

LICENSING COMMITTEE

AGENDA

Meeting to be held in the Civic Centre (Committee Room No.6) on Monday, 6th March, 2017 at 2.00 p.m.

ITEM		PAGE
1.	Receipt of Declarations of Interest (if any)	
2.	Apologies for Absence	
3.	Minutes of the last meeting of the Committee held on 6th February, 2017 (copy herewith).	1
4.	Amendments to the Licensing Act 2003 Contained in the Immigration Act 2016	3
	Report of the Chief Executive (copy herewith)	
5.	Amendments to the Licensing Act 2003 Contained in the Policing and Crime Act 2017	6
	Report of the Chief Executive (copy herewith)	

ELAINE WAUGH,
Head of Law and Governance.

Civic Centre,
SUNDERLAND.
24th February, 2017

At a meeting of the LICENSING COMMITTEE held in the CIVIC CENTRE on MONDAY, 6th FEBRUARY, 2017 at 2.00 p.m.

Present:-

Councillor Fletcher in the Chair

Councillors Blackburn, Elliott, I. Galbraith, P. Gibson, Kay, Lawson, O'Brien, Turner and Waller

Declarations of Interest

There were no declarations of interest.

Apologies for Absence

Apologies for absence were submitted to the meeting on behalf of Councillors D. Dixon, Heron, Howe and Scaplehorn

Minutes of the Last Meeting of the Committee held on 28th November, 2016

1. RESOLVED that the minutes of the last meeting of the Committee held on 28th November, 2016 be confirmed and signed as a correct record.

Licensing Act 2003 – Suspension of a Premises Licence Due to Non-Payment of Annual Fee – Indigo Room Ltd

The Chief Executive submitted a report (copy circulated) which requested Members consideration of the suspension of the premises licence for Indigo Room Ltd, situated at 278 High Street West, Sunderland due to the non-payment of the annual fee which had been due on 5th December 2016.

(For copy report – see original minutes)

Mr Reading, Trading Standards and Licensing Manager, presented the report and advised that Officers were not able to suspend the licence and that if Members did not suspend the licence then the premises would remain licensed. Enquiries had been carried out and the premises were currently closed and the leaseholder, Indigo Rooms Ltd, had vacated the property on 24th March 2016.

Members discussed the matter and Councillor P. Gibson moved that the licence be suspended. With all Members being in agreement it was:-

2. RESOLVED that the premises licence for Indigo Room Ltd located at 278 High Street West be suspended.

Licensing Act 2003 – Withdrawal of Club Premises Certificate Due to Club Ceasing to be a Qualifying Club – Fence Houses Comrades Club

The Chief Executive submitted a report (copy circulated) which requested the Committees consideration of whether the Fence Houses Comrades Club continued to satisfy the conditions for being a qualifying club in relation to a qualifying club activity to which the certificate related.

(For copy report – see original minutes)

Mr Reading presented the report and advised that the invoice requesting the payment of the annual fee had been returned unpaid and that when a licensing officer had attended the premises it had appeared that the club was not in operation as the club was in the process of being demolished; as such it appeared that the club no longer satisfied the condition that it was established and operated in good faith as a club.

Members discussed the matter and Councillor P. Gibson moved that the club premises certificate be withdrawn; with all Members being in agreement it was:-

3. RESOLVED that the club premises certificate for Fence Houses Comrades Club be withdrawn.

(Signed) J. FLETCHER,
Chairman.

REPORT OF THE CHIEF EXECUTIVE

LICENSING COMMITTEE – 6 MARCH 2017

AMENDMENTS TO THE LICENSING ACT 2003 CONTAINED IN THE IMMIGRATION ACT 2016

1.0 PURPOSE OF REPORT

- 1.1 To advise the Committee of amendments to the 2003 Act contained in the Immigration Act 2016.

2.0 DESCRIPTION OF DECISION

- 2.1 The Committee is requested to note the contents of this report.

3.0 INTRODUCTION/BACKGROUND

- 3.1 On 12 May 2016 the Immigration Act 2016 (“the Act”) received Royal Assent. Part 7 of the Act contains amendments to the Licensing Act 2003 (“the 2003 Act”). The amendments will not come into force until such time as a commencement order is issued by the Government. It is anticipated that the Government will bring these amendments into effect in April 2017.

4.0 CURRENT POSITION

- 4.1 A summary of the amendments to the Licensing Act is set out below.

4.2 ENTITLEMENT TO WORK IN THE UNITED KINGDOM

The Act inserts a new section in to the 2003 Act which defines a person’s entitlement to work in the UK. The amendment states that a person may work in the UK unless they require leave to enter or remain in the UK under the Immigration Act 1971.

The Act also amends the 2003 Act so that a person without the entitlement to work in the UK may not apply for a licence to sell alcohol from particular premises, for example a public house, or to provide late night refreshment. The scheme only applies to licensees who are resident in the UK. Non-resident licensees are not subject to immigration controls.

The Act inserts a new section in to the 2003 Act which has the effect that an existing premises licence lapses if the licence holder ceases to be entitled to work in the UK.

4.3 PERSONAL LICENCES

The Act amends the 2003 Act with the effect that an applicant for a personal licence must have an entitlement to work in the UK and provides that the commission of immigration offences and requirements to pay civil penalties

under immigration law on employers and landlords of illegal migrants may be considered by licensing authorities when considering whether to grant a licence.

The 2003 Act is also amended to include immigration offences in the list of relevant offences for personal licences and a new section is inserted in to the 2003 Act which has the effect that an existing personal licence lapses if the licence holder ceases to be entitled to work in the UK.

The Act amends the 2003 Act so that if an applicant for a personal licence has been convicted of an immigration offence or been issued with an immigration penalty, the chief officer of police and the Secretary of State must be notified by the Council of the application. If the Secretary of State is satisfied that granting the licence would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must issue an immigration objection notice within 14 days. The Council must also notify the Secretary of State of their decision if they have received an immigration objection notice.

Once a licence has been issued the holder must notify the Council if they are required to pay an immigration penalty and the details of this penalty must be recorded on their personal licence.

4.4 PREMISES LICENCES

The Act adds the Secretary of State to the list of responsible authorities notified when an application for a premises licence is submitted. This will enable the Secretary of State to make relevant representations in respect of such an application if she is satisfied that issuing the licence would undermine the licensing objective of the prevention of crime and disorder.

The Act amends the 2003 Act so that when an applicant submits an application to transfer a premises licence or an interim authority notice they must provide a copy of the application/notice to the Secretary of State.

The Act also amends the 2003 Act to provided power for an immigration officer to enter premises which he has reason to believe are being used for certain licensable activities with a view to seeing whether immigration offences are being committed in connection with that activity.

4.5 RIGHT OF APPEAL

The Act gives the Secretary of State the right to appeal against a decision of a Council where the Secretary of State has given notice opposing a transfer of a premises licence, an interim authority notice or grant of a personal licence.

5.0 REASONS FOR THE DECISION

To advise the Committee of the amendments to the Licensing Act 2003 contained in the Immigration Act 2016.

6.0 ALTERNATIVE OPTIONS

None.

7.0 RELEVANT CONSIDERATIONS

None.

8.0 GLOSSARY

None.

9.0 LIST OF APPENDICIES

None.

10.0 BACKGROUND PAPERS

10.1 Immigration Act 2016

10.2 Licensing Act 2003

Item 5

REPORT OF THE CHIEF EXECUTIVE

LICENSING COMMITTEE – 6 MARCH 2017

AMENDMENTS TO THE LICENSING ACT 2003 CONTAINED IN THE POLICING AND CRIME ACT 2017

1.0 PURPOSE OF REPORT

- 1.1 To advise the Committee of amendments to the 2003 Act contained in the Policing and Crime Act 2017.

2.0 DESCRIPTION OF DECISION

- 2.1 The Committee is requested to note the contents of this report.

3.0 INTRODUCTION/BACKGROUND

- 3.1 On 31 January 2017 the Policing and Crime Act 2017 (“the Act”) received Royal Assent. Part 7 of the Act contains amendments to the Licensing Act 2003 (“the 2003 Act”). The amendments will not come into force until such time as a commencement order is issued by the Government. It is anticipated that the Government will bring these amendments into effect in two stages with the first stage being implemented in April 2017 and the second stage which concerns the amendments regarding Cumulative Impact Assessments and Late Night Levies being implemented at a later date.

4.0 CURRENT POSITION

- 4.1 A summary of the amendments to the Licensing Act is set out below.

4.2 POWDERED/VAPORISED ALCOHOL

Powdered alcohol is not yet available in the UK. It has been authorised for sale in the USA but as far as is known it is not yet available to buy in the USA or anywhere else. It is designed to be mixed with water, or a mixer such as orange juice or cola, to make a drink of the normal strength (for example, a single shot of vodka). The 2003 Act defines alcohol as “spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor”. As a result it is unclear whether powdered alcohol would fall within the current licensing regime.

Vaporised alcohol is alcohol in the form of a vapour which can be inhaled either straight from the air into which the vapour is pumped or by using an inhalation device. It is currently available in the UK.

The Act amends the 2003 Act to define alcohol as “spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor (in any state)” therefore ensuring that the law is clear that both powdered and vaporised alcohol fall within the regulatory regime.

4.3 **SUMMARY REVIEW**

If a licensed premises becomes associated with serious crime or disorder the police can make an application to the Council for a summary review of the licence. The Council must consider within 48 hours whether it is necessary to impose interim steps (temporary conditions on a licence), for example, suspending the premises licence. These interim steps enable the Council to act quickly in cases where there has been serious crime or serious disorder as it can take the steps immediately without first being obliged to hear representations from the holder of the premises licence in question. The hearing to review the licence must take place within 28 days of receipt of the application.

However, the Government believes that there is currently a legal ambiguity over whether or not interim steps remain in place until the process is complete, once appeal channels have been exhausted, or whether they can be withdrawn or amended at an earlier stage. The Government has received feedback which indicates that the legislation is being interpreted in some areas in a way which means that businesses are remaining closed or significantly restricted due to interim steps, sometimes for months, while an appeal is lodged. In other areas the opposite is happening and this can result in premises which pose a risk to the public continuing to operate during the appeal period.

The Act amends the law to ensure that Councils can take the appropriate action to protect the public and businesses subject to summary reviews are treated fairly.

The Act requires the Council, at the review hearing, to review any interim steps that have been taken. The Council must consider whether the interim steps are appropriate for the promotion of the crime prevention objective, consider any relevant representations, and determine whether to withdraw or modify the steps taken. For example, there may have been a change in circumstances or further evidence provided at the hearing which means that the interim steps originally imposed are no longer necessary for the period of time between the review hearing and the review decision coming into effect.

The Act also provides for an appeal to be made by the police or licensee, against the decision regarding the interim steps, taken at the review hearing. This appeal must be heard within 28 days.

Upon commencement the changes will apply to all applications for a summary review which have been received by the Council but which have not yet reached the review hearing stage.

4.4 **PERSONAL LICENCES**

The 2003 Act contains provision to enable a criminal court to order the forfeiture or suspension of a personal licence where the licensee has been convicted before the court of a relevant offence. Where a personal licence is

revoked or suspended the licensee will be prevented from selling or supplying alcohol.

Where the holder of a personal licence is charged with a relevant offence, he or she must produce the licence to the court before the case against him or her is first heard. A personal licence holder is also required to notify the Council where he or she is convicted of a relevant offence or a foreign offence. The Council currently does not have the ability to suspend or revoke the licence; nor is there provision for a court to order the forfeiture or suspension of a licence other than at the point the licensee is being sentenced for a relevant offence.

The Act amends the 2003 Act to give Councils the power to revoke or suspend a licence, and updates the list of relevant offences.

4.5 CUMULATIVE IMPACT ASSESSMENTS

Cumulative Impact Assessments (referred to as cumulative impact policies ("CIPs")), prior to being placed on a statutory footing, are intended to assist Councils in carrying out their functions in relation to controlling the number or type of licence applications granted in an area where there is evidence of problems caused by high numbers of licensed premises concentrated in the area. The CIP scheme is currently set out in the statutory guidance issued under section 182 of the 2003 Act. The Government's Modern Crime Prevention Strategy, published in March 2016, committed to putting CIPs on a statutory footing in order to provide greater clarity and legal certainty about their use and to ensure that any cumulative impact assessment is based on evidence. The Act gives effect to this. It also contains certain requirements as to the consultation which must be carried out before a cumulative impact assessment can be published. The cumulative impact assessment must be reviewed at least every three years.

4.6 LATE NIGHT LEVY

The late night levy is a power, which enables Councils to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy. Before implementing a late night levy, the Council must consider the costs of policing and other arrangements for the reduction or prevention of crime and disorder in connection with the supply of alcohol between midnight and 6am, and the desirability of raising revenue via the levy. The Council must consult those who are likely to be affected, including by writing to licensees who may have to pay the proposed levy.

Presently the levy may only apply to premises selling alcohol and must apply to the whole of the Council's area, but Councils may choose to apply exemptions and reductions (according to prescribed categories). The Council can decide the 'late night supply period' (the times at which the levy is

payable), which must begin at or after midnight and end at or before 6am, and must be the same every day.

The Government committed, in its Modern Crime Prevention Strategy, to improve the late night levy. The Act intends to give greater flexibility to local areas by allowing Councils to choose to impose the levy only in certain geographical areas of their licensing area. It also permits Councils to impose a levy on late night refreshment establishments. The police may ask a Council to make a proposal for a levy. This request must be supported by evidence, and both must be published by the Council.

5.0 REASONS FOR THE DECISION

To advise the Committee of the amendments to the Licensing Act 2003 contained in the Policing and Crime Act 2017.

6.0 ALTERNATIVE OPTIONS

None.

7.0 RELEVANT CONSIDERATIONS

None.

8.0 GLOSSARY

None.

9.0 LIST OF APPENDICIES

None.

10.0 BACKGROUND PAPERS

10.1 Policing and Crime Act 2017

10.2 Licensing Act 2003