

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Leader and Cabinet 14th October 2004  
**AUTHOR/S:** Housing and Environmental Services Director  
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### LICENSING ACT 2003 - IMPLEMENTATION

#### Purpose

1. To obtain Cabinet's approval for the additional staffing requirements in relation to the full implementation of the Licensing Act 2003 on the 7<sup>th</sup> February 2005.

#### Effect on Corporate Objectives

2.

Sustainability	The main objectives of the Act have the objective of sustainability at their heart, see comments on village life and quality, accessible services
Quality, Accessible services	Unless additional temporary resources are agreed the Council will be at risk of not meeting this objective.
Village Life	The objectives of the Act are all aimed at the promotion of Village life i.e. prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.
Partnerships	Licensing Policy promotes the closer working in partnership with organisations including Police and Fire Authorities.

#### Background

3. The new Licensing Act 2003 received Royal Assent on the 11<sup>th</sup> July 2003 heralding the introduction of a completely new piece of legislation with regards to Licensing of liquor, entertainments and late night refreshments. The new Licensing Act 2003 integrates six existing licence regimes into a single system of licensing designed to reduce red tape. The power to issue licenses for the sale or supply of alcohol will pass from the Magistrates Courts to the Local Authorities.
4. On the 7<sup>th</sup> July 2004 the Government issued its formal guidance to accompany the Act allowing for resource requirements to be assessed. The Act proposes greater freedom for licensees and the licensed trade, including the possibility of 24 hour liquor licensing. The Council will have a greater responsibility to work with industry and other agencies such as the Police to ensure a smooth transition to the new licensing regime. Government have now declared that the first date for accepting applications will be the 7<sup>th</sup> February 2005.
5. It is estimated that there are approximately 365 existing premises that will be able to submit applications for new licences after the 7<sup>th</sup> February 2005 and up to 750 personal licence holders.

#### Considerations

6. The new Licensing Act represents a major change to the regime of licensing. Until the formal guidance had been received it was difficult to assess the effect on existing staffing resources. From the 7<sup>th</sup> February the national spotlight will be on Local Authorities and although SCDC has done much to be prepared, the level of staffing resources required to

deal with the transitional period has been judged to be inadequate. However, due to the 7<sup>th</sup> February 2005 appointed day, it will be too late to incorporate any recommendations into the C.I.P process.

7. The period for receiving applications during the transition period will commence on the 7<sup>th</sup> February 2005 and is expected to run for 9 months. The Government has not yet formally announced the 2<sup>nd</sup> appointed day (anticipated to be the 7<sup>th</sup> November 2005), which will be the last day for receiving applications to transfer existing licences held under existing legislation.
8. In accepting applications all existing premises licence holders will also have the right to ask for variations to existing licences. Through consultation with local and national representatives of the licensed trade it is anticipated that approximately 250 of the 365 licence holders will request a variation to their existing licence. Any application that requests a variation will be required to follow a set procedure, which will include the invitation of representations from any quarter that may wish to oppose the request. Any such representation will result in a hearing by a Licensing sub-Committee to determine the application.
9. Due to the commercial nature of the licensed trade and the information being supplied to them by their own representative bodies, such as the Licensed Victuallers Association, officers believe that there will be a peak period for receiving applications during February to May 2005. It is anticipated that during this period, due to representations being received, up to 200 applications will require a hearing.
10. The hearings will take place in one room with another room booked for members to retire to in order to make their decision. Steps have been taken to ensure that for the period March to early May rooms have been booked for hearings to take place 5 days per week for 8 weeks. It is anticipated that a hearing will last for one to one and a half hours and there will need to be 5 hearings per day. Therefore the pressure on room availability will be high.
11. The Licensing Committee currently comprises of 15 members from which Sub-Committees of 3 members will be appointed to determine hearings. Although the workload of these Members will be shared it will still be high at a time when there will be an added pressure on Members because hearings will coincide with meetings arranged for the L.D.F (Local Development Framework).
12. The projected increase in workloads will impact significantly on the staffing resources within Environmental Health, Democratic Services and Legal.
13. Environmental Health, which incorporates the Licensing function, has made (via last year's CIP process) provision to employ 1.5 FTE posts on temporary contracts of one year and two years respectively. It will also have the capability of existing Environmental Health Officers with the appropriate skills to assist if required for short periods. It is therefore believed that there will be sufficient resources in Environmental Health to cope with the additional workload.
14. As regards Democratic Services, to accommodate the extra work in relation to Licensing as described would require a minimum of 1.4 full time equivalents in staffing terms for the peak period of March to September. The majority of this resource requirement can not be absorbed within current staffing provision and therefore one temporary full-time democratic services officer is required starting in February for an initial six-month period to deal solely with Licensing matters. Staffing requirements would then need to be reviewed at the end of this six-month period.

15. For the Legal Office it has been estimated that one FTE will be required to cover both internal hearings and external appeals at Magistrates Courts. Again this level of resource cannot be accommodated within existing resources. It will be necessary to employ a lawyer on a full-time basis from February (in addition to existing legal staff) to deal solely with licensing matters for at least four months and after that it will comprise at least one-third of a full-time lawyer's work. The lawyer currently advising on licensing will be reducing her hours by one-third from 1<sup>st</sup> November and the Head of Legal Services is seeking another full-time lawyer to cover the remainder of her workload and the forthcoming demands on the legal office from the new licensing regime, in addition to a general rise in legal office workload.

### **Financial Implications**

16. The additional costs, (subject to evaluation) of the additional staffing requirements in paragraph 13 and 14 above would be
- i. Democratic Services Officer scp 18 to 25, £19,017 - £23,966 pro rata on six months short term contract at today's prices including on costs. i.e. approximately £11,500, commencing from February 2005.
  - ii. It is estimated that the additional lawyer will be cost neutral due to a re-organisation of costs within the service. This matter will be the subject of a separate report to a future Cabinet.

### **Legal Implications**

17. Any decision by this Authority in respect of an application, or if a hearing is not suitably conducted and administered, would be subject to an appeal to the Magistrates Court by either the applicant or the objector. Failure of the Authority to fulfil its statutory duty under the new legislation may also result in the Authority being subject to Judicial Review.

### **Staffing Implications**

18. As explained in the body of the report.

### **Risk Management Implications**

19. The consequences of failing to implement the new licensing regime could be extensive and could result in adverse publicity, loss of reputation and legal action against the Council.

### **Recommendations**

20. It is recommended that Cabinet:
- (a) Notes the additional staffing and Member workloads outlined,
  - (b) Notes the requirement of additional legal advice on licensing matters and that the appointment of a lawyer will be the subject of a future Cabinet report, and
  - (c) Agrees to the appointment of a democratic services officer for a six-month period from the end of February 2005.

**Background Papers:** the following background papers were used in the preparation of this report; DCMS: Guidance issued under Section 182 of the Licensing Act 2003 – July 2004; DCMS

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