

Licensing Act 2003, one year on.

Summary

1. This report analyses the first years implementation of the Licensing Act 2003 i.e. 24th November 2005–23rd November 2006, and asks members to consider if an interim review of the licensing policy is necessary to help promote the licensing objectives set out in the Act.

Background

2. The Licensing Act 2003 (The Act) created a fundamental review of the licensing laws covering the provision of entertainment, sale of alcohol and provision of late night refreshment. It came into full operation on 24th November 2005. The stated objectives of The Act are: the prevention of crime and disorder, public safety, prevention of nuisance and the protection of children from harm.
3. Licensing Authorities are required to produce and publish a local licensing policy which will guide its exercise of the licensing functions. Licensing policies are of 3 years duration after which they must be reissued. During the 3 year period licensing authorities are required to keep their policies under review. Any changes to the policy must be subject to a consultation process as set out in the Act.
4. There are currently 834 premises licences in force in the city. A breakdown by type is shown at annex 1. This annex also includes an analysis of the latest operating time by type of premise.
5. This licensing authority also licences 1084 persons to sell alcohol by virtue of being holders of personal licences. During this review period 407 temporary event notices have been received.
6. To reach this position there were 117 hearings conducted during the transition period and 30 in the first year of implementation of the Act. Hearings were unnecessary in a further 94 cases where mediation succeeded in agreement being reached between applicant and representor. 19 appeals were made to the magistrates court.

7. This licensing authority has produced an enforcement policy that has been signed up to by all responsible authorities. During the year council licensing officers have undertaken 288 visits mostly in conjunction with other enforcement agencies. These visits have been as much about offering support and advice on the new legislation as on enforcement.
8. The Department of Culture, Media and Sport has undertaken a snapshot survey in relation to the operation of the Act nationally. The report is attached at annex 2.

Consultation

9. In order to inform this report, a consultation exercise was carried out with responsible authorities, representatives of the licensed trade, local residents and their elected representatives and other stakeholders. Annex 3 indicates the full consultation process undertaken. Annex 4 contains a copy of the residents questionnaires distributed in the city centre wards.
10. The results of the consultation are listed below categorised under the headings of the 4 licensing objectives, the cumulative impact zone and general comments.

Prevention of Crime and Disorder

11. The first year operation of the Act there has seen a significant reduction in drink related violent disorder and criminal damage in the city.
12. North Yorkshire Police report that comparing the period 24th November 05 to 23rd November 06 with the corresponding period in 2004 – 2005 there has been a reduction of drink related violent disorder within the city walls of 31.8% and a reduction of 5.1% in criminal damage. The reductions are more marked in the cumulative impact zone where disorder has reduced by 37.9% and criminal damage by 11.6%.
13. North Yorkshire Police feel the Act has the following benefits:
 - The ability to attach conditions to licences
 - The ability to mediate when new applications are being considered
 - The ability for public to voice their concerns
 - The ability to create special policy areas
 - Spreading out dispersal to reduce busy times and flash points
 - Ability to put operating conditions on late night food outlets
 - Facilitating partnership working across enforcement authorities
14. On the negative side the police say that although reduced, violence and disorder is happening longer into the night, particularly with late night hot food outlets opening later and delaying dispersal.
15. These views are also echoed by the Labour Group who report a significant reduction of drink related violent crime in Micklegate and Rougier Street areas

also at taxi ranks and take aways. The group consider the facility to review licences as a positive aspect of the legislation although no review has been undertaken in this first year.

Prevention of Nuisance

16. The implementation of the Act has had a negative impact on residents living near some licensed premises due to noise nuisance and extended operating hours.
17. The Environmental Protection Unit report that noise complaints have risen dramatically since the introduction of the Act.
18. From 23rd November 04 to 22nd November 05 the unit received 81 complaints about 51 licensed premises. During this period no enforcement notices were served. Over a similar period 05 to 06, 192 complaints were received about 75 premises resulting in the service of five abatement notices.
19. The weekend night time Noise Patrol that operates 9pm – 3am has received 75 complaints about licensed premises.
20. The environmental protection manager considers that this rise is likely to be due to the fact that residents living close to licensed premises would accept some degree of noise due to operations or persons leaving premises when closing times were limited to 11pm. The noise is now extended until midnight and the early hours and that is having a negative effect on the quality of their life.
21. The Labour Group report low level noise lasting later into the evening as people go home later along with some vandalism such as damage to cars. They state this could be alleviated if the City had a late bus service.
22. Approximately 40% of the comments received by way of the questionnaires returned from residents living in the city centre referred to disturbance lasting later into the night. It should also be noted that there were also comments stating there was no change and a few saying it was improved since the introduction of the Act.
23. A positive report has been received from the city centre street cleaning team who have seen an improvement in street cleanliness following the introduction of the Act. This being due to the inclusion of licence conditions requiring a litter pick around late night food outlets at the end of opening hours. This appears to work well and where standards do slip operators are being responsive to informal enforcement action.

Public Safety

24. Neither the Health and Safety Executive nor the council's health and safety unit have any comments to make on the operation of the Act.

25. The North Yorkshire Fire and Rescue Authority see joint enforcement inspections as beneficial to the agencies involved and to customers who receive an immediate response to queries.

Protection of Children from Harm

26. In 2005/06 over 150 young people under the age of 18 were taken into police custody in York and reported to be under the influence of alcohol.
27. The Trading Standards Manager reports that under the Act Trading Standards Officers have a duty to enforce provisions relating to underage sales in all licensed premises. Prior to 2005 duties only related to off licences.
28. Over the course of the year trading standards officers have written to all licensed premises reminding them of the law and advising them of what steps can be taken to prevent illegal sales taking place.
29. Test purchase visits were conducted in accordance with national guidelines using 15 and 16 year old volunteers.
Out of 225 visits conducted to 'on licensed' premises there were 33 sales (14.6%).
134 visits were also made to 'off licences' that resulted in 19 sales (14.2%).
This compares with the 71% sales that were encountered when test purchasing first began on 'off licences' in 2002.
30. Prosecutions have resulted from this action and reviews will be sought for repeated offenders.
31. Although there is room for improvement trading standards officers were pleased with the results obtained from these exercises.
32. Trading standards have launched a responsible retailer award which will promote good practice in combating underage sales in 'off licences'. This compliments the Best Bar None scheme that has similar provisions for pubs, clubs and bars.

Cumulative impact zone (CIZ)

33. A questionnaire has been circulated to all residents living in the CIZ and other city centre streets.
34. 54 forms returned, 22 were from residents known to be living in the CIZ. 12 were anonymous so areas of residency could not be determined.

Of the 22 from the CIZ, 2 thought the special policy helped protect their living conditions very much, 4 to some degree, 4 saw no change from previously and 11 said the special policy did not help them at all. I gave no answer to that question.

35. Councillor M Bartlett has expressed concerns over the effect of the CIZ particularly in Blossom Street.

“I had my reservations on this when it was introduced, not least the extension to include Blossom Street. As a resident in the area I cannot see how one licensed premise more or less is going to make much difference. The substantial increase in visitors on race days swamps this side of the city, with many thousands swarming into town. Many of them clearly enjoy the traditional pub crawl; any idea that this behavior could somehow be changed is frankly ludicrous. What is needed is more variety - this can only be provided by substantial investment - and this will not happen without the prospect of a decent return of profit. My concern is that, if strictly implemented, the CIZ will act as a straight jacket, making it difficult for us to work with businesses to develop a more diverse entertainment culture, as set out in our policy”

General

Residents' questionnaires

36. An analysis of the results are shown on a table at Annex 5.

Of the 54 returns:

6 reported they were unaware of the introduction of the Act
19 persons thought the Act had a negative effect on their lifestyle
10 persons thought the Act had a positive effect on their lifestyle
23 persons thought the Act had a neutral effect on their lifestyle
20 persons thought the introduction of the Act benefited the City

Ward and parish councillors

37. Huntington and Strensall parish councils report that there has been little change as a result of the new legislation in their areas.
38. Bishopthorpe parish council reports extended noise levels in Main Street as a result of longer opening hours.
39. Cllr Hopton reports she is not aware of any problems in Rural West York ward.

Taxi and Private hire operators

40. The York Taxi Association and the York Private Hire Association are both supportive of the change in legislation. They report a drop in alcohol associated problems with their customers and reduced waiting times due to the staggered opening hours.

York City Centre Partnership

41. The Chief Executive of the partnership reports that as far as the night time economy is concerned, that it has been a successful start. York needs to look

at the evening entertainment and a leisure offer as a whole to provide quality facilities.

The partnership seeks the development of a European style café bar culture to promote early evening activity.

Other considerations raised are improved night time public transport, taxi rank marshals and night time rangers to support the police and a dedicated 24hour radio system linked to the CCTV and control room.

City of York Licensing Manager

42. Whilst healthy relationship between the police and local authority were already established before the introduction of the Act, closer partnership working has further been enhanced to the benefit of all. City of York Council Trading Standards, Licensing and Environmental Protection departments, North Yorkshire Police, North Yorkshire Fire and Rescue Service, Safer York Partnership, elected members, licensees and local residents have all embraced the Act which has seen substantial reduction in violent crime across the city. Particularly significant was the high profile approach to the introduction of the act by the council. By making local residents aware of their rights in excess of 1000 residents were prepared to engage in the licensing process with many attending hearings. This together with licensees becoming more aware of their responsibilities as resulted in many long standing related disorder and nuisance issues being dealt with by voluntary cooperation from licensees or the attachment of conditions to licences. The introduction of more door staff, taxi marshals, litter patrols, CCTV installation, staggered closing times and less pressure on the taxi ranks and takeaways is having a beneficial effect on the city centre.

43. Other Comments

- Majority of extended licences granted give the option for an extra 1 or 2 hours opening and many are only being used at the weekends (Labour Group)
- Licencees and drinkers able to choose when and how they drink so long as they do it responsibly (Labour Group)
- Restrictive interpretation of who is an interested party (Labour Group)
- Impact of late opening on traditional pubs as some people drink at home prior to going out later in the evening (Labour Group)
- The Act seems to be working well, some teething problems with understanding obligations of new legislation. High cost of advertising applications (Director of Learning, Culture and Children's Services)
- Why isn't Stonegate, Little Stonegate, and Back Swinegate area not included in special policy area as it contains a high density of bars and clubs (Resident of Stonegate)

- Full support of changes in legislation. Comments submitted relate to abolition of fixed closing times “ York is now a much safer place of an evening post changes in legislation” (24 year old professional worker)

Options

44. As a result of this report members may wish to consider whether any changes are required to the councils licensing policy or the special policy that covers the cumulative impact zone.

Analysis

45. This first year review has shown significant improvements in alcohol related crime and disorder.
46. No significant issues have been raised in respect of public safety or the protection of children from harm.
47. There has been concern expressed over noise and disturbance which has, as a consequence of longer opening hours, extending later into the night resulting in an increase in the number of complaints. This has been true of city centre premises both inside and outside the CIZ and rural locations. This is a situation that has been repeated nationally.
48. Any proposed changes to either the main policy or special policy would need to be subject to a separate consultation exercise as undertaken when the policy was initially produced.

Corporate Priorities

49. The effective exercise of the licensing function will impact the council’s priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

50. Implications

- **Financial: None**
- **Human Resources (HR): None**
- **Equalities: None**
- **Legal:** By virtue of section 5(4) of the Act the Council is required during the three-year period to keep its policy under review, making such alterations to it, if any, it considers appropriate.
- **Crime and Disorder** The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder

implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.

- **Information Technology (IT)** None
- **Property:** None
- **Other:** None

Risk Management

51. In compliance with the Councils risk management strategy any amendments made to the policy that are unreasonable or unlawful could be open to legal challenge resulting in loss of image reputation and potential financial penalty.

Recommendations

52. Members are recommended to:

Note the contents of this first year review of the effects of the Licensing Act 2003 implementation, and

- a) Make no proposals for changes to the policy at this stage,

Reason: In all objectives but the prevention of public nuisance the policy is achieving its aims. There is no practical policy change which at this stage would make any impact on the objective.

- b) Have regard to the issues raised in the consultation about noise and antisocial behaviour when considering future licensing applications.

Reason: that conditions can be applied to individual applications to limit any nuisance that maybe caused.

- c) Refer this report to the next Planning committee for their consideration.

Reason: in accordance with the statutory guidance to the Act paragraph 3.51

Contact Details

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Report Approved

Date

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Specialist Implications Officers

None

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

Licensing Act 2003 and supporting Guidance
City of York Licensing Policy

Annexes

- Annex 1 – Analysis of Licensed Premises in City of York by type and latest trading hours
- Annex 2 – Licensing Key Facts, produced by DCMS
- Annex 3 – Consultation methods
- Annex 4 – Residents questionnaire distributed in Guildhall and Micklegate wards
- Annex 5 – Analysis of questionnaire returns