

Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 10th April 2012

Subject: Licensing Act 2003 Changes from 25 April 2012

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Major changes to the Licensing Act 2003 are expected in 2012. The first tranche of changes relating to the Police Reform and Social Responsibility Act 2011 are due to be commenced on 25th April 2012.
2. This report provides an update to those changes and how they specifically relate to the decisions made by Licensing Committee.

Recommendations

3. That Licensing Committee note the contents of the report.

1.0 Purpose of this report

- 1.1 To advise Licensing Committee of some changes to the Licensing Act 2003 coming onto effect on 25th April 2012 which specifically relate to the decision making process.

2.0 Background information

- 2.1 The Police Reform and Social Responsibility Act 2011 (PRSR Act) received Royal Assent in September 2011 and brought a number of changes to the Licensing Act 2003 which were designed to give power back to local communities and to make it easier for Licensing Authorities to deal with problem premises and the problems associated with late night drinking.

3.0 Main issues

3.1 Responsible Authorities

- 3.2 The PRSR Act amends the Licensing Act to allow the licensing authority and PCTs/Local Health Boards to become responsible authorities.

- 3.3 Licensing Committee can expect to see representations on licence applications from NHS Leeds who will use the objective of public safety. Officers have contacted NHS Leeds to discuss this new role, and the requirements of the Licensing Act.

- 3.4 In addition to additional representations, both the licensing authority and NHS Leeds will be able to request reviews.

3.5 Removing the vicinity test

- 3.6 The Licensing Act has been amended in a number of places to replace the term interested party with "other person". This will open up the ability to make representations and apply for a review of a premises licence/club premises certificate. There will no longer be a requirement for people who wish to make a representation to live or operate a business in the vicinity.

- 3.7 When determining licence applications or reviews, the Licensing sub-committee may hear from a range of people who have objections to the application some of whom have not been able to make representations before. However although the vicinity test has been removed there is still a need for all representations to be specific to the premises concerned, and to refer to the licensing objectives. In addition there is a requirement that representations not be frivolous, vexatious or repetitious and they must be relevant to the licensing objectives.

3.8 Reducing the evidential burden on licensing authorities

- 3.9 The Licensing Act is amended to replace the requirement on licensing authorities to determine applications on the basis that their decision is necessary for the

promotion of the licensing objectives. Instead all determinations must be “appropriate”.

- 3.10 This applies to all decisions made including all premises licences, club premises certificates, personal licences and temporary event notices.
- 3.11 This change is designed to give licensing authorities greater ability to refuse or conditions applications and revoke or suspend licences on review. All decisions will still need to be reasonable and proportionate.
- 3.12 Temporary Event Notices
- 3.13 There are a number of changes being made to temporary event notices around numbers and timescales but there are three changes that are significant for Licensing Committee.
- 3.14 The ability to serve an objection notice will be extended to Environmental Health as well as the Police.
- 3.15 There will now be the ability to apply conditions to a TEN. Any “standard” TEN that attracts an objection notice from the Police or Environmental Health will be brought to a hearing as normal. If the TEN relates to a premises that has a premises licence the licensing sub-committee, in addition to giving a counter notice, can instead apply any conditions that are applied to the premises licence.
- 3.16 Any application for a “late” TENs which received an objection notice from the police will be automatically rejected.
- 3.17 Other changes
- 3.18 The Statement of Licensing Policy will now only need to be reviewed, by statute, every 5 years instead of 3. However Licensing committee should note that the changes brought in by the Police Reforms and Social Responsibility Act will necessitate a review of the current policy this year.
- 3.19 The remaining three major changes are due to be commenced in October 2012 (Late Night Levy, EMRO) and April 2013 (locally set fees).

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The changes to the Licensing Act were consulted upon by HM Government over the last two years. This is an advisory report on those changes and therefore no further consultation is required.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The changes to the Licensing Act do not raise any particular concerns for equality and diversity. All of Entertainment Licensing’s work is assessed for the impact on

equality, diversity, integration and cohesion every three years as per the Council policy.

4.3 Council Policies and City Priorities

4.3.1 The changes to the Licensing Act will have impact on the council's Licensing Act 2003 Statement of Licensing Policy. The policy will be reviewed with these changes in mind in the summer. The approval of the policy is a matter for full Council.

4.4 Resources and Value for Money

4.4.1 The changes to the Licensing Act will not have a substantial impact on current resources. However we do expect there to be a period of change where there may be increased representations to Licensing Act applications. This may lead to more hearings. Officers are in consultation with those affected by the changes to ensure a smooth transition.

4.5 Legal Implications, Access to Information and Call In

4.5.1 This advisory report has no legal implications, however the changes to the Licensing Act will affect the way decisions will be made by the Licensing Committee in relation to the determination of applications. The Committee's legal advisors, provided by Legal Services, are appraised of the changes and will provide advice to Licensing Committee during hearings.

4.6 Risk Management

4.6.1 As this is an advisory report there are no risks associated with the recommendations.

5 Conclusions

5.1 This reports presents a number of changes to the Licensing Act 2003 which are expected to be commenced during April.

6 Recommendations

6.1 That Members note the contents of the report.

Background Papers

Extract from Police Reform and Social Responsibility Act 2011.