

## GENERAL PURPOSES AND LICENSING COMMITTEE – 11 NOVEMBER 2011

### POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

#### 1. Introduction

- 1.1 The purpose of this report is to provide members with a brief overview of the changes to the Licensing Act 2003 as a result of the Police Reform and Social Responsibility Act 2011. Regulations on some aspects are still awaited and more commentary on the likely effects of the changes will emerge over the coming months. It is intended to arrange further training, including the implications of the changes, for members in the near future.

#### 2. Background

- 2.1 A report detailing the proposed changes to ‘Rebalancing’ the Licensing Act, as set out in the (then) Police Reform & Social Responsibility Bill was submitted to this Committee on the 14 January 2011. The Committee resolved to make representations to the Public Bill Committee on a number of the proposals.
- 2.2 The Bill received Royal Assent on the 15 September 2011, but no commencement date has been announced. There is speculation that the amendments concerning Temporary Events Notices will be commenced before the Olympics next year with the remaining provisions being commenced thereafter.

#### 3. Impact on the Licensing Act 2003

- 3.1 The Act will amend the Licensing Act 2003 making considerable differences including:

##### Responsible Authorities/Interested Parties

- The Licensing Authority will be a Responsible Authority. “Responsible Authorities” are able to make representations based on the statutory licensing objectives in relation to applications for the grant, variation or review of a premises licence or club premises certificates. Therefore, the Council in its own right will be able to make representations. (Under the Act ‘licensing authority’ would, in our case, mean the New Forest District Council.) The procedure for deciding whether or not to make representations as an Authority will need to be considered at a later stage.
- Primary Care Trusts and Local Health Boards will also be Responsible Authorities. They will have to be served with a copy of the application by the applicant and can make representations but only on the four existing licensing objectives.
- The term ‘Interested Party’ has been replaced by ‘any other person’. The Licensing Act 2003 previously permitted only “interested parties” to make representations or request reviews. “Interested parties” were –
  - A person living in the vicinity of the premises, or a body representing persons who live in that vicinity;
  - A person involved in a business in that vicinity, or a body representing persons involved in such businesses.

The “vicinity” requirement has therefore been removed and any person who lives or operates a business within a Licensing Authority’s area may make representations or seek reviews. This is a significant departure from the current arrangements and could potentially increase the number of people who make representations about licence applications, leading to more licensing sub-committee hearings.

### Advertising

- The Secretary of State will be required to make regulations requiring the Licensing Authority to advertise applications *‘in a manner which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it’*. At present the Licensing Authority is not required to advertise applications and this change will increase the level of officer time and costs involved in each application. However, the extent of both will only be known once the regulations are made.

### Determination of Applications

- ‘Necessary to promote the licensing objectives’ has been replaced with ‘appropriate to the licensing objectives’ in relation to the actions a Licensing Authority may take when determining applications or requests for review. “Appropriate” implies a lower threshold which may result in an increase in relevant representations and more hearings. In addition, as “appropriate” appears to be a more subjective test, this may make decisions of the Licensing Sub-Committee more susceptible to challenge by appeal.

### Temporary Event Notices (TENs)

- The right to object to a TEN will extend to the Environmental Health Authority.
- Police and Environmental Health Officers will be able to object to a TEN on the basis of all of the licensing objectives. This will mean that objections can be made on any of the licensing objectives and not just by the Police on Crime & Disorder grounds as at present.
- Police and Environmental Health Officers will have three working days to object to a TEN.
- Licensing authorities will have discretion to apply existing licence conditions to a TEN if there are objections from the Police or Environmental Health Authority.
- Late TENs (i.e. those submitted less than 10 working days but at least 5 days before the beginning of the event) will be allowed, unless the Police or Environmental Health Officers object. (This is a change from the current 10 clear working days notice period).
- Where a Notice is served electronically on the Licensing Authority, they will be required to forward the notification to the Police and Environmental Health Department by no later than the end of the first working day after the day on which the original Notice was given to the licensing office.
- The statutory limits on the duration of a single TEN will be relaxed from 96 (four days) hours to 168 hours (seven days), as will the total annual availability covered by a TEN in relation to a single premises from 15 to 21 days to 168 hours (7 days).

### Sanctions

- The fine for persistently selling alcohol to children will be doubled from £10,000 to £20,000;
- The effect of a closure notice for persistently selling alcohol to children will have effect for *'at least 48 hours but not more than 336 hours'* (14 days – whereas previously not exceeding 48 hours).

### Early Morning Alcohol Restriction Order

- Early morning alcohol restriction orders will be a new facility for Licensing Authorities, providing the statutory process is followed, and may be applied to different types of premises between the hours of midnight and 6am (The procedure required to obtain such an Order will involve considerable officer time and costs including the need to advertise the notice and the requirement for a licensing sub-committee hearing should representations to the Order be made. It is difficult to envisage the need for such an order within this Council's area where it would be used to prevent disorder associated with large gatherings of people for certain sporting events, festivals, carnivals etc).

### Licence Fee

- Premises licences and club premises certificates will be suspended on failure to pay the annual licence fee, although exceptions are available to allow for administrative error, disputes and a 'grace period';
- Subject to ministerial approval, the Licensing Authority will have the **power to set certain fees** on a cost-recovery basis. These costs may also include the costs of acting as other Responsible Authorities under the Act, i.e. Planning, Environmental Health (The regulations may specify constraints on the amount of fees charged by implementing some sort of banding ranges, similar to the system that was used previously for the Gambling Act. Licensing Authorities will have to demonstrate that all fee income relates to the discharge of this specific function or to the general costs of the licensing regime).

### Late Night Levy

- Provisions have been added to introduce a 'late night levy' which would be intended to cover the costs of policing and other arrangements for the reduction of prevention of Crime & Disorder, in connection with the supply of alcohol between midnight and 6am (The licensing authority may decide that a late night levy should apply to the whole of its administrative area and can state the times after midnight and before 6am that it will be implemented. Certain premises such as members' clubs or hotels etc will be either exempt or entitled to a reduced amount. 70% of any levy raised must be given to the local policing body. The regulations will also set out the matters which must be satisfied before a levy can be applied. This suggests that the late night time economy must experience a certain level of reported crime and disorder).

### Alcohol Disorder Zones

- Alcohol Disorder Zones will be repealed.

### Licensing Policy Statements

- Statements of licensing policy will have to be reviewed every 5 years rather than every 3 years (This will represent a saving by not having to review the policy as frequently).

### Review of Provisions and Effect

- The effects of these amendments will be reviewed 5 years after commencement.

## **4. Election of Police and Crime Commissioners**

- 4.1 The Act also introduces provision for the election of Police and Crime Commissioners for all Police areas. There will be a Police and Crime Commissioner for Hampshire & the Isle of Wight. The first election is to be held on 15 November 2012 and thereafter at intervals of four years. After 2012 the election is to be held on the ordinary day of election of county or district councillors, that is, on the first Thursday in May.
- 4.2 It was the Government's intention to hold the election in May 2012 when some authorities have local elections but progress of the necessary legislation through Parliament and the House of Lords was delayed. It was therefore considered appropriate to postpone the first election. This is helpful from the point of view of managing the election but it is estimated that the delay, which means that the election will be "stand-alone", not combined with other elections, will cost the Government an additional £29 million. The proposed date in November 2012 is not ideal as it falls within the annual canvass period. Apart from the additional burdens on electoral services teams at what is already a very busy period, there is bound to be confusion amongst the electorate when they have returned their voter registration forms but might not necessarily be able to vote on 15 November. Any forms received up to 11 working days before the election will entitle voters to vote on 15 November, but any new electors listed on forms received later than that will not be able to vote.
- 4.3 If there are three or more candidates, the election will be by the supplementary vote system.

## **5. Conclusion**

- 5.1 The Police Reform and Social Responsibility Act overhauls the Licensing Act to give more powers to local authorities and the police to tackle any premises that are causing problems; doubling the maximum fine for persistent under-age sales; and permitting local authorities to charge more for late night licences to contribute towards the cost of policing the night time economy. It will also widen the number of people who are able to make representations in regard to premises licences and club premises certificates, and potentially places additional responsibilities on licensing authorities to advertise applications.

## **6. Financial Implications**

- 6.1 The impact of some of the proposals could have significant financial implications. The change of description from 'interested party' to 'any other person' could increase representations and consequently the numbers of Licensing Sub-Committee hearings. This will impact on Councillors, Licensing Services, Environmental Health and Legal & Democratic Services. The inclusion of Environmental Health as one of the parties who may object to a Temporary Event Notice and also allowing the Police to object to Notices on the grounds of any of the licensing objectives might also increase the number of hearings. Advertising requirements (as yet unknown) could increase costs, but none of these costs can be quantified at this stage.

## **7. Environmental Implications**

- 7.1 Environmental Health will be given the power to object to temporary event notices and the Police will also be able to object under the public nuisance licensing objective.

## **8. Crime and Disorder Implications**

- 8.1 The Act intends to strengthen existing Police powers in dealing with crime and disorder problems especially issues relating to the night time economy.

## **9. Equality and Diversity Implications**

- 9.1 There are no equality and diversity issues directly arising from this report.

## **10. Recommendation**

- 10.1 That the contents of this report are noted and that further consideration be given to specific issues arising from the Act in due course.

### **Further information:**

Paul Weston  
Licensing Officer  
Tel: 023 8028 5505  
Email: [paul.weston@nfdc.gov.uk](mailto:paul.weston@nfdc.gov.uk)

### **Background Papers:**

GP&LC Report D 14 January 2011  
Police Reform & Social Responsibility Act 2011

or, for issues relating to Police & Crime Commissioner elections:

Rosemary Rutins  
Democratic Services Manager  
Tel: (023) 8028 5381  
Email: [rosemary.rutins@nfdc.gov.uk](mailto:rosemary.rutins@nfdc.gov.uk)