

Briefing Notes

Committee name: Social and Community Overview and Scrutiny

Date: 5 September 2011

Responsible officer: Louis Krog, Senior Licensing Officer

This note contains information to keep Members informed of matters relating to the work of the Cabinet but where no decisions from Members are needed.

If Members have questions relating to matters shown, they are asked to contact the Officer indicated.

Police Reform and Social Responsibility Bill

This briefing note briefly outlines the Government's proposals to amend current alcohol and late night refreshment licensing laws.

The Coalition Government committed, as part of its coalition agreement, to overhaul licensing laws regulating the sale/supply of alcohol and the provision of late night refreshment (i.e. hot food and beverage supplied between 23:00 and 05:00). The Government believed that these laws needed to be rebalanced more in favour of local communities to empower individuals, families and local communities to shape and determine local licensing.

The result of this review is the Police Reform and Social Responsibility Bill. The bill has completed its journey through both houses and is currently in its final stage before receiving Royal Assent and becoming law.

Amendments to the Licensing Act 2003 ("2003 Act")

For the benefit of Members, I will outline the amendments in two columns, one showing the current law and the second showing the amendments. A comparison will better illustrate the effect of the amendments.

Police Reform and Social Responsibility Bill – Amendments	Licensing Act 2003 – Current
Licensing authorities as responsible authorities	
Cheltenham Borough Council in the capacity of licensing authority will become a statutory responsible authority under the 2003 Act. This will empower them to refuse, remove or review licences themselves without first having had to have received a representation from one of the other responsible authorities listed above.	The Council as licensing authority is largely limited to administering the function and does not have significant powers to intervene to promote the licensing objectives. Consequently the Council is largely dependant on other responsible authorities (such as the police, environmental health etc.) or local residents to intervene (i.e. review of a licence) in problem premises or make objections to applications.
Primary Care Trusts and Local Health Boards as responsible authorities	
Gloucestershire Primary Care Trust will also become a statutory responsible authority under	n/a

<p>the 2003 Act to address concerns regarding concerns about the impact of new licensed premises on the local NHS (primarily A&E departments and ambulance services) or more generally the safety of the public within the night-time economy.</p>	
<p>Interested Parties (representation & review)</p>	
<p>The bill will remove the requirement for interested parties to live or run a business in the vicinity of a premises.</p> <p>The effect being that any person (including those outside the borough) could apply for a review of a premises licence or make representation on an application.</p>	<p>At the moment, only persons who live or are involved in business in the vicinity of a premises can make relevant representations on an application or make an application to review a premises licence.</p>
<p>Reducing the burden</p>	
<p>The wording will be amended throughout the Licensing Act 2003 to lower the evidential threshold which licensing authorities must meet when making licensing decisions by requiring that they make decisions which are 'appropriate' rather than 'necessary' for the promotion of the licensing objectives.</p>	<p>When making decisions on new and existing licences, and fulfilling their licensing responsibilities, licensing authorities are currently required under the Licensing Act 2003 to demonstrate that these decisions are 'necessary' for the promotion of the licensing objectives in their local area.</p>
<p>Temporary event notices</p>	
<p>1. Who may make an objection</p>	
<p>The bill will allow the environmental health department to also object to a temporary events notice to promote the public nuisance objective.</p>	<p>Currently, only the Police can object to temporary events notices and only on the grounds of crime and disorder.</p>
<p>2. Conditions</p>	
<p>Where objection(s) has been received in respect of temporary events notices, the Council will be able to add conditions to such a notice so long as those conditions are currently imposed on the premises licence and not inconsistent with the licensable activities sought by the notice.</p>	<p>Currently, no powers exist for the Council to add any condition(s) to a temporary events notice.</p>
<p>3. Late Notices (Standard and late temporary event notices)</p>	
<p>The bill will introduce two types of temporary events notices; a standard and late notice.</p> <p>Standard temporary events notices – are those submitted within 10 working days before the proposed event.</p> <p>Late temporary events notices – are those submitted between 9 and 5 working days before the proposed event.</p> <p>The difference between these will be that where an objection is made in respect of a late temporary events notice, there will be no</p>	<p>The law stipulates that a temporary events notice must be served on the Council no later than 10 working days before the proposed event.</p>

<p>option of having a hearing before a Licensing Sub-committee and a counter notice must be served immediately.</p>	
<p>4. Relaxation of time limits applying to temporary event notices</p>	
<p>The bill will relax the statutory limits on the duration of a single temporary event from 96 hours to 168 hours, and on the total annual availability covered by a Temporary Event Notice in relation to a single premises from 15 days to 21 days.</p>	<p>A temporary events notice cannot currently be used for licensable activities where those will last for longer than 96 hours (4 days) and a premises is currently only permitted 15 days worth of temporary events notices per calendar year.</p>
<p>Persistently selling alcohol to children</p>	
<p>The penalty for persistently selling alcohol to children will be;</p> <ul style="list-style-type: none"> - maximum fine of up to £20,000 - premises closure order lasting at least 48 hours but no longer than 336 hours (14 days) 	<p>The current penalty for persistently selling alcohol to children is;</p> <ul style="list-style-type: none"> - maximum fine of up to £10,000 - premises closure order lasting no more than 48 hours
<p>Early morning alcohol restriction orders</p>	
<p>The bill will permit the Council (full Council) to pass an order restricting the sale of alcohol past certain hours (between 00:00 and 06:00) specified in the order where the Council considers it appropriate for the promotion of the licensing objectives.</p> <p>The order will apply to all premises and temporary events notices and can be applicable to;</p> <ul style="list-style-type: none"> - in relation to the same period of every day on which the order is to apply, or in relation to different periods of different days, - every day or only on particular days (for example, particular days of the week or year), - in relation to the whole or part of a licensing authority's area, or - for a limited or unlimited period. <p>A process laid down in law must be followed to adopt an early morning alcohol restriction order.</p>	<p>n/a</p>
<p>Suspension of licence or certificate for failing to pay annual fee</p>	
<p>The Bill will require the Council to suspend a licence until the annual fee has been paid</p>	<p>The Council's current recourse for non-payment of an annual licence fee is recovery action as a</p>

subject to a number of exclusions.	debt against the Council.
Power for licensing authorities to set fees	
<p>The bill will permit the Council to set its own fees within prescribed maximum and minimum limits.</p> <p>The government expect to be in a position to lay the regulations bringing in locally-set fees in October 2012.</p>	Regulations made under the 2003 Act stipulate set fees local authorities are permitted to charge.
Licensing policy statements	
The Council's policy statement will be valid for 5 years.	Currently needs to be reviewed every 3 years.
Personal licences: relevant offences	
<p>Addition of a number of relevant offences;</p> <ul style="list-style-type: none"> - section 6(6) the Road Traffic Act 1988 (failing to co-operate with a preliminary test). - section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence that is a relevant offence. - section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence that is a relevant offence. - the offence at common law of conspiracy to defraud. 	n/a
Late night levy	
<p>The Bill will introduce a late night levy which is a levy on late night operators (i.e. between 00:00 and 06:00). The levy will contribute towards the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol.</p> <p>The Council will have to go through the process of adopting the levy and the government will make regulations</p> <p>The government will specify in secondary legislation the categories of business to whom licensing authorities may be able to grant an exemption and or reduction.</p>	n/a
Alcohol disorder zones (ADZ): repeal	
ADZ's implement Chapter 2 of Part 1 of the Violent Crime Reduction Act 2006. They allow local authorities to designate localities as alcohol disorder zones where there has been a nuisance or annoyance to members of the public, or disorder, and where the nuisance,	n/a

annoyance or disorder is associated with the consumption of alcohol supplied at premises in that locality and where there is likely be a repetition of that nuisance, annoyance or disorder.	
Statutory Guidance	
The government will introduce changes to the statutory guidance that will not form part of the bill.	
Cumulative Impact Policies	
The statutory guidance governing Cumulative Impact Policies will be more focused on local needs and easier for licensing authorities to implement. This will reduce the evidential requirement on licensing authorities. This will give greater weight to the view of local people as the licensing authority will not be constrained by the requirement to provide detailed additional evidence where such evidence is unavailable.	At present, Cumulative Impact Policies can only be applied by a licensing authority to an application for a licence when it has received relevant representations from a responsible authority, or interested party, on the potential cumulative impact of the grant of the application in question. The licensing authority will set out the detail of its Cumulative Impact Policy in its Licensing Policy Statement. Before implementing a Cumulative Impact Policy, a licensing authority will usually conduct a consultation exercise and consider the effect that additional premises will have on the cumulative impact.
Increase the weight licensing authorities will have to give to relevant representations and objection notices from the police	
The government will strengthen the weight that licensing authorities must give to police representations (including those voiced by the police at a hearing) and objection notices by amending the statutory guidance to require licensing authorities to accept all representations and notices and adopt all recommendations from the police, unless there is clear evidence that these are not relevant.	When determining an application for a premises licence, an application for a licence review or the granting of a personal licence, the Council must have regard to relevant representations or objection notices (in the case of personal licence applications) from the chief officer of police although there is scope to reject representations from the police.
Give more autonomy to licensing authorities regarding closing times	
The government will amend the statutory guidance to make it clear to local authorities that they can make decisions about the most appropriate licensing strategy for their area. Licensing authorities will be encouraged to consider using measures including fixed closing times, staggered closing times and zoning.	The introduced of 24 hour alcohol licences allowed premises to adopt flexible opening hours. The objective was that consideration would be given to the impact of opening hours on local residents and businesses. However, the introduction of 24 hour alcohol licences discouraged the use of provisions contained in the Licensing Act 2003 such as staggered closing times, zoning and fixed closing times.
Licence applicants to give greater consideration to the local area when making their application	
The guidance for applicants and statutory	Currently, as part of the licence application

<p>guidance for licensing authorities will be amended to require licence applicants, when outlining the steps they will take to promote the licensing objectives, to provide further contextual information to support the steps they intend to take and demonstrate an awareness of the local community in which the premises would be based.</p>	<p>process, applicants are required to set out in the operating schedule accompanying their application the steps they intend to take to promote the licensing objectives.</p>
<p>Review of effect of amendments on licensing scheme</p>	
<p>The secretary of state will be under duty to review the effect of the Bill's proposed amendments within 5 years of the commencement of the Act.</p>	<p>n/a</p>

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