

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Licensing Committee

28th October 2004

AUTHOR: Chief Environmental Health Officer

SUB-COMMITTEE STRUCTURE FOR DETERMINING LICENSING HEARINGS UNDER THE LICENSING ACT 2003

Purpose

1. To seek approval by the Licensing Committee for the adoption of sub committees to hear applications in relation to the Licensing Act 2003 as per the table of delegations in respect of the Licensing functions contained within the Licensing Policy Statement.

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	Premises will be permitted more flexibility in how they operate, but this will be balanced by greater accountabilities
Village Life	The objectives of the Act are all aimed at the promotion of Village life ie 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. On the 7th July 2004 the Government issued its formal guidance to accompany the Act, allowing for the development of the Licensing Policy to proceed. 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.
4. At the same time as issuing the guidance Central Government also declared that the first date for accepting applications will be the 7th February 2005. Officers have identified that there are approximately 365 existing premises that will be able to submit applications for new licences after the 7th February 2005 and up to 750 personal licence holders. Applicants will have 2 courses of action available to them. The first being applying for a licence under their existing Grandfathering Rights. This will require no action (except in very exceptional circumstances) by the Council and after 2 months the application will be deemed as granted. The second course of action is to either separately or simultaneously apply for a variation to their existing Licence.
5. Within the powers granted to Local Authorities under the Licensing Act is the power to appoint Sub Committees comprising of 2 members and an appointed Chairman to determine matters where representations have been made and not withdrawn. Such Committees must be established by the Licensing Committee and will be empowered to discharge any function of the Licensing Committee. This power has been allowed

for within the Councils constitution and annex C of the Draft Licensing Policy details the matters to be delegated to Sub Committees (Attached as **Appendix A**)

Considerations

6. Officers and national surveys have indicated that up to 90% of applicants will request a variation to their existing licence. 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 from February to May 2005. It is anticipated that during this period, due to representations being received, up to 200 applications may require a hearing.
7. 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.
8. 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).
9. Under the constitution it is for the Licensing Committee to authorise the use of sub-committees to administer the functions as laid out in paragraph 6. Consideration should be given to the appointment of a number of chairmen who can operate on a rota system with a number of members who can be available to attend hearings also on a rota basis.
10. Officers have suggested in ANNEX "A" a possible system that would allow flexibility and at the same time distribute the potential workload between Committee members.
11. It is felt that the election of Chairmen to the sub-Committees should exclude the Chairman and Vice Chairman of the full Licensing Committee. These roles are essential to the organisation and appointments of the sub-committees, and will involve taking on overview of hearings etc.

Financial Implications

12. The costs of holding hearings as part of the licensing process are to be met within existing budgets. Any decision made by any Committee in respect of hearings may result in an appeal to a Magistrates Court where costs can be levied.

Legal Implications

13. Any decision by either a full Committee or a Sub-Committee carrying out any delegated powers in respect of applications would be subject to an appeal in the Magistrates Court by either the person making the representations or the applicant depending on the decision of the Committee

Staffing Implications

14. Staffing implications arising from the need for appeal hearings were reported to Cabinet on the 14th October 2004

Consultations

15. The views of the Legal section have also been sought to ensure that the proposals will stand up to any challenges on procedural impropriety. It is felt that such a recommendation would satisfy the requirement of the Licensing Act and our own Constitution.

Recommendations

16. That members of the Licensing Committee agree to:-
- (a) the formula as laid out in **Appendix A** for the structure of Sub-Committees to deal with hearings in respect of the Licensing Act 2003,
 - (b) the six members to chair the Sub-Committees, and
 - (c) delegate authority to the Chairman and Vice Chairman of the Licensing Committee in consultation with the Chief Environmental Health Officer to approve the membership of each of the 36 Sub-Committees.

Background Papers: The Following papers were used in the preparation of this report:
DCMS: Guidance issued under Section 182 of the Licensing Act 2003
The Licensing Act 2003
South Cambridgeshire Council Constitution

Contact Officer:

Myles Bebbington – 01954 713132 myles.bebbington@scams.gov.uk
Dale Robinson - 01954 713229 dale.robinson@scams.gov.uk
Fiona McMillan 01954 713027 fiona.mcmillan@scams.gov.uk