

SOUTH HOLLAND DISTRICT COUNCIL

**REPORT TO:** THE COMMITTEE OF THE LICENSING AUTHORITY

**BY:** HEAD OF COMMUNITY & NEIGHBOURHOOD SERVICES

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**SUBJECT:** LICENSING ACT 2003 & ASSOCIATED LEGISLATION

**PURPOSE:** TO APPROVE AN ENFORCEMENT PROTOCOL FOR THE LICENSING ACT 2003

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## 1.0 INTRODUCTION

- 1.1.1 The Licensing Act 2003 places a number of duties and responsibilities on the Licensing Authority. Once a licence is issued, it will normally contain a number of conditions which the licence holder must comply with, in order to uphold the Licensing objectives.
- 1.1.2 A breach of conditions of the licence is an offence, under the Licensing Act. Also in a number of circumstances other primary legislation may also be breached. Thus when incidents occur it can be complicated as to who is the correct enforcing authority and what legislation should be used for enforcement purposes. For example; noise nuisance from a public house may be a breach of licensing conditions, but may also constitute a statutory nuisance under the Environmental Protection Act. Also crime and disorder matters may be a breach of a licence condition/s, but may also be offences that the Police primarily deal with.
- 1.1.3 Whilst it is felt that the Licensing Authority has a good working relationship with all of the 'responsible bodies', there is some confusion as to who is the most appropriate to deal with the matter on some occasions. It is therefore felt that in order to provide guidance to officers and the responsible bodies, a formal enforcement protocol be agreed. In any subsequent prosecution or enforcement challenge, it would be beneficial to show the court/appeal panel that we have a formalised protocol and that this is being followed.

## 2.0 ENFORCEMENT PROTOCOL

- 2.1 The proposed enforcement protocol is closely based on that drafted by the Lincolnshire Licensing group. Thus the guidelines should be consistent throughout the county of Lincolnshire and reflects the consensus of opinion of Senior Licensing officers in Lincolnshire. A copy of the proposed protocol is attached at **Appendix A**. Some Liaison has also been undertaken by the group with the responsible bodies. If approved the protocol will ensure consistency of approach by officers and other Licensing Authorities within Lincolnshire.

## 3.0 LEGAL & FINANCIAL IMPLICATIONS

- 3.1 There are no legal or financial implications for South Holland District Council associated with the report or recommendations.

## 4.0 STAFFING IMPLICATIONS

- 4.1 There are no staffing implications associated with this report.

## 5.0 RECOMMENDATIONS

5.1 It is recommended that the attached enforcement protocol is approved.

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Background papers:- Licensing Act 2003

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File Ref: CF/enf protocol report/11/11/06

Appendices: **Appendix A-Enforcement Protocol**

Local Government (Access to Information) Act 1985

Please contact Craig Fowler, the Team Leader, Food Safety & Licensing if you want more information about this report or the background papers. You can contact him/her:

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