

**NORTH LINCOLNSHIRE COUNCIL**

**LICENSING COMMITTEE**

**PRE-APPLICATION ADVICE SERVICE  
LOCALISM ACT 2011 AND RELEVANT LICENSING LEGISLATION**

**1. OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To consider the implementation of a pre-application assistance and advice service for businesses and persons applying for licences.
- 1.2 To determine the fee for the pre-application assistance and advice service, should it be implemented.

**2. BACKGROUND INFORMATION**

- 2.1 Section 1 of the Localism Act 2011 (the Act) introduced a “general power of competence”. It gives local authorities the legal power to do anything that an individual may do, albeit that there are some limitations. These limitations, under section 2 of the Act, apply to duties where a power already exists to do something and does not allow the authority to do anything which is covered under Part 6 of the Local Government Act 1972 and Part 1A of the Local Government Act 2000. Other restrictions apply under section 2 of the Act.
- 2.2 The general power of competence can be exercised for the benefit of the authority, the area or the residents of the area, or otherwise. Developing a pre-application service for licence applications would see a potential benefit for businesses, residents and the council.
- 2.3 Section 3 of the Act allows the Council to charge a fee and may do so commercially but only through a company. In the case of the pre-application assistance and advice service, it is proposed to charge a fee to cover the costs of delivering the service, thus it would not be for a commercial purpose.
- 2.4 In delivering the service, the Council can rely on the general power of competence to give licensing advice as mentioned in paragraph 2.1 as the giving of such advice is not limited by the existence of any other power.

- 2.5 The Licensing Department covers numerous licensable activities, some more complex than others. It is proposed that a pre-application advice service be implemented for applications under the following areas:
- Alcohol and Entertainment (Licensing Act 2003)
  - Gambling (Gambling Act 2005)
  - Animal Welfare (Various Acts)
  - Street Trading and Highways Authorities (Local Government (Miscellaneous Provisions) Act 1982 and Highways Act 1980)
  - Hackney Carriage and Private Hire (Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847)
  - Sex Establishments (Local Government (Miscellaneous Provisions) Act 1982)
  - Approved Premises for Marriages (Marriages Act 1949)
  - Other Applications/Registrations
- 2.6 Applications under the Licensing Act 2003 are probably the most complex, with applicants offering conditions on the operating schedule, which often need to be interpreted. The application process includes a consultation process, which can often throw up multiple objections as a result of poorly completed applications. Applications in this area are often rejected as the applicant has failed to adhere to the application process. There is also often a need to conduct a site visit with these applications, as there is with applications under other areas, which involve the need to comply with conditions before a licence can be issued.
- 2.7 Due to the complexity involved in the processes, applicants do not necessarily have the expertise to complete the application form or to ensure that they meet the standards required. As a result applicants can either apply through a solicitor, incurring additional expense, or run the risk of their application being rejected or refused. Licensing Officers are in an ideal place to offer advice at minimal cost to the applicant. This benefits both the business, the residents and the Council.
- 2.8 The benefits referred to in paragraph 2.7, namely to the businesses, residents and the Council are as follows:
- Businesses – Benefit from reduced costs in seeking advice, as the service provided will be set to cover the cost of the service and not as a commercial enterprise. They will also benefit as their applications will not be rejected if they follow the advice as the application should address any licensing objectives or conditions therefore reducing the risk of representations or refusal.

- Residents – Will benefit from the involvement of the Licensing Officers at an earlier stage. Hopefully this will result in the residents having less concerns about applications and ultimately applicants will give more consideration to the local environment and the needs of their neighbours.
- The Council – Will benefit from a reduced number of representations and ultimately the scheme should reduce the need for costly hearings before the Licensing Activities Sub-Committee.

2.9 In order to deliver the benefits set out in paragraph 2.8, the pre-application advice scheme will provide the following advice and guidance relating to the completing of the application form and other statutory requirements:

- Advice on appropriate conditions, which will be taken from a pool of standard conditions, where appropriate or how to comply with conditions where they are in force;
- Advice on drawing up plans to accompany the application in accordance with any relevant regulations;
- Assistance with advertising and notices
- A site visit to ensure that plans are correct and compliant and that the premises conforms to any conditions or regulations as appropriate and to ensure that any statutory notices are displayed; and
- Assistance with other matters, such as the appointment of a designated premises supervisor.

2.10 The list at paragraph 2.9 is not exhaustive and other advice and assistance may be provided if necessary. In delivering this service, the Licensing Officer involved will not be able to represent individuals or businesses at hearings before the Licensing Committee or the sub-committees. Additionally, in order to maintain a separation of duties, the Licensing Officer delivering the pre-application assistance will not process or determine the application, nor will they attend any hearing where representations have been made. This will ensure no conflict of interest in the process.

2.11 Section 3 of the Act allows the Council to charge for the service, albeit that the fee charged must be set to cover the cost of delivering the service. The table overleaf shows the cost of providing assistance and advice for each type of application at a rate of £35.00 per hour, which includes an element for officer time and other costs.

Licence Type	Assistance and Advice with				Total Hours/ Cost
	Application	Inspection	Conditions	Advertising & Notices	
Alcohol and Entertainment	1 hour	1 hour	30 minutes	30 minutes	3 hrs £105.00
Animal Welfare Applications	30 minutes	1 hour	1 hour	N/A	2:30 hrs £87.50
Gambling	30 minutes	1 hour	N/A	30 minutes	2 hrs £70.00
Street Trading and Highways Authorisations	1 hour	1 hour	N/A	N/A	2 hrs £70.00
Hackney Carriage and Private Hire	1 Hour	N/A	N/A	N/A	1 hr £35.00
Sex Establishments	30 minutes	1 hour 30 minutes	30 minutes	N/A	2:30 hrs £87.50
Approved Premises for Marriages	30 minutes	1 hour	N/A	N/A	1:30 hrs £52.50
Other Licences and Registrations	30 minutes	1 hour	N/A	N/A	1:30 hrs £52.50

2.12 The pre application advice and assistance service is voluntary. Applicants do not have to use the service. Where applicants do not wish to use the service, they will still be provided with any relevant guidance notes and policies and no fee will be charged where brief advice is sought over the phone, so long as it does not require significant officer time.

2.13 It is proposed that discretion be given to the Licensing Manager in consultation with the Chair of the Licensing Committee to be able to apply an exemption from paying the fee for certain premises, persons or businesses. This exemption would be applied where the application is of benefit to the community and not for gain.

2.14 Should the pre-application advice and assistance service be agreed, then the time spent on each application will be monitored. This will not impact on the current fee, but will ensure that fees set in future are correct and cover the cost of delivering the service.

### 3. OPTIONS FOR CONSIDERATION

3.1 Option 1 – Approve the proposed pre-application and advice service.

3.2 Option 2 – Reject the proposed service.

#### **4. ANALYSIS OF OPTIONS**

4.1 Option 1 – The proposed service will benefit the businesses in the area and the Council. The businesses will benefit from a service delivered at cost and should result in less applications being refused. The benefits to the Council will be via a reduction in applications going to hearings as the applicants will be more aware of the conditions they should be including on their application.

4.2 Option 2 – Rejecting the service would maintain the current service and result in applications being rejected and/or applicants seeking advice from businesses.

#### **5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

5.1 Financial – the scheme will be set up to cover the costs of delivering it. In order to make a profit, the Council would need to set up a separate company.

5.2 Staffing – it is hoped that the time saved refusing applications and chasing applicants for more information will be sufficient to cover the scheme.

5.3 There are no Property or IT implications.

#### **6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)**

6.1 Statutory – The Localism Act 2011.

6.2 There are no other Environmental, Diversity, Section 17, or Risk implications

#### **7. OUTCOMES OF CONSULTATION**

7.1 No consultation has been carried out, save that the report has been passed to Legal Services and Finance for comment.

#### **8. RECOMMENDATIONS**

8.1 That the scheme be approved in accordance with Option 1 and the fees be set in accordance with paragraph 2.11 and a report be presented to the Cabinet Member for consideration.

DIRECTOR OF PLACES

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Date: 27 May 2015

**Background Papers used in the preparation of this report**