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**Report of the Assistant Chief Executive**

***Licensing Committee***

**Date: 3<sup>rd</sup> September 2010**

**Subject: Consultation: Rebalancing the Licensing Act**

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**Electoral Wards Affected:**

**Specific Implications For:**

Ethnic minorities

Women

Disabled people

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**Executive Summary**

Since the introduction of the Licensing Act 2003 there has been growing concern that the original vision of a vibrant “café culture” has failed to materialize. The Government intends to introduce more flexibility into the current licensing regime to allow local authorities and the police to clamp down on alcohol-related crime and disorder hot spots within local night time economies. To rebalance the licensing regime the Government is proposing a number of measures.

This report describes these measures and provides the council’s response to the 6 week consultation issued by the Home Office on these measures.

## **1.0 Purpose Of This Report**

- 1.1 The purpose of this report is to report to Licensing Committee the details of the Home Office consultation called “Rebalancing the Licensing Act - A consultation on empowering individuals, families and local communities to shape and determine local licensing.
- 1.2 Officers have prepared a response to the consultation and this report seeks approval from Licensing Committee to submit this response as Leeds City Council’s formal response to the consultation.

## **2.0 Background Information**

- 2.1 The Conservative Party made a pre-election promise to review and overhaul the Licensing Act 2003.
- 2.2 In the Coalition Agreement, the Government set out a clear programme of reform around alcohol licensing to tackle the crime and anti-social behaviour that is too often associated with binge drinking in the night time economy. In particular, the Government set out five commitments which are covered in the consultation:
- We will overhaul the Licensing Act to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems.
  - We will allow councils and the police to shut down permanently any shop or bar found to be persistently selling alcohol to children.
  - We will double the maximum fine for underage alcohol sales to £20,000.
  - We will permit local councils to charge more for late-night licences to pay for additional policing.
  - We will ban the sale of alcohol below cost price.
- 2.3 A sixth commitment to “review alcohol taxation and pricing to ensure it tackles binge drinking without unfairly penalising responsible drinkers, pubs and important local industries” is being taken forward separately by the Home Office and HM Treasury.
- 2.4 This consultation outlines the changes the Government would like to make now to introduce more flexibility into the current regime to allow local authorities and the police to clamp down on alcohol related crime and disorder hot spots within local night time economies.

## **3.0 Main Issues**

- 3.1 To rebalance the licensing regime the Government is proposing the following measures:
- a. Give licensing authorities the power to refuse licence applications or call for a licence review without requiring relevant representations from a responsible authority.
  - b. Remove the need for licensing authorities to demonstrate their decisions on licences “are necessary” for (rather than of benefit to) the promotion of the licensing objectives.

- c. Reduce the evidential burden of proof required by licensing authorities in making decisions on licence applications and licence reviews.
- d. Increase the weight licensing authorities will have to give to relevant representations and objection notices from the police.
- e. Simplify Cumulative Impact Policies to allow licensing authorities to have more control over outlet density.
- f. Increase the opportunities for local residents or their representative groups to be involved in licensing decisions, without regard to their immediate proximity to premises.
- g. Enable more involvement of local health bodies in licensing decisions by designating health bodies as a responsible authority and seeking views on making health a licensing objective.
- h. Amend the process of appeal to avoid the costly practice of rehearing licensing decisions
- i. Enable licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences.
- j. Repeal the unpopular power to establish Alcohol Disorder Zones and allow licensing authorities to use a simple adjustment to the existing fee system to pay for any additional policing needed during late-night opening.
- k. Substantial overhaul of the system of Temporary Event Notices to give the police more time to object, enable all responsible authorities to object, increase the notification period and reduce the number that can be applied for by personal licence holders.
- l. Introduce tougher sentences for persistent underage sales.
- m. Trigger automatic licence reviews following persistent underage sales.
- n. Ban the sale of alcohol below cost price.
- o. Enable local authorities to increase licensing fees so that they are based on full cost recovery.
- p. Enable licensing authorities to revoke licenses due to no-payment of fees.
- q. Consult on the impact of Mandatory Licensing Conditions Order and whether the current conditions should be removed.

3.2 These measures have been described in more detail in the consultation document which can be found on the Home Office Website.

3.3 The Home Office has asked for responses to the consultation to be submitted to them by 8<sup>th</sup> September.

3.4 Officers have prepared a combined response from the licensing authority and internal stakeholders which can be found at Appendix 1. We understand that external stakeholders such as West Yorkshire Police will be commenting separately.

#### **4.0 Implications For Council Policy And Governance**

4.1 Should the changes proposed in the consultation document be adopted by the Government, the council will need to redraft and consult upon its Licensing Act 2003 Statement of Licensing Policy to take into consideration matters such as automatic hearings in the case of premises subject to a CIP, Late Night Levy, zoning etc.

4.2 The changes are expected to be included in the Police Reform and Social Responsibility Bill which is due to start its parliamentary journey in October 2010 and gain Royal Assent in November 2011. More minor changes may occur through secondary legislation and may be in place before then.

## **5.0 Legal And Resource Implications**

5.1 This is a major overhaul to the Licensing Act which contains many elements. Raising fees so that they are provided on a cost recovery basis would require a budget review by the Section, including collating time recording information.

5.2 As the Policy would need to be reviewed, redrafted and consulted upon, there would be a cost and resource implication in 2011/12. The level of this would not be able to be determined until the scope of the changes is known.

5.3 Determining whether to adopt some of the discretionary provisions would require consultation with responsible authorities and possible public consultation.

## **6.0 Conclusions**

6.1 Although an overhaul of the Licensing Act is welcome there are a number of proposals which will require careful implementation.

## **7.0 Recommendations**

7.1 That members note the contents of the report and approve the content of the draft consultation response as the Council's formal response.

## **Appendix 1 – Draft Response to Rebalancing the Licensing Act.**