

LICENSING BILL 2002

1 SUMMARY

- 1.1 This report outlines the main provisions of the Licensing Bill, the likely implications for the Council and current information about the implementation timetable.

2 INTRODUCTION

- 2.1 In April 2000 the Government published a White Paper on reforming alcohol and public entertainment licensing - "Time for Reform: Proposals for the Modernisation of Our Licensing Laws".
- 2.2 This set out proposals for integrating and modernising the alcohol, public entertainment, theatre, cinema, night café and late night refreshment house licensing schemes, and contained some key aims:
- reducing crime and disorder
 - encouraging tourism
 - reducing alcohol misuse
 - encouraging self-sufficient rural communities

The White Paper also proposed reducing the burden of unnecessary regulation.

3 THE LICENSING BILL PROVISIONS

- 3.1 The Licensing Bill was introduced into the House of Lords last November. Changes are still being considered as it passes through Parliament.
- 3.2 The Bill will provide for a unified system of regulation of the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. In the Bill these are referred to collectively as "licensable activities".
- 3.3 The purpose of the system of licensing for these activities is to promote four fundamental objectives - the "licensing objectives":-
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance, and
 - the protection of children from harm.

- 3.4 The new system of licensing will be achieved through the provision of authorisations through personal licences, premises licences, club premises certificates and temporary event notices.

Personal Licences

- 3.5 Personal licences will authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol, for consumption on or off premises for which a premises licence is in force for the carrying on of that activity. To qualify for a personal licence an individual must be 18 or over, possess a recognised qualification and able to show he has not been convicted of certain offences. However, if an applicant has been so convicted, the local authority must grant a personal licence unless it considers that doing so would undermine the crime prevention objective.
- 3.6 Personal licences will last for ten years and will be renewable. They will normally be granted by the Local Authority where the applicant is resident.

Premises Licences

- 3.7 Premises Licences will authorise the holder to use the premises for licensable activities. The licence will detail operating conditions which will be intended to regulate the use in line with the licensing objectives. A premises licence will have effect until it is revoked or surrendered, but otherwise will not be time limited unless the applicant requests this. Licences will be granted by the Local Authority where the premises is situated.
- 3.8 Representations may be made about an application for the grant of a premises licence, for example, by local residents, the police, fire authority or environmental health, but any representations must concern the promotion of the licensing objectives. Once a licence is granted, the same classes of people or bodies may seek a review of a premises licence and the conditions attached to it.
- 3.9 Licensing authorities may, on review of a premises licence, suspend or revoke it, or may exclude specific licensable activities or modify operating conditions.

Club Premises Certificates

- 3.10 Club premises certificates will provide authorisation for specified clubs to use club premises for “qualifying club activities” - the supply or sale of alcohol to members or guests and the provision of regulated entertainment. As with premises licences, there are rights to make

representations about an application. Certificates will be granted by the Local Authority where the premises are situated.

Temporary events

- 3.11 New arrangements are proposed for licensable activities at occasional, temporary events. These arrangements will replace the current system of “occasional permissions” and “occasional licences”.
- 3.12 They will apply to events with less than 500 people attending, based on a notification system to the licensing authority giving salient details of the event, and an acknowledgement by the licensing authority. Organisers of temporary events will not be under the same obligations as will apply to more regular arrangements.

Other Provisions

- 3.13 The Bill does not prescribe the days or opening hours when alcohol may be sold, or licensable activities carried out. Applicants will be free to choose the times they wish to trade and the licence will be granted on those terms unless, following representations, the Local Authority considers it necessary to reject the application or vary the terms for the purpose of promoting the licensing objectives. At present, there are probably few, if any, venues that would want to open all night, but a significant number may well wish to extend drinking hours into the early morning. Such applications may well give rise to objections.
- 3.14 The Bill confers powers on the Police to close licensed premises to deal expeditiously with disorderly behaviour and excessive noise. These powers can be used both reactively, or in anticipation of problems.

4 ADMINISTRATIVE PROPOSALS

- 4.1 The Bill provides procedures for regulating the way that a Local Authority discharges the licensing functions.

Policy framework

- 4.2 Authorities will be required to determine and publish a statement of its licensing policy every three years. In producing its statement a licensing authority will be required to take account of the views of those representing the holders of licences and certificates, local residents and businesses, the police and fire authority. Statutory guidance will be issued by the Secretary of State. There will be transitional arrangements to ensure representatives of those holding licences are consulted until the new regime is in force.

- 4.3 The licensing authority will have to keep its policy under review and publish any revision to it.

Decision making

- 4.4 Every licensing authority will have a licensing Committee of between ten and fifteen Members, who will discharge the licensing functions, except the determination and publication of its statement of licensing policy (which will need to be dealt with by Council or by Policy & Finance Committee.)
- 4.5 One or more Sub-Committees comprising three members of the licensing Committee may be formed if desired, and functions delegated to the Sub-Committee(s). Functions may also be delegated by the licensing Committee or Sub-Committee(s) to officers, but not dealing with cases where representations or objections have been made. These must be considered by the licensing Committee or appropriate Sub-Committee.
- 4.6 Where relevant representations are received, a hearing will normally be required so that these can be considered.

Register

- 4.7 The licensing authority must keep a register of authorisations, temporary event notices received, and other details. Central registers, for example, a national register of personal licence holders, may be established, in which case licensing authorities may be required to pay for the cost of such arrangements.

Appeals

- 4.8 The licensing authority must give reasons for its decisions when hearings have to be held, and a disappointed party can appeal to the magistrates court against a decision.

Fees

- 4.9 Fees will be set centrally, with the stated intention of full cost recovery. Details of proposals are not yet available.

5 IMPLEMENTATION TIMETABLE

- 5.1 The timetable is not yet entirely clear, but current information indicates:
- Summer 2003 - Royal Assent for the Bill;

- January 2004 - Applications for personal licences from existing holders, showing they are already licensed. Completion of a simple form;
- January 2004 - at the same time, applicants submit a two-part form for a premises licence;
- July 2004 - Licensing Justices hand over responsibility to Local Authorities. All applications must be processed and the new system ready to “go live”.

6 DISCUSSION

- 6.1 The Licensing Bill was heralded as a way in which the Government would sweep away the outdated controls over licensing of pubs, clubs restaurants, off-licences and other premises. Relaxation of opening was said to bring potential benefits in terms of tourism, culture and regeneration.
- 6.2 The transfer of the liquor licensing function to Local Authorities should complement work in developing community plans and crime and disorder strategies, as well as work on public safety, nuisance and entertainment licensing.
- 6.3 The size of the task should not be underestimated. There are currently approximately 155 premises licensed or registered for liquor sales in the District, and nearly 300 individuals holding licenses. In addition, there are a small number of premises licensed for public entertainment, which do not sell alcohol. Determination of the Council's licensing policy framework will require consultation and detailed consideration. It will need to be fair and robust, to avoid legal challenge from applicants. Some existing premises exempt from certain licensing requirements may be caught by the new regime, and some applications will generate objections or representations which require a Committee decision.
- 6.4 The proposals for the creation of standing licensing sub-committees appear to be at odds with the Government's modernising agenda, which envisaged a 'task and finish' role for such groups. Draft guidance indicates that sub-committees may be more appropriate where there are large numbers of applications that would lead to an excessive workload for the licensing committee.
- 6.5 The Government is currently proposing a 12-month transition period from Royal Assent to full hand-over of responsibilities. The Local Government Association is currently lobbying for this to be extended to at least 18 months, and preferably 24 months, to enable Councils to:
- consult and publish the policy statement;

- establish a local licensing forum;
- recruit and train staff;
- purchase software to run the registers;
- review links with planning and community safety strategies;
- agree transfer arrangements with Licensing Justices;
- ensure adequate funding is in place to provide an efficient and effective administrative system.

6.6 Arrangements for the best way of delivering the new licensing function need to be considered. Best Value principles require that all reasonable options are explored, for example, in-house, use of a private sector contractor for administration, partnership or lead authority arrangements with one or more other local authorities.

6.7 The Best Value review of Public Regulation, Inspections and Protection will be considering these and putting forward options and proposals. However, any initial views that Members may have would be welcomed at this stage.

7 RESOURCE IMPLICATIONS

7.1 The new licensing proposals in the Bill represent significant new responsibilities for the Council and however the administrative function is discharged, there will be additional work to be undertaken and implications for Members and officers in most Divisions.

7.2 The Department of Culture Media and Sport has intimated that there will be additional funding to cater for start-up costs, but no details are yet available. There are also concerns that the fees will not cover the operational costs of Local Authorities in administering the scheme, in enforcement and associated potential costs, for example, additional cleansing where late night licences are issued. The Local Government Association is lobbying for local discretion in setting fees.

7.3 Further reports will be brought forward as the timetable and details of the new licensing regime became clear.

8 RECOMMENDATION

8.1 It is proposed that the Committee **RESOLVES**

- (1) To consider the content of the Licensing Bill and its implications for Rochford District Council.
- (2) To make any early observations which can be considered within the context of the Best Value Review of Public Regulation, Inspection & Protection.

- (3) To support the Local Government Association in seeking changes to the Bill in terms of both its content and implementation and to advise both local MPs accordingly.

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Background Papers:

Local Government Association: Guide to the Licensing Bill 2002. Letter from Essex Police 27 November 2002.

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