

HOME OFFICE CONSULTATION – REBALANCING THE LICENSING ACT

Committee

Licensing Committee

Officer Contact

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Papers with report

- **Annex 1** - Home Office Consultation Document
- **Annex 2** - Home Office Impact Assessment

Ward(s) affected

All

SUMMARY

To obtain the Licensing Committee's opinion of the Home Office's proposals and to seek their views in respect of the specific questions raised in Section 11 in order for a response to be drafted by the Licensing Officer and submitted to the Home Office by 8th September 2010.

RECOMMENDATION

That Members consider the consultation document and instruct the Licensing Officer in regard to their thoughts on each question raised.

INFORMATION

The new government coalition is introducing a number of new proposals which will overhaul the Licensing Act 2003 by giving more powers to Licensing Authorities.

A brief summary of the measures is:

- Give licensing authorities the power to refuse licence applications or call for a licence review without requiring relevant representations from a responsible authority.
- Remove the need for licensing authorities to demonstrate their decisions on licences 'are necessary' for (rather than of benefit to) the promotion of the licensing objectives.
- Reduce the evidential burden of proof required by licensing authorities in making decisions on licence applications and licence reviews.
- Increase the weight licensing authorities will have to give to relevant representations and objection notices from the police.
- Simplify Cumulative Impact Policies to allow licensing authorities to have more control over outlet density.
- Increase the opportunities for local residents or their representative groups to be involved in licensing decisions, without regard to their immediate proximity to premises.
- Enable more involvement of local health bodies in licensing decisions by designating health bodies as a responsible authority and seeking views on making health a licensing objective.
- Amend the process of appeal to avoid the costly practice of rehearing licensing decisions.
- Enable licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences.
- Repeal the unpopular power to establish Alcohol Disorder Zones and allow licensing authorities to use a simple adjustment to the existing fee system to pay for any additional policing needed during late-night opening.

- Substantial overhaul of the system of Temporary Event Notices to give the police more time to object, enable all responsible authorities to object, increase the notification period and reduce the number that can be applied for by personal licence holders.
- Introduce tougher sentences for persistent underage sales.
- Trigger automatic licence reviews following persistent underage sales.
- Ban the sale of alcohol below cost price.
- Enable local authorities to increase licensing fees so that they are based on full cost recovery.
- Enable licensing authorities to revoke licences due to non-payment of fees.
- Consult on the impact of the Mandatory Licensing Conditions Order and whether the current conditions should be removed.

The Home Office are seeking Licensing Authorities views in respect of the new proposals and the specific questions detailed on page 23 of the consultation document in Annex 1.

The closing date for the consultation is 8th September 2010.

FINANCIAL IMPLICATIONS

There are no direct financial implications with responding to a Home Office consultation. However it should be noted that changes that result in increased licensing activities or associated activities will increase costs of the service, as long as these costs can be passed onto the licensee holder via appropriate adjustments to fees then there should be no detrimental financial impact on the Local Authority.

LEGAL IMPLICATIONS

The proposals, if implemented, will increase the scope of local involvement in licensing and decision-making processes – particularly if proposals to remove the “vicinity” requirement are removed. Detailed legal advice will be given at the Committee meeting with regard to possible responses that the Committee is minded submit.

The Home Office has confirmed that the majority of the proposals in the Home Office consultation will be introduced via the Police Reform and Social Responsibility Bill - due to be introduced into Parliament in October. However, any changes to the Licensing Act 2003 will not be brought into force until 2012 at the earliest. Therefore, the current legal requirement to review the Council’s Licensing Policy and have same approved at Council remains unaffected. Such a review and the resultant policy must be based on the law as it currently stands rather than being based on changes proposed in this consultation.

BACKGROUND PAPERS

- The Licensing Act 2003
- DCMS Guidance issued under S182 of the Licensing Act 2003