

**LICENSING COMMITTEE 13 DECEMBER 2005****Report of Head of Corporate Services****Statutory Powers: Licensing Act 2003**

**Financial Implications:** Indeterminate ongoing costs in respect of both Members' and Officers' time in relation to the administration of Licensing Sub-Committees

**Purpose**

To update Members on the "transitional period" for existing holders of a Justices' licence prior to full implementation of the provisions of the Licensing Act 2003 on the 24<sup>th</sup> November 2005.

**Recommendation**

**That the Licensing Committee RESOLVES that the report be noted**

**Background/The Issues**

1. As Members are aware, the Licensing Act 2003 came into force in its entirety on 24<sup>th</sup> November 2005. However, there were certain procedures to follow and conditions to fulfill if licensees wished to convert their existing Justices' liquor licence and apply for a variation of operating hours and licensable activities, leading up to this date.
2. The Licensing Act 2003 transfers the responsibilities and powers under the Licensing Act 1964 previously held by Magistrates, to local authorities.
3. To make a simultaneous application to convert and vary a premises licence, the application must have been submitted between February 6<sup>th</sup> and August 6<sup>th</sup> 2005, to the licensing authority, with copies to the Chief of Police. This was known as the transitional period.
4. If there were no relevant representations (objections), the licence could be granted by the licensing officer. If, however, there were relevant representations from those entitled to make such representations, a hearing had to be convened within the prescribed time limit, in order to reach a decision on the application. If all parties agreed that a settlement could be reached and that there was no need for a formal hearing, a sub-committee was convened in order to attach the seal of approval to the negotiated amended application.
5. The Council heard seventeen applications for simultaneous conversion and variation that attracted relevant representations between the 15<sup>th</sup> August 2005 and 28<sup>th</sup> September 2005. These applications were heard by a formal sub-committee at a full hearing.
6. Out of the seventeen matters heard, eight applications were from Dartmouth, three from Kingsbridge, two from Salcombe and Totnes respectively, one each from both Yealmpton and Brixton.

7. Out of the seventeen heard, only one applicant felt sufficiently aggrieved by the sub-committee's decision and felt it appropriate to appeal to the Magistrates' Court. This matter is ongoing but will be fully heard by the Magistrates' on 4<sup>th</sup> January 2005. If the Applicant is successful with his appeal, the Magistrates' can either refer the matter back to the licensing authority or substitute their own decision.
8. All Members of the Licensing Committee sat on hearings, and due to the strict time limits, many such meetings were convened at relatively short notice, a task made more difficult by the Summer holiday period.
9. The period for simultaneous conversions and variations is now over. There will be a need for Sub-Committees to be convened in the future to hear matters ranging from applications to grant new premises and personal licences, temporary event notices (where relevant representations have been received) and to consider and determine upon licence reviews.
10. It is unknown to what extent and frequency these committees will be held.
11. The new licensing regime will be the subject of ongoing training for those Members who sit on the Licensing Committee.
12. There has been a cost issue with training officers and Members, officers' time, convening hearings and communicating decisions and it is likely that such costs will be ongoing.

## **Conclusion**

This report has sought to inform Members of the situation from the 6<sup>th</sup> August 2005 to 24<sup>th</sup> November 2005, being the time frame for application and implementation of the provisions under the new Act. The writer believes that SHDC has been both effective and efficient in the execution of the new responsibilities and duties conferred by the Act.

Colin Miles  
Legal Assistant

Licensing Committee  
13 December 2005

Kevin Williams  
Head of Corporate Services

## **Background Documents:**

The Licensing Act 2003  
The Government Guidance Section 182  
Transitional Period Statutory Instruments  
SHDC Statement of Licensing Policy

Reference(T:\. . . . .\ . . . . .\ . . . . .doc)