



Walsall Council

LICENSING AND SAFETY COMMITTEE

1 DECEMBER 2010

REPORT OF THE HEAD OF PUBLIC SAFETY

LICENSING ACT 2003

REBALANCING THE LICENSING ACT

1.0 PURPOSE OF REPORT

- 1.1 To advise Members of potential government proposals to amend the Licensing Act 2003.

2.0 RECOMMENDATIONS

- 2.1 The Committee is asked to note the contents of the report.

3.0 BACKGROUND

- 3.1 The Licensing Act received Royal Assent on 10th July 2003.

- 3.2 On the 28th July 2010 the government published a consultation document entitled 'Rebalancing the Licensing Act. It contained a number of proposals:

(a). Give licensing authorities the power to refuse licence applications or call for a licence review without requiring relevant representations from a responsible authority such as the police, fire, environmental health, trading standards etc.

(b). 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.

(c). Reduce the evidential burden of proof required by licensing authorities in making decisions on licence applications and licence reviews.

d). Increase the weight licensing authorities will have to give to relevant representations and objection notices from the police.

(e). Simplify Cumulative Impact Policies to allow licensing authorities to have more control over outlet density. Only Walsall town centre is covered by such a policy

(f). Increase the opportunities for local residents or their representative groups to be involved in licensing decisions, without regard to their immediate proximity to premises. Currently only representations from residents who live within the vicinity of the premises are acceptable.

(g). 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.

(h). Amend the process of appeal to avoid the costly practice of rehearing licensing decisions.

(i). Enable licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences.

(j). 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.

(k). 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.

(l) Introduce tougher sentences for persistent underage sales.

(m). Trigger automatic licence reviews following persistent underage sales.

(n). Ban the sale of alcohol below cost price.

(o). Enable local authorities to increase licensing fees so that they are based on full cost recovery. Fee levels are currently set by Government and have not changed since the introduction of the Act in 2005

(p). Enable licensing authorities to revoke licences due to non-payment of fees.

(q). Consult on the impact of the Mandatory Licensing Conditions Order and whether the current conditions should be removed

3.3 This document was not brought before the Licensing and Safety Committee as the consultation period (28th July 2010 - 8th September 2010) was during the period when the committee did not sit.

3.4 Councillor Tim Oliver asked for clarification of point (d) as given in 3.2 following an article he had read.

- 3.5 This point suggests that when determining an application for a premises licence, an application for review, or the granting of a personal licence, the licensing authority must have regard to relevant representations or objection notices (in the case of personal licence applications) from the Chief Officer of Police.
- 3.6 It is proposed to strengthen the weight that licensing authorities must give to police representations (including those voiced by the police at a hearing). By amending the legislation, the licensing authority will be required to accept all representations and notices, and adopt all recommendations from the police, unless there is clear evidence that these are not relevant
- 3.7 The Council did not directly respond to this document due to the limited time period for consultation. However a formal response was submitted from the Local Government Group (who represents the interests of all Local Authorities) on point: (d)

‘The LG Group is opposed to this proposal. This provision would interfere with the freedom of licensing sub-committees to make decisions that are appropriate to the local community, and would constitute a restriction on their decision making powers. The group has concerns about the implications of this proposal on the ability of of the licensing sub-committee to uphold basic decision-making principles, such as the right to a fair hearing, if one party’s evidence is automatically weighted more heavily than another’s, and is also very concerned about the potential constraint on the licensing sub-committees ability to make its own decision as an independent, quasi-judicial tribunal. The group is in favour of retaining the current system, which takes account of all evidence, including that put forward by the applicant equally’.

- 3.8 Ministers have announced that any changes that maybe incorporated following consultation will not be introduced until 2012 at the earliest, no formal timetable has been set.

4.0 FINANCIAL IMPLICATIONS

- 4.1 Within Budget: Yes.

5.0 POLICY IMPLICATIONS

- 5.1 Should any statutory changes be made to the Licensing Act 2003 a review of the current statement of licensing policy will be required.

6.0 LEGAL IMPLICATIONS

- 6.1 Legal Services consulted: Not required at this proposal stage.

7.0 EQUAL OPPORTUNITIES

- 7.1 None arising from this report.

8.0 ENVIRONMENTAL IMPACT

8.1 None arising from this report

9.0 CONTACT

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