



Leicester
City Council

**WARDS AFFECTED
ALL WARDS (CORPORATE ISSUES)**

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Cabinet**

4 August 2003

Implementation of the Licensing Act 2003

Report of the Service Director – Public Protection

1. Purpose of Report

This report advises members of those details of the proposed modernisation of the licensing laws, which are known at the present time, and the arrangements being put in place to deal with them. It also seeks approval for a draft licensing policy to be used as the starting point for consultation.

2. Summary

The Licensing Bill, which has now received Royal Assent, introduces a new licensing regime for selling alcohol, providing entertainment or selling take-away hot-food after 11pm. The scheme will be administered by local authorities.

The new scheme will have significant implications for local authority members and officers, other statutory agencies, the licensing trade and the environment in city centres and around other licensed premises.

3. Recommendations

It is recommended that:

1. Cabinet approve the draft Licensing Policy for the purposes of consultation to be carried out in accordance with the Licensing Act;
2. Cabinet gives authority to the Director of Environment, Regeneration and Development, in consultation with the Cabinet Link Member to enter into partnership working with other Leicestershire local authorities subject to organisational and financial arrangements that are in the City Council's interest.

4. Headline Financial and legal Implications

A key requirement of the legislation is the adoption by the Council of a licensing policy.

The government will set fees at a level that it believes will cover the costs of the administration of the service.

5. Report Author/Officer to contact:

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DECISION STATUS

Key Decision	No
Reason	N/A
Appeared in Forward Plan	No
Executive or Council Decision	Executive (Cabinet)



WARDS AFFECTED
All Wards - City Wide

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
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4 August 2003

Implementation of the Licensing Act 2003

SUPPORTING INFORMATION

1. Report

1.1 Background

The Licensing Act introduces a new licensing regime for selling alcohol, providing entertainment or selling take-away hot-food after 11pm. The scheme will be administered by local authorities. A press release by the Department of Culture Media and Sport that sets out some of the main provisions of the Act is shown in Appendix 3.

A single licence will be required by each premises. Once granted this will last indefinitely, unless there is a change of circumstances, or a review is requested (see below). The applicant will need to specify exactly how they intend to run the premises in an operating schedule.

There will also be a requirement for a personal licence for every person responsible for supervising the sale of alcohol. A personal licence holder would need to be on the premises while alcohol was being sold. Before holding a licence applicants would need to be properly trained and undergo a criminal record check.

1.2 Timetable for Implementation

At the time of writing of the report, the timetable is still uncertain. Although the Act has now received Royal Assent, much of the detail will be included in secondary legislation. It is possible that applications for transfer of existing licences to the new regime may have to be processed as soon as 1 January 2004. There would then be an interim period of somewhere between 6 and 18 months, after which transferred licences would come into force. If a request for variation of any terms and conditions of the licence, such as hours of opening, is included with the application for transfer, this will have to be determined at the same time. The implication is that arrangements for implementing the new regime, including member panels to hear objections, would have to be in place by 1 January 2004. (See *Provisional Implementation Timetable published by LACORS (Local Authorities Coordinators of Regulatory Services) on 16 July 2003 at Appendix 2.*)

1.3 Licensing Policy

The Act will require that licensing authorities publish a statement of their licensing policy covering the forthcoming three-year period. This means that if the City Council has to determine applications from 1 January 2004, its Statement of Licensing Policy would have to be in place by this date. The Act also requires that consultation about the policy takes place with the police, the fire authority, bodies representing local holders of premises licences, bodies representing local holders of club premises certificates, bodies representing local holders of personal licences, and bodies representing businesses and residents in its area.

In view of the possibility of a very tight implementation timetable, Council officers have been working with officers of other Leicestershire authorities to prepare a draft policy. The opportunity has also been taken to try to have a policy for all Leicestershire authorities that has as much commonality as possible, but still allowing for local differences. This is seen as a particular advantage as countywide agencies such as the police and fire authorities will be involved in implementation of the new licensing system. This process has also been helped by the fact that the Government's draft guidance is particularly prescriptive in terms of what may or may not be in the policy, leaving little flexibility for individual approaches.

The draft policy agreed at officer level is shown at Appendix 1. It is proposed to use this policy, subject to any changes arising in the guidance, for the purposes of consultation, members will then be asked to consider a finalised policy, in the light of the outcome of the consultation.

1.4 Integration with other Strategies

The draft guidance issued by the Department of Culture, Media and Sport highlights the need to ensure that the licensing policy integrates with other strategies of the local authority. Relevant strategies are seen as those relating to planning, transport, crime prevention, tourism and culture. It will therefore be essential to include relevant officers and members in the development of the

licensing policy, and also to ensure that other strategies reflect the changes in environment brought about by the new licensing regime.

1.5 Partnership Working

Another uncertainty about the proposed regime is the level of fees. It is expected that these will be set centrally at a level that the Government believes will cover the costs of administration. Whatever the level of fees, the aim will be to administer the service in as cost effective way as possible. Any deficiencies in income would fall to the local authority to deal with. In view of this several of the local authorities in Leicestershire have suggested that it would be beneficial for a single administrative office, operated by the City Council, to deal with the processing of applications. One office would have obvious economies of scale, for instance in respect of IT Systems, management, office cover and other overheads, in which all participating authorities could share. Any surplus or deficit could then be jointly shared on an agreed basis by the authorities involved. Other anticipated benefits include the development of a pool of expertise, a consistent approach across a large part of the County and less offices for countywide agencies and the licensing trade and their representatives to deal with. Where there was a need for member involvement in the decision making process, documents relating to a particular case would be forwarded back to the relevant local authority.

At the present time Hinckley and Bosworth, Oadby and Wigston, Blaby, Melton and Market Harborough are all actively considering the concept of a partnership approach.

It is proposed that the Director of Environment, Development and Regeneration will, subject to organisational and financial arrangements that are in the City Council's interest being agreed, enter into arrangements to provide an administrative service for other Leicestershire authorities.

1.6 Cumulative Impact

The Government's draft guidance recognises that there may be situations in certain city centre locations that because of the number, type and density of premises selling alcohol, there may be a serious problem of nuisance and disorder. Where the problem that arises in a particular location is greater, when the effect of the customers of all the premises taken together, than that of individual premises, this is known as cumulative impact.

Representations may be made to the local authority that the number of premises in a locality is resulting in large numbers of people congregating away from licensed premises, leading to nuisance and disorder. In these circumstances the local authority may consider whether to adopt a special saturation policy. The effect of this would be a presumption against new licences being granted in that

area. Exceptions to the policy may still be allowed because of the particular circumstances of an individual application.

It is known that the Leicestershire Constabulary have particular concerns about the cumulative impact of the premises in Churchgate and other areas of the city centre and it is proposed that discussions are entered into about the suitability of a saturation policy for these areas.

1.7 Members' Role

The Act will require the constitution of a Licensing Committee of between 10 to 15 members to discharge the licensing responsibilities of the authority. Sub-Committees of three members of the parent committee will hear cases when there has been an objection to an application or a request for a review of an existing licensed premises. Sub-Committees will also hear cases in which an applicant for a personal licence has relevant convictions.

1.8 Amendments to the Licensing Bill

The passage of the Bill through Parliament resulting in a number of amendments some of which were removed and some of which became law.

One area in which the final Act was significantly different to the original Bill was in relation to entertainment. The main changes were:

- Entertainment provided as part of a religious meeting or at a place of religious worship will not need a licence.
- Music that is incidental to other activity will not need a licence.
- Morris dancing will not need a licence.
- Where a pub, with a capacity limit of no more than 200, has been licensed for entertainment, any conditions relating to the playing of live music or to dancing are suspended unless they relate to crime and disorder or public safety. Other conditions can be applied if it becomes necessary to review the licence.
- Where a premises has been licensed for entertainment, but not for the sale of alcohol, and has a capacity limit of no more than 200, conditions relating to the playing of unamplified live music are suspended. Conditions can be applied following a review of the licence.

The Act returned to the position of the original Bill in respect of who can object to the grant of a licence or request a review. These are:

- Statutory agencies such as the police, fire service, planning officers, child protection officers, pollution control officers and health and safety officers.
- A person living in the vicinity of the premises,
- A body representing persons living in the vicinity of the premises,
- A person involved in a business in the vicinity of the premises,

- A body representing persons involved in a business in the vicinity of the premises.

2. Financial Implications

The following information has been approved by Kate McGee, Head of Finance, Environment, Regeneration and Development:

The level of fees will be set by the government to cover the costs of administering the service. At the time of writing, fees had not been set. This will not cover all services provided by the local authority in relation to licensed premises that are relevant to licensing. For instance late-night opening may increase the number of noise complaints associated with licensed premises, it is not expected that this work could be financed from fees. It is possible that work to enforce licensing conditions could be financed from fees. The level of enforcement would be determined by the financial resources available after administrative costs have been covered. It would not be permissible to use the income from fees to subsidise any service not associated with licensing.

Even when the level of fees is known, it is difficult to quantify the exact costs of administration as this will be determined by unknown factors such as the level of objection and requests for reviews. Clearly the aim will be to administer the system in as cost effective manner as possible. Members would be consulted if there were a need to identify extra resources to cover costs.

3. Legal Implications

The following comments have been provided by Anthony Cross, Assistant Head of Legal Services:

“The report sets out in brief information as currently known concerning the content of the Licensing Act and the timetable for implementation. A key element of the Act is the requirement for the Council to have a licensing policy. This policy, once finalised, will require approval by the Council.

Statutory provisions in local government legislation enable the Council to enter into joint arrangements with other local authorities.

There will be staffing implications in terms of the need for additional legal/committee staff on top of any additional staff required by the Environment, Regeneration and Development Department.

The report refers to the greater role of Members. Members have already received one training session in relation to the implications of the new legislation. Further training will be required and, dependent on the number of ‘hearings’, there may be a need to put in place arrangements for the provision of additional accommodation.

There will be rights of appeal against decisions of the Licensing Committee.”

4. Other Implications

OTHER IMPLICATIONS	YES/NO	
Equal Opportunities	No	
Policy	Yes	1.3
Sustainable and Environmental	Yes	Throughout
Crime and Disorder	Yes	Throughout
Human Rights Act	Yes	Throughout
Elderly/People on Low Income	No	

5. Background Papers – Local Government Act 1972

None

6. Report Author

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