

# **REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES**

## **LICENSING COMMITTEE–28 MAY 2012**

### **AMENDMENTS TO THE LICENSING ACT 2003**

#### **1.0 PURPOSE OF REPORT**

- 1.1 To advise the Committee of amendments to the Licensing Act 2003 made by the Police Reform and Social Responsibility Act 2011 on 25 April 2012.

#### **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 15 September 2011 the Police Reform and Social Responsibility Act 2011 ('the Act') received Royal Assent. Part 2 of the Act causes amendments to the Licensing Act 2003. On 25 April 2012 the Government issued a commencement order which brought the majority of changes into effect on that date. It is anticipated that the Government will bring the final amendments, which are concerned with Early Morning Restriction Orders, Late Night Levies and the ability for licensing authorities to determine their own licence fees, into effect in October 2012.

#### **4.0 CURRENT POSITION**

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

#### **4.2 RESPONSIBLE AUTHORITIES**

The Council, as the Licensing Authority, has become a 'responsible authority' so enabling it to make relevant representations and refer a licence application to a Licensing Sub-Committee, as opposed to granting it automatically, without the need to receive any other representations. The local Primary Care Trust has also become a 'responsible authority'.

#### **4.3 REMOVING THE VICINITY TEST**

Prior to the amendments, the opportunity to make representations about prospective licences and requests for reviews of existing licences was restricted to 'responsible authorities' and 'interested parties'. Interested parties were required to live or conduct business 'in the vicinity' of the premises in question. The amendments remove the vicinity requirement, and representations are now allowed to be made by any person, irrespective of their location. The amendments also require licensing authorities to advertise applications, including reviews.

#### 4.4 REDUCING THE EVIDENTIAL BURDEN ON LICENSING AUTHORITIES

Prior to the amendments, a Licensing Sub Committee of the Council could refuse an application for a licence where it considered 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.

An amendment to the Act now allows licensing authorities to refuse an application where they consider it **'appropriate'** for the promotion of the licensing objectives.

The Government have issued amended Guidance on the Act. This gives the following advice to assist licensing authorities in determining whether their actions are appropriate for the promotion of the licensing objectives:

'Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.'

#### 4.5 TEMPORARY EVENT NOTICES

The ability to object to temporary event notices (which allow the temporary use of premises for licensed purposes) has been extended to include local authority Environmental Health Officers. The possible reasons for such objections have been extended to encompass all of the licensing objectives (therefore allowing potential noise nuisance to be considered) as opposed, merely as it was previously, to the prevention of crime and disorder. Licensing authorities are also now allowed to impose conditions on temporary event notices in the following specified circumstances:

- they consider it appropriate to do so;

- the proposed conditions are already imposed on a premises licence or club premises certificate that has effect at the same premises, or any part of the same premises, as the temporary event notice; and
- the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

Also, temporary event notices may now authorise licensable activities such as the sale of alcohol for up to seven days as opposed to the previous four day limit. Another amendment allows a limited number of temporary event notices to be given no later than five working days before an event.

#### **4.6 UNDERAGE SALES**

The maximum fine for premises which persistently sell alcohol to persons under eighteen years of age has been increased from £10,000 to £20,000. The maximum period of any suspension imposed on such premises by means of a closure notice has been extended from two days to fourteen days.

#### **4.7 SUSPENSION OF LICENCES FOR FAILURE TO PAY ANNUAL FEES**

Licensing authorities are now able to suspend a premises licence or club premises certificate for non-payment of an annual fee until such time as the annual fee is paid.

#### **4.8 LICENSING POLICY STATEMENTS**

Licensing authorities are now required to review their Statements of Licensing Policy every five years rather than every three years as previously.

### **5.0 REASONS FOR THE DECISION**

- 5.1 To advise the Committee of the amendments to the Licensing Act 2003 which came into effect on 25 April 2012.

### **6.0 ALTERNATIVE OPTIONS**

- 6.1 None.

### **7.0 RELEVANT CONSIDERATIONS**

- 7.1 None.

### **8.0 GLOSSARY**

- 8.1 None.

### **9.0 LIST OF APPENDICIES**

- 9.1 None.

## **10.0 BACKGROUND PAPERS**

10.1 Police Reform and Social Responsibility Act 2011.

10.2 Licensing Act 2003