

LICENSING POLICY WORKING GROUP

TUESDAY 22 JULY 2003 AT 10.00AM

PRESENT: Councillor Mrs Parsons (Vice-Chairman) and Councillor Atkinson.

Officers: J Messenger – Licensing Manager
B Blamires – Assistant Solicitor
S Halstead – Senior Committee Clerk
Sergeant Pannone – Cumbria Police
A Jackson – Magistrates Clerks Office
N McDermott – Magistrates Clerks Office
B. Ewels – Cumbria Fire Service
A McCrill – Cumbria Fire Service
S Pullan – Cumbria Fire Service

LPWG.11/03 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Morton (Chairman) and Bloxham.

LPWG.12/03 MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Working Group held on 2 July 2003, copies of which had been circulated, were agreed as a correct record.

LPWG.13/03 DRAFT LICENSING POLICY

The Licensing Manager reported that the Licensing Act 2003 had received Royal Assent on 10 July 2003 after delays on the progress of the Bill through the House of Lords and the House of Commons. The necessary regulations and guidance on the implementation of the legislation was now expected to be issued in September 2003 and it was anticipated that the new Act would be enacted in March 2004 at the earliest and not 1 January 2004.

The original timescale for adoption by the City Council of a Licensing Policy would, therefore, also slip back and a Policy could now be forwarded to the City Council for approval at one of the meetings in January or February 2004. This would allow more time for stakeholders to input views on the draft Policy and for consultation with the general public.

The Licensing Manager further reported that the County Officer Working Group set up to draft a framework for a Countywide Policy would be meeting on 28 July 2003 and any observations of this Group on the latest draft of the Policy would be raised at that meeting. Whilst it was intended for a

Countywide Licensing Policy to be drawn up, it was open to individual Councils to alter the draft to suit local circumstances. The Vice-Chairman then invited observations from those present on the latest draft of the Licensing Policy.

Discussion arose on the following:-

- (a) Sergeant Pannone asked if “premises supervisors” need personal licences themselves (Page 7).

The Licensing Manager understood that premises supervisors needed to be named in the premises licence but that there was no requirement for them to have a personal licence.

- (b) Sergeant Pannone considered that it was unclear whether the personal licence holder needed to be behind the bar at all times to personally supervise the sale of alcohol.

The Licensing Manager would seek clarification on this point.

- (c) On page 9 of the draft Policy, Sergeant Pannone asked that the phrase “to prevent crime and disorder” on the third last line be amended to read “to prevent and detect crime and disorder.”

- (d) On page 13 of the draft Policy, Sergeant Pannone asked whether Fire Certificates specified occupancy levels for premises.

The Fire Service representatives indicated that a lot of premises did not have Fire Certificates but that a new Fire Safety Act would be enacted in 2004 which would require people to carry out a Fire Safety Risk Assessment and which would take into account capacity. There were currently a lot of public houses without any occupancy levels set.

It was agreed that the forthcoming requirements for Fire Safety Risk Assessments and the desirability for Licensing Authorities to include a capacity level in premises licence should be raised at the County Officers Working Group.

- (e) Sergeant Pannone asked whether the requirement on page 13 of the draft Policy not to introduce zoning contradicted the statement on page 14 that the Council would not normally allow a closing time of later than 11pm for licensed premises situated in predominantly residential areas.

Discussion arose on the inclusion of the 11pm requirement for premises in residential areas. It was agreed to suggest to the County Working Group that this should be deleted and replaced with a statement that the Council will give serious consideration to any late night hours applications for premises in residential areas. It was considered that the majority of applicants would be seeking 24 hour Licences so that they could open later than 11pm on occasion.

(f) On Policy 4.6 – Protection of Children from Harm (P17/18), Sergeant Pannone reported that the Police were recommending that main nightclub premises should be licensed for people 18 years of age and over only. The Police would object to applications for under 18 disco type events in nightclubs as it introduced youngsters to a nightclub environment.

(g) Sergeant Pannone asked whether special authority would be required as at present for premises used for adult entertainment.

The Licensing Manager indicated that there were currently no premises licensed for adult entertainment on a permanent basis. Occasional consents had been given in the past.

Sergeant Pannone considered that the Policy should include a clear decision making process on how the Council would deal with an application for a full licence for premises for adult entertainment.

(h) Sergeant Pannone asked whether the implications of the Disability Discrimination Act to be brought into force in 2004 would apply to applicants. He pointed out that some licensed premises did not have downstairs toilets.

The Licensing Manager reported that the City Council's Access Officer had been consulted and the Licensing Policy would need to address issues relating to the Disability Discrimination Act so that applicants were clear on what the Council required.

(i) Sergeant Pannone asked whether there was any protection for Officers delegated to make decisions on applications.

The Licensing Manager indicated that the Act prescribed the actions to be taken by Officers to approve applications where no representations are made and that therefore, the Act itself was protection.

(j) The Chairman asked whether the public were allowed to make representations on applications for personal licences.

The Licensing Manager reported that the Act allowed consultation with the Police. It may be that the Council would be able to consult the CRB as well but he would need to seek clarification on that point. He was also concerned that an applicant for a personal licence could move away from the Carlisle area to work but would remain licensed by the City Council for the remainder of their 10 year licensing period.

(j) Mr Jackson drew attention to a Good Practice Guide used by the Magistrates when dealing with licensing applications and which had been compiled following many years' experience.

The Licensing Manager acknowledged that the Guide may be helpful to the Magistrates in dealing with current applications but that the provisions in the new Act would not be included in the Guide.

(j) Mr Jackson was also of the opinion that the majority of applicants would apply for longer hours than 11pm so that premises could remain open later in an evening to meet specific demand. If the Council restricted applicants to 11pm, then he expected that many appeals would be lodged to the Magistrates Court which, given the spirit of the legislation, the Magistrates may find difficult to resist.

(k) Mr Jackson reported that the Magistrates Licensing Committee was willing to provide any necessary help and advice to the Local Authority to achieve a smooth transfer of the licensing functions. He asked whether the Council's Licensing Committee would wish to sit in as observers at Transfer Sessions and also whether a meeting between the Council's Licensing Committee and the Magistrates' Licensing Committee would be beneficial.

The Licensing Manager reported that the current Licensing Panel would be enlarged from 8 to 12 Members and that suitable training would be provided for these Members early in the New Year.

Members of the Working Group agreed that observing at a Transfer Session and meeting with the Magistrates Licensing Committee would be of benefit and asked the Licensing Manager to liaise with Mr Jackson so that the necessary arrangements can be made in the New Year.

The Fire Service representatives confirmed that they would be willing to assist in any training sessions giving the Fire Service perspective.

(l) Fire Safety Officer Pullan asked for the Fire Safety legislation to be included in the list of legislation on Page 4 of the draft Licensing Policy. The Policy should also allow prosecutions by the Licensing Authority for breaches of conditions as well as prosecutions by the Fire Authority for breaches of Fire regulations.

(m) Fire Safety Officer Pullan indicated that the Fire Service would not have the resources to inspect all premises applying for licences. Divisional Officer McCrill stressed that the Fire Service had concerns about the potential increase in the number of inspections of premises and indicated that they would only be able to inspect premises where there was greatest risk. Divisional Officer Ewels reported on a Government White Paper issued recently which, if enacted, would require Fire Authorities to dedicate their resources to areas where the risk was greatest.

The Licensing Manager indicated that existing premises which were currently licensed by the Local Authority for public entertainment or by the Licensing Justices for the sale of alcohol would automatically obtain premises licences under the new Act. It was not a statutory requirement for Fire Authorities to have carried out inspections prior to these Licences being issued under the

new licensing regime, or for renewals and transfers. However, the Fire Authority may wish to inspect premises which are the subject of applications for variations to Licences involving changes to permitted numbers or structural alterations.

Divisional Officer McCrill noted these comments and confirmed that the Fire Service would be able to issue standard Fire Safety Guidance for all applicants.

(n) Fire Safety Officer Pullan suggested that, under Fire Safety on Page 12, the sentence “The Council expects all premises to have a current fire certificate” be deleted and replaced with “The Council requires that all licensed premises have a suitable and sufficient Fire Safety Risk Assessment to safeguard the employees and public in the event of fire who resort to the premises during licensing hours.”

(o) Fire Safety Officer Pullan asked that the paragraph on seating on Page 12 should include a reference to seating arrangements complying with British Standard 5588 Part 6.

(p) With regard to temporary Activities for which the Council could not impose conditions (Page 25), the Fire Service were of the opinion that satisfactory Fire Safety Risk Assessments should be supplied before consents given.

The Licensing Manager pointed out that the Act did not specify that applicants could be required to supply Fire Safety Risk Assessments. A Councillor considered that it would be in the interests of the organisers to undertake an assessment given that they would be responsible for safety at any event.

It was agreed that the draft Licensing Policy should be expanded and that any application for permitted temporary activities should be forwarded to the Police, Fire Service and Environmental Services for comment and the organisers asked to submit a Fire Safety Risk Assessment. Applicants would then be asked to voluntarily comply with any requirements recommended by these consultees.

(q) Fire Safety Officer Pullan asked how applications for premises licences would be dealt with where planning or building regulation approvals were outstanding.

The Licensing Manager reported that in these circumstances, provisional approvals would be given subject to the necessary planning and/or building regulation approvals being produced.

(r) Mr Blamires asked how the mediation meeting proposals (Page 24) would work in practice.

The Licensing Manager indicated that he would undertake the mediation to try and resolve any objections without the need to refer the issue to the Licensing Committee.

RESOLVED – That the Licensing Manager be requested to raise the issues discussed at this meeting at the County Officers Working Group meeting to be held on 28 July 2003 with a view to changes being made to the draft Licensing Policy.

LPWG.14/03 CONNECTED CUMBRIA INITIATIVE

Divisional Officer Ewels reported that he served on the Connected Cumbria Partnership whose aim was to introduce electronic access to services throughout Cumbria. The Partnership had identified the new licensing regime as a suitable Countywide project and the views of Local Authorities in Cumbria were being sought.

The Licensing Manager reported that the Council's IT Section had informed him of this initiative and been investigating electronic delivery of licensing services. Certain information and licence application forms were currently available on the City Council's website.

The City Council was committed to the development of electronic access to services.

RESOLVED – That so far as this Working Group is concerned, participation in the Connected Cumbria project be supported.

LPWG.15/03 DATE OF NEXT MEETING

It was agreed that the Licensing Manager should liaise with the Chairman over the date and time of the next meeting of the Working Group.

The meeting ended at 11.50am