y
17.	Power to licence premises for acupuncture, tattooing, ear-piercing and electrolysis.	
18.	Power to licence pleasure boats and pleasure vessels.	
19.	Power to register door staff.	
20.	Power to licence market and street trading. (Adoptive powers).	
22.	Power to licence dealers in game and the killing and selling of game.	
23.	Power to register and licence premises for the preparation of food.	

	Functions	To duplicate
24.	Power to register scrap yards.	
25.	Power to licence premises for the breeding of dogs.	
26.	Power to licence pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	
27.	Power to licence zoos.	
28.	Power to licence dangerous wild animals.	

29.	Power to licence persons to collect for charitable and other causes.	
30.	Power to grant consent for the operation of a loudspeaker.	
31.	Power to approve meat product premises.	
32.	Power to approve premises for the production of minced meat or meat preparations.	
33.	Power to approve dairy establishments.	
34.	Power to approve egg product establishments.	
35.	Power to issue licences to retain butcher's shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	
36.	Power to approve fish products premises.	
37.	Power to approve dispatch or purification centres.	
38.	Duty to keep register of food business premises.	
39.	Power to register food business premises.	

TRANSFER AND DUPLICATE FUNCTIONS OF THE NEW COMMITTEES

	Functions	Transfer	Duplicate if relates to 2003 Act
	Licensing and registration functions (insofar as not covered by any other paragraph of this Schedule)		
9.	Power to grant permits in respect of premises with amusement machines.		Y
11.	Power to grant permits in respect of premises where amusements with prizes are provided.		Y
12.	Power to issue cinema and cinema club licences.	Y	
13.	Power to issue theatre licences.	Y	
14.	Power to issue entertainments licences.	Y	
15.	Power to licence sex shops and sex cinemas.	Y	
16.	Power to licence performances of hypnotism.	Y	
19.	Power to register door staff.		
21	Power to licence night cafes and take-away food shops.	Y	

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