

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – 12 SEPTEMBER 2012

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| Title of report | LICENSING AUTHORITIES POWERS TO DEAL WITH PROBLEMATIC PREMISES |
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| Purpose of report | <p>(1) To present Licensing Committee with the significant changes to the Licensing Act 2003 as a result of the Police Reform and Social Responsibility Act 2011.</p> <p>(2) To make Licensing Committee aware of further changes to the Act anticipated in October 2012 and April 2013.</p> |
| Strategic aims | <p>Business and Jobs Safer and Healthier District</p> |
| Implications: | |
| Financial/Staff | The legislative changes will not require additional staffing. All costs will be met through licence fees |
| Link to relevant CAT | Business CAT |
| Risk Management | Not applicable |
| Equalities Impact Assessment | Not applicable |
| Human Rights | Not applicable |
| Transformational Government | Not applicable |
| Comments of Head of Paid Service | Report is satisfactory |
| Comments of Section 151 | Report is satisfactory |

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| Officer | |
| Comments of Monitoring Officer | Report is satisfactory |
| Consultees | None |
| Background papers | Home Office (July 2012) Dealing with the Problems of Late Night Drinking – Response to Consultation Police Reform & Social Responsibility Act 2011 Licensing Committee Report – County wide Alcohol Licensing Project (12 September 2012) |
| Recommendations | THAT LICENSING COMMITTEE NOTE THE CHANGES TO ALCOHOL LICENSING LAW |

1.0 Background

- 1.1 The Government set a clear commitment to overhaul alcohol licensing to tackle the crime and disorder caused by alcohol and the resultant health and social harms, and to rebalance the Licensing Act 2003 in favour of local communities.
- 1.2 Proposals for change were taken forward in the Police Reform and Social Responsibility Bill which received royal assent on 15 September 2011 and is now the Police Reform and Social Responsibility Act 2011.

2.0 Legislative Changes Introduced on 25 April

The following summarises the significant changes which came into force on April 25th:

- 2.1 Health Bodies (Primary Care Trusts) became one of the Responsible Authorities and are now entitled to have a say in local decisions about alcohol licensing. This means that Primary Care Trusts can present health-related evidence such as data on alcohol-related ambulance callouts and hospital admissions, to licensing authorities and must be notified about new licence applications.

Action: The PCT have been added to the list of consultees (Responsible Authorities). A representative of the PCT attended a training event on 5 July.

- 2.2 Doubling of the fine for persistent underage sales to £20,000

Action: Noted. All Licensing Committee Members have been briefed. One premise has recently had their licence revoked by Licensing Committee following persistent underage sales.

- 2.3 Licensing Authorities as Responsible Authorities

The change added licensing authorities to the list of responsible authorities under the Act. This change will ensure licensing authorities are better able to respond quickly to the concerns of local residents and businesses by taking action without having to wait for representations from other responsible authorities.

In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest.

Action: In these cases we will allocate the different responsibilities to different Licensing Enforcement Officers or other Officers within Environmental Health to ensure a proper separation of responsibilities. The officer advising the licensing Sub-Committee will be different to the Officer acting for the responsible authority. Licensing Enforcement Officers have received training on the changes to the law.

2.4 Removal of 'vicinity' test

Residents, businesses or associations are able to make representations to applications even if they do not live or work in the 'vicinity' of the premises – the only test on validity is whether their representation is 'relevant' to the licensing objectives. This may result in an increase in the number of representations received, however an increase has not been seen between April and August.

Action: Website has been updated. Licensing Committee Members have been briefed.

2.5 Lowering of the evidential threshold on licensing authorities

In determining an application, a Licensing Committee is only required to consider what is "appropriate" to promote the licensing objectives rather than what is considered "necessary".

The declared aim in changing the wording of the Act was a desire to give licensing authorities greater power to tackle irresponsible premises and it was argued during the passage of the Bill that the word 'appropriate' would allow decisions to be taken on the grounds of subjective judgment as opposed to the actual facts of a case.

It still remains however that decisions will need to be evidence-based and the factors which form the basis of any determination are limited to consideration of the promotion of the licensing objectives and nothing else.

Action: Licensing Committee Members have been briefed at a training event on 2nd May

2.6 The system of Temporary Event Notices (TENs) has been reformed:

There is a new facility for a "late" Temporary Event Notices (TENs) and "objections" can be based on any grounds relevant to the licensing objectives. Environmental Health is now able to raise "objections" as well as the Police and a licensing authority is now able to impose conditions when granting an opposed TEN)

Action: The Environmental Protection Service within the Street Action Team is able to raise objections. The Street Action Team has received training.

2.7 Suspension of premises licences due to non-payment of annual fees – Following a grace period of 21 days

Action: Noted. This is not an issue for NWLDC to date. Payment of fees is continually monitored. An invoice is accompanied by a letter detailing the ability to suspend a licence in the event of non payment. In the event that a licence holder fails to pay the annual fee a reminder letter is sent. A premises licence holder is notified of the date when the suspension of the licence would take effect should payment not be received.

3.0 **Legislative Changes Scheduled for October 2012**

3.1 Increasing the flexibility of early morning restriction orders (EMRO)

Currently an EMRO allows a licensing authority to restrict sales of alcohol in the whole or part of their district for any specified period between 3am and 6am. A night-time economy does make certain parts of some towns no-go areas at night and anti-social behaviour associated with late night drinking extends into residential communities not just around licensed premises. EMROs will allow licensing authorities to restrict sales of alcohol in the whole or a part of their district for any specified period between 12am and 6am if they consider this to be appropriate for the promotion of the objectives. The period of time will be extended to between 12am and 6am.

Benefit: The change to the specified period will provide a licensing authority with more flexibility. There are no EMRO currently in NWL.

Action: Noted. Await further details and guidance on the processes for implementing an EMRO. A further update will be provided at the November 2012 Licensing Committee meeting.

3.2 Introduction of a late night levy to cover the cost of policing the late night economy

The late night levy is a new power for licensing authorities to introduce a charge for all premises in the local authority area that are authorised to sell alcohol between midnight and 6am.

The option to implement the levy will be left entirely at the discretion of the licensing authority, which will make the decision based on the situation in its local area. If a local authority decides to introduce a levy it will be collected annually and the revenue split between the licensing authority and the police. The licensing authority can currently retain up to 30% of the net levy revenue to fund other activities to tackle alcohol-related crime and disorder.

The levy will affect all premises (both on-trade and off-trade) that are licensed to sell alcohol during the hours to which the levy applies. Some categories of premises may be subject to reductions in their levy or be exempt from the levy entirely. The late night levy will be set at a national level and will be split into bands based on a premises rateable value.

Benefit: The policy permits licensing authorities to charge those businesses that benefit from trading alcohol in a safe late-night economy for the extra enforcement costs that the night-time economy generates for police and local authorities.

Action: Noted. Await further details and guidance on the processes for introducing a levy, exemptions and the types of services that revenue from the levy can fund. An update will be provided at the November 2012 Licensing Committee.

4.0 **Legislative Changes Scheduled for April 2013**

4.1 Annual Fees – Move from Statutory to locally set fees

Currently the Licensing Act fees are set by statute. The change allows the Secretary of State to introduce locally-set licensing fees with the level of each fee category being set by each licensing authority based on full cost recovery. Statutory Guidance will be introduced detailing what can and cannot be included in a licensing authorities costs for the purposes of calculating fees. There will be a nationally-set cap for each fee category.

Benefit: This will allow licensing authorities to set a fee level that provides full cost recovery of the alcohol licensing service.

Action: Noted. Further regulations are expected in April 2013. Upon receipt of the Regulation and guidance fees will be determined in accordance with the 2013/14 budget setting process.

5.0 **The Live Music Act 2012**

5.1 This legislation is expected to be introduced in October and will remove the licensing requirements for:

- Amplified live music between 08:00hrs and 23:00hrs for audiences of no more than 200 persons on premises authorised to sell alcohol for consumption on the premises;
- Amplified live music between 08:00hrs and 23:00hrs for audiences of no more than 200 persons in workplaces not otherwise licensed under the Licensing Act 2003 (or licensed only for the provision of late night refreshment); and
- Unamplified live music between 08:00hrs and 23:00hrs in all venues.

5.2 If problems arise from these exemptions, licensing authorities will be able to impose or reinstate conditions relating to the live music following a review of a premises licence or club premises certificate where that licence authorises the supply of alcohol for consumption on the premises.

6.0 **Implementation of the Changes**

6.1 Internal processes have been amended within the licensing team to accommodate the changes.

6.2 A training event has been held for Licensing Committee Members. A further training opportunity will be arranged..

6.3 Ashby Town Council requested training as they plan to set up a Licensing Committee to discuss applications received. A training event has been held for Ashby Town Council

6.4 A training event will take place for internal responsible authorities (Environmental Protection and Health & Safety)

6.5 Work undertaken through the County-wide alcohol licensing project will assist in embedding the changes across the County and improve consistency and collaboration between partners.

7.0 **Resource Implications**

7.1 Both the lowering of the evidential threshold on licensing authorities and the removal of the 'vicinity test' for people making representations mean a potential increase in the number of representations received by the Licensing Authority. This may result in an increase in the number of Sub-Committee hearings held. The potential for the increase in representations and hearings has not been realised between April and August.

7.2 In addition to the existing administrative and enforcement role, the Licensing Team now have a role as a Responsible Authority. This new function may generate an increase in workload for the team. The impact of the changes on resources is being monitored by the Team Manager and discussed with the Head of Legal & Support Services. The Licensing Team have not had to act as a Responsible Authority between April and August.

8.0 **Financial Implications**

8.1 Once regulations have been introduced providing licensing authorities the power to set fees locally it is anticipated this will ensure the full cost of service provision is recovered from the fees. The draft charging strategy for the alcohol licensing service is full cost recovery. Based on the 2012/13 budget, the approximate gross cost of the alcohol licensing service is £100,555 with a budgeted income of £96,280 (95.75% cost recovery)