

## **POLICE REFORM & SOCIAL RESPONSIBILITY ACT 2011 - UPDATE**

**Committee** Licensing Committee

**Officer Contact** Stephanie Waterford x7232

**Papers with report** None

**Ward(s) affected** All

### **SUMMARY**

To update the Licensing Committee on the upcoming legislative changes to Licensing.

### **RECOMMENDATION**

**That the Committee note the update on new legislation**

### **INFORMATION**

The Police Reform & Social Responsibility Act received Royal Assent in September 2011.

Part 2 of the Act aims to rebalance the Licensing Act 2003 by bringing in extra controls for Licensing Authorities and at the same time, relaxing some of the more burdensome licensing systems.

Summary of changes;

#### **Locally set fees under the Licensing Act 2003**

It has long been noted that Licence fees do not cover Licensing Authorities costs of administering the Licensing Act 2003.

The Government will introduce locally set licence fees to ensure full cost recovery.

It is expected that the new system will be similar to that used for Gambling Licences in that the Government will prescribe maximum fee levels through regulations and Licensing Authorities will be able to set their fees up to that maximum.

Fees will retain the fee bands based on the premises rateable value.

Regulations are expected early next year to implement the new fees in October 2012.

#### **Enable Licensing Authorities to suspend licences due to non payment of fees**

Currently, licence holders are required to pay an annual fee for their licence. Unfortunately there is no provision to act against licence holders for non payment of fees.

The changes will enable Licensing Authorities suspend licences where payment is not made within 21 days of the fee being due.

Regulations are expected soon for implementation in April 2012.

### **Lowering the evidential hurdle for Cumulative Impact Policies to control outlet density**

Licensing Authorities can currently limit the growth of certain types of premises in a problem area however, the evidential burden is so great that it would be extremely difficult for the authority to justify bringing in such a policy.

The amendments will enable Licensing Authorities to consider wide ranging local needs of an area and make it easier to implement such policies. The authority will have to attach greater weight to the views of local people and will not be constrained by the requirement to provide detailed additional evidence.

This change will be brought in with the revision of the Statutory Guidance under Section 182 of the Licensing Act 2003 – expected Summer 2012.

### **Increase the opportunities for local residents to be involved in licensing decisions – removing the ‘vicinity’ test**

Currently, the only persons who may be considered ‘interested parties’ for the purpose of making representations against licence applications, are those who live in the ‘vicinity’ of the premises.

The new rules will remove the ‘vicinity’ test and instead will include ‘persons who live or have business interests within the relevant licensing authority area.’

These persons will still have to demonstrate that they are likely to be affected by the application.

Amendments are contained within the primary legislation and will be implemented in April 2012.

### **Reducing the burden of proof on licensing authorities**

Currently Licensing Authorities have to demonstrate that licence decisions are necessary to promote the licensing objectives.

The changes will replace ‘necessary’ for ‘appropriate’ and therefore reduce the burden of proof for decisions.

Amendments are contained within the primary legislation and will be implemented in April 2012.

### **Making local health bodies responsible authorities**

Currently, responsible authorities under the Licensing Act include; Police, Fire Service, Trading Standards, Child Protection, Environmental Health, Planning, Health & Safety.

The new legislation will make local health bodies responsible authorities. It is not yet clear who will take on this responsibility in light of the Government's plans to disband PCT's.

It is also not clear how Health Authorities will actively contribute to the licensing process as public health is not a licensing objective to which the Licensing Authority can have regard in its decision making.

Regulations are awaited.

### **Making Licensing Authorities responsible authorities**

This is a welcome change and will mirror the system in use under the Gambling Act 2005.

This will enable Licensing Authorities to make representations against licence applications in the same way as the Police, Child Protection, Trading Standards etc.

It will also enable the Licensing Authority to call licences in for review without relying on another responsible authority.

Amendments are contained within the primary legislation and will be implemented in April 2012.

### **Temporary Event Notices**

TEN's are currently applied for by individuals who intend to carry on licensable activities for a period not exceeding 96 hours.

There are limits imposed on the amount of TEN's an individual can serve in a calendar year, and also on the amount of days a premises may be used under a TEN.

The changes will increase the limits from 15 days to 21 days per premises and the duration from 96 hours to 168 hours.

The changes will also enable the Environmental Protection Authority to object to TEN's on the ground of public nuisance, currently only the Police may object to TEN's on crime and disorder grounds.

Applicants will also be able to serve a TEN less than 10 clear working days prior to the event under the 'late TEN's' provisions.

Regulations expected shortly for implementation April 2012.

### **Persistently selling alcohol to children**

This offence currently carries a maximum fine of £10,000. The Government will increase this maximum to £20,000.

Amendments are contained within the primary legislation and will be implemented in April 2012.

### **Flexible opening hours**

The introduction of 24 hour alcohol licences discouraged the use of staggered closing times, zoning and fixed closing times.

The new provisions will now encourage the use of measures to tackle problems resulting from licensed premises.

This change will be brought in with the revision of the Statutory Guidance under Section 182 of the Licensing Act 2003 – expected Summer 2012.

### **Licensing Policy Statement**

Licensing Authorities are required to review and publish a Statement of Licensing Policy every 3 years.

The government has increased this to every 5 years.

Amendments are contained within the primary legislation and will be implemented in April 2012.

### **Late Night Levy**

This is a new power for licensing authorities to introduce a charge for premises that have late night licences and where there are high enforcement costs for the Police and Local Authority. The levy will be set at a national level with 80% of revenue going to the Police.

Amendments are contained within the primary legislation and will be implemented in October 2012.

### **Early Morning Restriction Orders**

EMRO's are an un-commenced power in the Licensing Act 2003 which will enable Licensing Authorities to restrict alcohol sales in certain areas between 3am and 6am if it is appropriate for the promotion of the licensing objectives.

Commencement expected October 2012.

### **What the changes will mean for the Licensing Authority/Licensing Service**

- Public consultation on the revised licence fees and send through Committee/Cabinet/Council.
- New procedures to be devised and delegations set up for the suspension of licences following non-payment of licence fees.
- Member and staff training
- New hearing protocols to be written
- New procedures for assessing applications
- Training and guidance to be prepared for new Temporary Event Notice provisions
- The review of the Statement of Licensing Policy to include all the relevant legislation changes and policy statements.
- Extra projects, consultations, policy revisions, and PR if EMRO's, Cumulative Impact Policies and Late Night Levy's are deemed appropriate for Hillingdon.

### **FINANCIAL IMPLICATIONS**

None

**LEGAL IMPLICATIONS**

None

**BACKGROUND PAPERS**

None