

# Southend on Sea Borough Council

## Agenda Item

Joint Report of Chief Executive & Town Clerk  
and Director of Technical and Environmental Services

to

The Cabinet and All Members of the Council

On

19<sup>th</sup> November 2002

Report prepared by : D R Krieger

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**The Alcohol and Entertainment Licensing Bill – Implications for Local Authorities**  
**Executive Councillor Mrs A Holland**  
**(Part 1 – Public Agenda Item)**

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### 1. Purpose of Report

- 1.1 To draw attention to the contents of the proposed Bill.
- 1.2 To consider a checklist of actions for Local Authorities, which has been put forward by the Local Government Association.

### 2. Recommendations

- 2.1 **To approve the production of a further, more detailed, report quantifying the envisaged workload at a local level, and putting forward a framework for the administration and enforcement of these substantial new licensing functions in due course.**

### 3. Background

- 3.1 For some years, the Government has been considering the complete reform of the Liquor and Public Entertainment Licensing systems, one major element of which would be a transfer of responsibility for liquor licensing from the Courts to Local Authorities. Local Government bodies have been supportive of this proposal, which was outlined in the Home Office White Paper of April 2000, entitled "Time for Reform: Proposals for the Modernisation of our Licensing Laws". Progress has been made and, at the time of preparing this report, a Bill was in the advanced stages of preparation for anticipated inclusion in a schedule of draft legislation to be presented in the Queens Speech in November 2002.
- 3.2 At the present time, licences for the sale of intoxicating liquor (public houses, discotheques, restaurants, off-licences etc.) are issued by the Courts, acting through their Licensing Committees. Up until 1983, the Justices also dealt with the issue of licences for Public Entertainment, but since that time this duty has fallen to Local Authorities.
- 3.3 The Environmental Health Service has developed substantial expertise in Public Entertainment Licensing, and close liaison is maintained with the Licensing Justices, the Department's Commercial Services Team Manager attending their monthly sessions. The Team Manager Commercial Services is a fellow of the Society of Entertainment Licensing Practitioners and holds their Diploma in Entertainment Licensing Law and Practice. The Principal Environmental Health Officer (Safety and Licensing) is currently undertaking the certificate course of the society.
- 3.4 On 23<sup>rd</sup> September 2002 the Local Government Association (LGA) organised a one-day conference, which was attended by Members and Officers from over 200 Local Authorities. The Team Manager Commercial Services attended, and this report is based upon the presentations given at that time.

- 3.5 The presentation given by the LGA speaker indicated that the initiative for change was set out in a report by the Better Regulation Task Force in 1998. Potential benefits and functional links were seen in respect of tourism, regeneration, cultural strategy, community safety strategy, community plans, as well as in building upon existing expertise in dealing with licensed premises.
- 3.6 Broadly, the overall aims of the new legislation would be to:
- a) Protect the public from crime and disorder;
  - b) Ensure public safety;
  - c) Protect children;
  - d) Minimise nuisance and disturbance to the public.
- 3.7 Licences for *premises* would be issued by the Local Authority to cover (as appropriate) the sale/supply of alcohol, the provision of Public Entertainment, and the provision of Late Night Entertainment. *Personal* licences would be required for the individuals operating licensed establishments, and it is likely that these would be issued by Central Government to individuals possessing appropriate training/qualifications, and following Police clearance.
- 3.8 Local Authorities will need to prepare and publish local licensing policy documents which would need to be reviewed every three years. Arising from the new functions, the LGA state that Authorities will need to establish local licensing forums, set up appropriate administrative systems, and provide training for Members and staff. Authorities would need to be consistent, fair, and efficient, as well as operating in accordance with detailed National Guidance which is presently in the course of preparation.
- 3.9 A number of issues remain to be resolved, and these include questions of funding (i.e. the basis for fees, and transitional one-off costs) together with questions of enforcement (i.e. the level of enforcement and the respective roles of the Police and the Local Authority).
- 3.10 On the separate matter of gambling premises, a further Bill is expected, with Local Authorities assuming responsibilities from the Courts. The latest information from Government is that this may be brought forward to align with the Liquor Licensing changes.
- 3.11 A more detailed presentation was given by the Head of Alcohol and Public Entertainment Licensing Policy at the Department for Culture, Media and Sport. The themes were as follows:-

#### Current Problems

The present laws were designed for a bygone age, with dual licensing authorities, and a range of different permissions and approvals, leading to the potential for complexity and confusion.

#### Licensable Activities

These would include:

- a) The sale by retail of alcohol;
- b) The supply of alcohol by or on behalf of a club (otherwise than by way of sale);
- c) The provision of entertainment including theatre and cinema licensing (current Local Authority function);
- d) The provision of late night refreshment (i.e. all night cafes etc., an existing Local Authority function).

#### How Many Premises

The following national estimates are given:

Premises Licensed for the Sale of Alcohol	155,000	Premises with Permanent Public Entertainment Licences	9,000
Registered Clubs Supplying Alcohol	22,000	Premises with Occasional Public Entertainment Licences	37,000
Occasional Permissions for the Sale of Alcohol	40,000	Late Night Refreshment House Licences	5,000
<b>Total</b>	<b>217,000</b>	<b>Total</b>	<b>51,000</b>

Taken overall, this would indicate a four-fold increase in the number of premises for which Local Authorities would assume responsibility. Comparing *permanently* licensed premises, however, does perhaps give the truer comparison of a twelve-fold increase. The proposed further report would evaluate the direct implications for the Borough.

#### Licensing Authorities

Authorities would need to have regard to their own Licensing Statements, as well as the guidance issued by the Secretary of State. Detailed procedures would be laid down for the application process, although applications which did not give rise to objections could be dealt with under delegated Authority.

#### Renewing New Licences

It is likely that new licences would be issued in without the need for periodic renewal. Set against this, Licensing Authorities would have a range of powers to deal with substantiated complaints, enabling them to warn licensees, require improvements, impose modified conditions, as well as suspending or revoking licences.

#### Timing and Financial Arrangements

The level of fees has yet to be determined, the intention of the Government being that there should be full cost recovery. It is expected that the Bill will be published by the end of November 2002, and it is hoped that Royal Assent would be achieved by the end of July 2003, by which time detailed statutory guidance would also need to be in place. By January 2004, Local Authorities would need to be in a position to register applications from existing licensed premises and would assume full responsibility from July 2004.

#### Further Action

The Local Government Association has prepared a check list of preparatory action and this is set out in the **Appendix 1** to this Report. A number of these procedures are already in place locally, or are receiving active consideration. Further work will be required but it is felt that this should not be finalised until the draft statutory guidance has been received and considered.

## **4. Background Papers**

- 5.1 White Paper; "Time for Reform: Proposals for the Modernisation of our Licensing Hours".

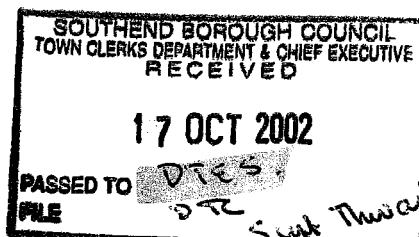
## **5. Appendices**

- 5.1 The following appendix is attached to this report:

### **5.1.1 Appendix 1 – LG Alert 343/02.**

To:  
 Chief Executives (all local authorities including Wales)  
 Clerks to Police, Joint Fire and Transport Authorities

Please circulate to those responsible for:  
 Environmental Health/ Legal Services, Licensing Officers,  
 Unitary, District and Borough Councils in England and  
 Wales



## Proposed Licensing Bill

16 October 2002

### Check list of actions local authorities should consider taking in anticipation of the Bill receiving Royal Assent by July 2003.

Dear Colleague

1. Whilst there is no guarantee at this stage, the Department of Culture, Media and Sport are optimistic that a Licensing Bill will be included in the schedule of draft legislation presented to Parliament by Her Majesty, the Queen in late November. To this end the DCMS have been working with the LGA and others to prepare a draft Bill.
2. The main thrust of the Bill is to secure the modernisation of the legislation governing the sale and supply of alcohol and control of public entertainment. Responsibility for licensing personnel and premises will become the sole responsibility of District, Borough and Unitary Authorities in England and Wales.
3. The LGA organised a one day conference on 23 September which was attended by members and officers from over 200 local authorities. It was suggested that the Association should issue an Alert to ensure that all local authorities are made aware of the impending transfer of responsibilities from the Licensing Justices in 2004/5 and to take some preliminary actions in anticipation of the Bill being enacted.
4. Clearly there will be some significant policy issues for the LGA to consider when the Bill is published. For example, the Association is strongly in favour of local discretion in setting licence fees. However, at this stage it is hoped that the following checklist of issues will be helpful in preparing budgets for 2003/4 (when the drafting of a licensing policy should be undertaken for example).

Yours sincerely

*Brian Briscoe*

**LG alert 343/02**

## Checklist of Actions

- (1) Include in Draft budgets for 2003/4 & 2004/5 provisional estimates for: (1) staffing and accommodation (2) administrative systems/software (3) training of both Members and Officers in preparation for transfer of responsibility for licensing all premises currently holding Liquor Licences; (4) licensing policy development. NB: Both systems likely to run side by side in transition period.
- (2) Discuss with the Clerk to the Licensing Justices their case load, their administrative systems and resources devoted to licensing. Discuss methods of data transfer. Accumulate statistics of existing licences (both number and type) & AWP permits in licensed premises.
- (3) If not already established, set up a local Licensing Forum comprising representatives of the licensees, magistrates (or magistrates' clerks), police and fire authorities and residents groups/parish councils etc. NB: Possibly within the context of local crime & disorder partnerships, See also (6)
- (4) Consider the methodology of preparing a local Licensing Policy and enforcement strategy.
- (5) Consider options for administering the premises licences e.g. in-house, consortia, outsourcing.
- (6) Discuss the policy and enforcement implications at the Community Safety Partnership (and the links to the current Community Safety Strategy). Also Local Strategic Partnerships.
- (7) Consider the implications for a Licensing Committee and delegated authority to officers to determine applications.
- (8) Review the links between licensing and local/regional planning and regeneration policies, cultural strategies etc.
- (9) Raise awareness of proposed Alcohol and Entertainment Reforms. Prepare a training programme for members and officers.
- (10) Ensure that licensing function will accord with the principles laid down in the Enforcement Concordat. NB: Sign up to the Concordat if authority has not done so already.
- (11) Reinforce existing links with police and fire authority representatives and discuss the implications for future joint working under the new system and resource implications of extended operating hours.
- (12) As necessary, define the future roles of the Council Officers of different disciplines who might be affected by the changes. As necessary, review Departmental structures.
- (13) Develop local media strategy to educate and inform local residents and business about forthcoming changes.
- (14) Consider corporate membership of one of the national licensing professionals' associations e.g. Local Government Licensing Forum, Society Enforcement Licensing Practitioners etc.