

POLICE REFORM AND SOCIAL RESPONSIBILITY BILL

REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES

1.0 PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to advise Members of the implications of the Police Reform and Social Responsibility Bill with regard to the functions of the Council in licensing the sale of alcohol.

2.0 BACKGROUND

- 2.1 Members will be aware that the Home Office recently carried out a consultation exercise entitled 'Rebalancing the Licensing Act – A consultation on empowering individuals, families and local communities to shape and determine local licensing'. Subsequently the Home Office published their responses to this consultation, entitled 'Responses to consultation: Rebalancing the Licensing Act', and introduced the Police Reform and Social Responsibility Bill ('the Bill'). Part 2 of the Bill contains proposed amendments to the Licensing Act 2003.

3.0 CURRENT POSITION / OVERVIEW

- 3.1 The First Reading of the Bill occurred in Parliament on 30 November 2010.
- 3.2 A summary of the proposed major amendments to the Licensing Act is set out below.

3.3 Responsible Authorities

The Council, as the Licensing Authority, will become a 'responsible authority' so entitling it to consider a licence application without the need to receive relevant representations from other responsible authorities. Primary Care Trusts will also become 'responsible authorities'.

3.4 Removing The Vicinity Test

At present, the opportunity to make representations about prospective licences and requests for reviews of existing licences is restricted to 'responsible authorities' and 'interested parties'. Interested parties are required to live or conduct business 'in the vicinity' of the premises in question. The Bill proposes that the vicinity requirement will be removed, and representations will be allowed to be made by any person, irrespective of their location. Therefore, the concept of 'interested parties' will disappear and be replaced by persons who live or are involved in a business in the licensing authority's area and who are likely to be affected by a licensed premises. The same change is proposed with regard to the persons able to apply for the review of a licence.

3.5 Reducing The Evidential Burden On Licensing Authorities

At present, a Licensing Sub Committee of the Council may refuse an application for a licence where it considers it '**necessary**' for the promotion of the licensing objectives. These are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

The Bill proposes that licensing authorities will be able to refuse an application where they consider it '**appropriate**' for the promotion of the licensing objectives. The Home Office say that replacing the test of necessity with a test of appropriateness will lower the evidential hurdle for licensing authorities in making decisions. However, they also say that licensing authorities will still be required to ensure that their decisions are evidence-based and linked to the licensing objectives. In practical terms, this change may have little impact. Applications will still not be liable to be refused on the basis they are not wanted or not needed within a particular area. The perceived problems regarding large numbers of 'general dealers' in a particular area all applying to be able to sell alcohol will continue as before, with evidence being required before an application can be refused.

3.6 Temporary Event Notices

The Bill will extend the ability to object to temporary event notices (which allow the temporary use of a premises for licensed purposes) to Council Environmental Health departments and, also, extend the possible reasons for such objections to encompass all of the licensing objectives (therefore allowing potential noise nuisance to be considered) as opposed, merely as at present, to the prevention of crime and disorder. Licensing authorities will also be enabled to impose conditions on temporary event notices in specified circumstances. The Bill also proposes that temporary event notices may authorise licensable activities such as the sale of alcohol for up to seven days as opposed to the current four day limit. Another amendment will allow temporary event notices to be given no later than five working days before an event as opposed to the current ten day limit. Any counter notice decided by a Licensing Sub Committee following an objection must be given to the proposed premises user no later than 24 hours before the event.

3.7 Underage Sales

The Bill will increase the maximum fine for premises that persistently sell alcohol to persons under eighteen years of age from £10,000 to £20,000, and increase the period of suspensions which can be imposed on such premises by means of a closure notice. Such notices will have a minimum duration of two days and a maximum duration of fourteen days.

3.8 Early Morning Alcohol Restriction Orders

The Bill will allow licensing authorities to prevent the sale of alcohol from licensed premises in specified areas for periods of any duration between midnight and 6am through the making of 'early morning restriction orders'. Before any such order is made, the proposal to do so must be advertised and a hearing held if there are any relevant

representations received.

3.9 **Suspension Of Licences For Failure To Pay Annual Fees**

The Bill will allow licensing authorities to suspend a premises licence or club premises certificate for non-payment of an annual fee.

3.10 **Licensing Policy Statements**

Statements of Licensing Policy will be required to be reviewed every five years rather than every three years as at present.

3.11 **Late Night Levy**

Licensing authorities will be able to introduce a levy which will be payable by premises which supply alcohol for a period of any duration between midnight and 6am, although some premises may benefit from an exemption or discount. The Home Office say that the purpose of this levy is payment for additional policing and other services related to the consequences of alcohol on the night-time economy e.g. taxi marshals. At least 70% of the funds generated by the levy must be paid to the local policing body.

3.12 **Matters Not Covered By The Bill**

There are other issues which were raised by the consultation document but which, following the consultation, the Home Office are not pursuing in the Bill. These include:

- The proposal to make the prevention of health harm a licensing objective. The Home Office say that they want to ensure that this proposal is considered alongside wider work to address the harm to health of alcohol and that they will consider the best way to legislate on this issue in the future.
- The proposal to **remove** the requirement for evidence justifying the making of a cumulative impact policy. The Home Office say, rather, that they will amend their statutory guidance on the Licensing Act to **lower** this evidential hurdle.
- The proposal of banning sales below cost. The Home Office say that they are committed to taking forward proposals to implement a ban on sales below cost without delay but that this ban will not be in the Bill.
- The proposal to allow licensing authorities to set licence fees on a cost recovery basis. Although not in the Bill, the Home Office say that that they intend to enable this to happen.

4.0 **RECOMMENDATION**

- 4.1 Members are requested to note the contents of this report which advises Members of the implications of the Police Reform and Social Responsibility Bill with regard to the functions of the Council in licensing the sale of alcohol.

5.0 BACKGROUND PAPERS

- 5.1 Home Office consultation document: 'Rebalancing the Licensing Act – A consultation on empowering individuals, families and local communities to shape and determine local licensing';
- 5.2 Home Office document: 'Responses to consultation: Rebalancing the Licensing Act'; and
- 5.3 Police Reform and Social Responsibility Bill.

6.0 GLOSSARY

- 6.1 None.

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