

## ***Report to Local Liaisons Committee***

***Date of meeting: 1 March 2006***

**Subject: Licensing Act 2003 – Consultation process**

**Officer contact for further information: J Nolan (ext 4083)**

**Committee Secretary: Z Folley (ext 4532)**

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### **Recommendation:**

**To receive a presentation on the non consultation rights for local Council's in the new licensing regime.**

### **Background**

1. (Head of Environmental Services). At its last meeting on 2 November 2005, the Liaison Committee requested that a presentation be given to a future meeting on the non consultation rights for local Councils in the new licensing regime. The District Councils Assistant Head of Environmental Services, Mr Jim Nolan (who is in charge of the Licensing Section at the Council) will be attending the meeting to give a presentation and answer questions.

### **Matters for consideration**

2. The Licensing Act 2003 contains a number of requirements regarding the advertisement of proposals. In addition to sending a copy of their application to all the responsible authorities (see below), the legislation states that an applicant for a licence also has a duty to:

- display a notice of intention to apply for a licence at the premises for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority.
- publish a notice in a local newspaper or, if there is none, in a local newsletter, circular or similar document, circulating in the vicinity of the premises on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the relevant licensing authority.

3. The Licensing Act 2003 identifies two groups who are entitled to make representations with regard to an application for a premises licence or club premises certificate.

#### **(a) Interested parties.**

4. These are bodies or individuals who are entitled to make representations to licensing authorities on applications for the grant, variation or review of premises licences. This group includes:

- a person living in the vicinity of the premises in question;
- a body representing persons living in that vicinity;

- a person involved in a business in the vicinity of the premises in question;
- a body representing persons involved in such businesses.

Any of these individuals or groups may specifically request a representative to make their representation their behalf. For example, a legal representative, a friend, a Member of Parliament or a local ward councillor could all act in such a capacity. It is expected that “persons involved in a business” will be given its widest possible interpretation. It is also expected that the expression can be held to embrace the functions of charities, churches and medical practices.

**(b) Responsible authorities.**

5. These are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. All representations made by responsible authorities are relevant representations if they concern the effect of the application on the licensing objectives. For all premises, these include:

- the chief officer of police;
- the local fire authority;
- the local enforcement agency for the Health and Safety at Work etc. Act 1974 (which may be the local authority in certain circumstances, and the Health and Safety Executive in others);
- the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health;
- the local planning authority;
- any body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm and is recognised by the licensing authority for that area as being competent to advise it on such matters;
- any licensing authority, other than the relevant licensing authority, in whose area part of the premises are situated.

In relation to a vessel, but no other premises, responsible authorities also include:

- navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is used for licensable activities;
- the Environment Agency;
- the British Waterways Board;
- the Secretary of State. The provision of the Secretary of State as a responsible authority in this case means the Secretary of State for Transport who in practice acts through the Maritime and Coastguard Agency, an executive agency of central Government, which has no formal legal existence.

6. The Secretary of State for Culture, Media and Sport may prescribe other responsible authorities by means of regulations, however, to date none have been so prescribed.

7. The Local Authorities Co-ordinators on Regulatory Services (LACORS) have issued the following statement in response to questions relating to the status of Town and Parish Councils.

“there is no requirement on the licensing authority to keep the Town/Parish Council apprised of all applications/hearings. The Government quite clearly defined certain bodies as being Responsible Authorities and this does not include the Town/Parish Council”.

8. If the licensing authority exceeds its powers in relation to the statutory consultation requirements it may provide grounds for appeal against any subsequent decision it makes. It would also be liable to judicial review for acting beyond its powers.