

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Licensing Committee

6 September 2010

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HOME OFFICE CONSULTATION DOCUMENT

Purpose

1. To prepare a response from South Cambridgeshire Licensing Committee in response to the Home Office consultation document on future changes to the Licensing Act 2003 circulated to Local Authorities on the 28 July 2010.
2. This is not a key decision because any feedback will only have the effect of an expression of views rather than a direct impact on the Council's aims and objectives.

Recommendations and Reasons

3. That a response is formulated and sent to the Home Office, representing the views of South Cambridgeshire District Council Licensing Committee in respect of the consultation document circulated on the 28 July 2010. A response is required by the 8 September 2010.

Background

4. Due to changes in central Government, the responsibility for the alcohol aspect of the Licensing Act 2003 recently passed from the Department of Media and Culture to the Home Office.
5. Since the introduction of the Licensing Act there has been concern that the original vision of a vibrant "Café" culture has failed to materialise and that Local Authorities and the Police have been restricted in their powers to deal with alcohol related crime and disorder hot spots within local night time economies.
6. In order to rebalance the licensing regime the Government is proposing the following measures:-
 - Give licensing authorities the power to refuse licence applications or call for a licence review without requiring the relevant representations from a responsible authority.
 - Remove the need for licensing authorities to demonstrate their decisions on licences are necessary for (rather than) of benefit to the promotion of the licensing objectives.
 - Reduce the evidential burden of proof required by licensing authorities in making decisions on licence applications and licence reviews.
 - Increase the weight, licensing authorities will have to give to relevant representations and objection notices from the police.
 - Simplify Cumulative Impact Policies to allow licensing authorities to have more control over outlet density.

- Increase the opportunities for local residents or their representative groups to be involved in licensing decisions, without regard to their immediate proximity to premises.
- Enable more involvement of local health bodies in licensing decisions by designating health bodies as a responsible authority and seeking views on making health a licensing objective.
- Amend the process of appeal to avoid the costly practice of re-hearing licensing decisions.
- Enable licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences.
- Repeal the unpopular power to establish Alcohol Disorder Zones and allow licensing authorities to use a simple adjustment to the existing fee system to pay for any additional policing needed during late-night opening.
- Substantially overhaul of the system of Temporary Event Notices to give police more time to object, enable all responsible authorities to object, increase the notification period and reduce the number that can be applied for by personal licence holders.
- Introduce tougher sentences for persistent underage sales.
- Trigger automatic licence reviews following persistent underage sales.
- Ban the sale of alcohol below cost price.
- Enable local authorities to increase licensing fees so that they are based on full cost recovery.
- Enable licensing authorities to revoke licences due to non-payment of fees.
- Consult on the impact of the Mandatory Licensing Conditions order and whether the current conditions should be removed.

Considerations

7. Members may wish to consider the following points prior to the meeting:
- (a) The Licensing Authority currently does not have a decision making role and officers hold no powers to refuse or revoke licenses, unless on technical grounds. This would substantially change the role of the Licensing services in the way it currently approaches its licensing functions.
 - (b) The reduction in burden of proof and reasoning for decisions would have a significant effect on member decisions at a hearing and allow for a decisions to be made with more emphasis on hearsay evidence.
 - (c) Cumulative Impact and Alcohol Disorder Zones are not matters that have affected the South Cambridgeshire Area since the Licensing Act came into force in 2005. These are powers that are primarily used in town and city

centres where there are extremes in respect of number of premises and people at particular times i.e weekends.

- (d) The overhaul of the Temporary Event Notice system could have a significant impact on the workload of this Council's staff and Licensing Committee. Current procedure is very "light touch" and is largely an administration process. There were 646 notices processed in 2009/10, significantly the biggest number of any one part of the licensing regime. Any substantial change could therefore have staffing and workload implications for the Licensing Committee in respect of increased hearings.
- (e) The current procedures allow for Trading Standards to prove 2 underage sales in a six month period, whereby they may then ask for a review. To date this scenario has not materialised within South Cambridgeshire. In 2009/10 there were 22 test purchases with only 1 under age sale made.
- (f) The revocation of a license for non payment is an ongoing issue. South Cambridgeshire is fortunate in that this does not cause a significant impact on its income. Figures for licensed premises 2009/10 showed that we received £75,700 and bad debts currently stand at £460.00 however many of these debts are attached to the same licences every year.
- (g) The current Mandatory Conditions order that came into effect in April 2010 has had no impact in respect of licensing enforcement or complaints. It is considered by many as an unenforceable set of conditions.

Options

- 8. In considering this report members may wish to formulate a response on all or some of the points referred to in the consultation document circulate by the home office as **APPENDIX A**.

Implications

- 9. The implication of any response will not be seen immediately. Any changes proposed at Governmental level will be subject to the normal parliamentary process, which may mean that many of the proposed changes could take two, three or more years to get on to the statute books. However, within the consultation document it is clear that a number of the proposed changes if brought into effect could have significant workload and staffing implications for South Cambridgeshire District Council and its Licensing Committees in the future.

10. Financial	There are no financial costs in replying to the report but there may be subsequent implications if legislation is changed due to increase in workloads and increased number of licensing hearings
Legal	Future changes as proposed will result in an increase in the use of legal services
Staffing	At the consultation stage there is no staffing implications but introduction of changes would have staffing implications as referred to in the body of the report
Risk Management	Subject to corporate procedures
Equal Opportunities	Licensing is subject to a current Equality Impact Assessment
Climate Change	N/A

Consultations

11. Members of the Licensing Committee and the Environmental Services Portfolio Holder have been invited to make comments.

Effect on Strategic Aims

12. The effect of the outlined proposals will have significant impact on the Strategic Aims for South Cambridgeshire District Council for the following reasons:-
 - (a) It will allow for the Council to be a listening Council by taking into consideration more fully the views and opinions of its residents and businesses.
 - (b) It will allow for stronger powers to pursue the aim of being a safe and healthy place.
 - (c) It will promote the aim of giving residents pride in the area in which they live
 - (d) It will provide a better voice for rural life

Conclusions / Summary

13. This consultation reflects the intention by Government to embark on the biggest single change to the Licensing Act 2003 since its introduction in 2005. Central Government and the trade have generally accepted that the transfer of power over recent years has been handled well and the vast majority of local authorities have used their new powers sensibly and wisely. This is reflected in the proposals for further powers to be introduced to local authorities.
14. The introduction of the proposed changes would significantly impact on the current operation of the Licensing services in respect of responsibilities and potential workload that would inevitably follow through to an increased workload for other related departments within the Council including Legal and Democratic Services.

Background Papers: the following background papers were used in the preparation of this report:

Home office consultation document – rebalancing the Licensing Act

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