

Introduction to the newly implemented changes to the Licensing Act 2003

- Refresher on Licensing Act 2003
- Background to the changes to the LA 2003
- Quick overview of the amendments introduced through part 2 of the Police Reform and Social Responsibility Act 2011

Licensable Activities

Section 1(1) LA 2003 defines licensable activities as:

- Sale of alcohol.
- Supply of alcohol by or on behalf of a club to a member of the club
- Provision of regulated entertainment.
- Provision of late night refreshment.

Authorisations

- Premises Licence.
 - Pub, Off Licence, Nightclub, Kebab van, Theatres, Cinemas
- Club Premises Certificate (CPC).
 - Private Members Club no profit to an individual or business
- Temporary Event Notice, (TEN).
 - For licensable activities not covered by an existing authorisation

Application Process

- operating schedule - in which the applicant states how they will promote the Licensing Objectives, by way of volunteering conditions for their licence but also detailing the hours when activities would be permitted.
- The Applicant sends the application to the Licensing Authority and to all Responsible Authorities (RAs)
- RAs are the statutory consultees who can object to applications/call for a review of a license
- Unless Relevant Representations are made, the LA must grant the licence subject to mandatory conditions and conditions consistent with the operating schedule

Licensing Objectives

Section 4 LA 2003 requires the Council to carry out its licensing functions with a view to promoting the licensing objectives and it must have regard to :-

- Its licensing statement
- Guidance issued by the Secretary of State under section 182

Licensing Objectives

Prevention of crime and disorder



Public Safety and prevention of public nuisance



Protection of children from harm



Police Reform and Social Responsibility Act 2011 - Background

Background:

Coalition commitments in May 2011:

- overhaul licensing (stronger powers for LAs/police)
 - deal with persistent under-age selling
 - allow LAs to charge to pay for additional policing
 - ban the sale of alcohol below cost
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- PRSR Act – Royal Assent on 15 September 2011

Police Reform and Social Responsibility Act 2011 - Background

- Nick Herbert MP – Policing Minister

“The Police Reform and Social Responsibility Act will return power to the people and ensure greater accountability for public services. New licensing powers will give communities more control over late night drinking and mark an end to the misguided idea that 24 hour drinking would create a café culture”.

- Key themes of the Police Reform and Social Responsibility Act 2011:
 - Empowering local authorities
 - Reducing late night drinking
 - Child Protection
- Taking effect from 25 April 2012

Empowering Local Authorities

The Licensing Authority (and health bodies) to be a Responsible Authority.

- Not just administrators, but a regulator as well.

This is the situation in nearly all other forms of licensing, such as Taxis

- Able to object to applications and initiate applications to review premises licenses
- James Brockenshire MP – Home Office Minister

“ the government have decided that the proposal will ensure that licensing authorities are better able to respond to the concerns of local residents and businesses by taking the necessary actions to tackle irresponsible premises without having to wait for representations from other RAs”.

Empowering Local Authorities

- **Lower evidential test**
Necessity
 - The present test for intervention in a licensing decision is whether a particular step is “**necessary**” to promote the licensing objectives (e.g. to add conditions).
 - Necessity – decision maker must to satisfied that no lesser step would suffice.
- **Appropriate**
 - Necessary will be changed to “**Appropriate**” to promote the licensing objectives
 - Appropriate is a lower evidential test.
 - Appropriate – decision maker may decide to take steps that are suitable for, rather than necessary to, the promotion of the objectives.
- the only factors that can be taken into account are the promotion of licensing objectives

Removing the vicinity test.

- Previously Relevant Representations (which cause a hearing to be held) had to be made by a person living or involved in a business in the vicinity
- Anyone can make representations in so far as they relate to the Licensing Objectives.

Temporary Event Notices (TENs)

Previously

- Only Chief Officer of the Police could object under crime prevention objective
- No conditions on a TEN
- 10 Working days prior to the event
- TEN could last up to 96 hrs (4 days)

Now

- EHO can object – on all four objectives
- Conditions can be imposed (where the premises is already subject to a premises licence/club licence)
- Late TEN - no later than 5 days before the event begins – no more than 2 per year
- 168 hours (7 days)

Late Night Drinking

Late Night Levy.

- This is currently subject to consultation (ended. 10 April)
- But in short it allows for premises selling alcohol (anytime between the hours of midnight and 6am) to be charged an additional fee for policing the night time economy. The fee will be split 30% - 70% between the Council and the Police.

Late Night Drinking

Early Morning Restrictions Orders, (EMRO's).

- Already in the Act but not commenced/enacted for premises between 3am and 6am.
- To restrict the sales of alcohol in certain premises and in certain areas between the hours of 12 midnight and 6am.
- If the LA considers it appropriate for the promotion of the licensing objectives (very wide discretion).
- Before adopting must be a hearing and vote of full council

Child Protection

- Maximum penalty for persistent selling of alcohol to children increased £10-20,000 fine.
- Increase the “voluntary” suspension from 48 hrs to up to two weeks.



Thank you for listening

Hannah Langford

Legal Services Manager