

## **Impact of the Licensing Act 2003 and Health Act 2006 (Smoke Free Premises) on the Licensing Trade**

### **Summary**

1. Members will recall that the first year's evaluation of the Licensing Act 2003 in York was the subject of a comprehensive report to this committee on the 2<sup>nd</sup> February 2007.
2. This report seeks to provide members with a further update on the current national and local position on the impact of the Licensing Act 2003 and the Health Act 2006 (Smoke Free Premises) in relation to licensed premises.
3. It also updates members as to the action taken by the licensing enforcement officers to ensure the many conditions attached to premises licences, either mandatory, those voluntarily agreed by the applicant or imposed by members of the licensing committee, meet the licensing objectives and are adhered to.

### **Background**

4. 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 24<sup>th</sup> November 2005.
5. The Act brought together eight separate licensing regimes into one and in so doing transferred the regulation of the sale of alcohol from licensing justices and magistrates courts to the local authority.
6. The four statutory objectives which must be addressed when licensing functions are undertaken are;
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance and
  - The protection of children from harm.

7. The modernisation of the legislation was also intended to support a number of other key aims and purposes which the Government statutory guidance states should be principle aims for all involved in licensing work;
  - The necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment;
  - Greater choice for consumers, including tourists, about where, when and how they spend their leisure time;
  - The encouragement of more family friendly premises where younger children can be free to go with the family;
  - The further development of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities; and
  - The regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring.

## **Evaluation**

8. The Department for Culture, Media and Sport in March 2008 published an evaluation of the impact of the Licensing Act 2003 and the conclusion was the laws are showing to have a beneficial impact on residents, police and local councils. A copy of this report can be found at Annex 1 to this report.
9. What has emerged is there is clear evidence that the negative forecast of the new legislation has not materialised, either nationally or locally.
  - There is no evidence in York of 24 hour drinking with only 4 supermarkets securing a 24 hour licence. There has been only a limited change to actual opening hours with many premises reverting to 11pm closing time particularly midweek.
  - The overall volume of incidents of crime and disorder initially dropped significantly and are now remaining stable. A copy of the crime statistic and crimes recorded by hour of the day for the city centre and impact zone can be found at Annex 2.
  - The issue of noise continues to generate concerns for both licence holders and interested parties.
10. The benefits are;
  - Businesses in York have embraced the relaxation in the licensing laws which is vital for a top tourist city.
  - Better engagement of residents in the licensing process

- Improved partnership working between licensing authority, responsible authorities, local trade and residents.
- Introduction of the Cumulative Impact Zone in the city centre.

### **Hearings**

11. To date since the introduction of the act over 180 hearings have been heard before licensing sub-committees resulting in over 600 licensing conditions being attached to licences to meet the licensing objectives and aims of the Act. Many of the conditions attached have been to protect local residents.
12. A full list of all the hearings can be found at Annex 3.

### **Facts and Figures**

13. The city currently has 964 premises and club licences, of which 858 are licensed to sell alcohol. 1413 personal licences have been issued.
14. In the past 12 months the licensing department have dealt with 52 variation to premises licences, 96 transfers of premises licences, 228 designated premises supervisor variations, 93 new grants (large number due to the introduction of a project to licence all city schools for regulated entertainment), and 348 temporary event notices issues.

### **Enforcement**

15. The senior licensing officer of the City of York Council has established a licensing enforcement project to undertake proactive night time monitoring and enforcement action against licensed premises. Members can be confident that many of the conditions attached to licences to protect the public and meet the licensing objectives are being monitored and enforced.
16. During the past 12 months 101 multi-agency inspections have taken place been 1800hrs and 0500hrs resulting in six premises being immediately closed due to a breach of licensing conditions. The breaches have included over occupancy, no designated premises supervisor, operating out of hours, no door supervisors and breach of public safety regulations. This has resulted in one premises being the subject of a review. In addition one designated premises supervisor has been summons to court, three subject of written warnings and 17 the subject of advice letters.

### **Reviews**

17. To date three premises have been the subject of a review.

### **Health Act 2006 (Smoke free premises)**

18. In terms of compliance, there have been few problems in the implementation of the provisions in licensed premises, where it was considered the problem would be greatest. Almost without exception, licensees are enforcing the requirement to keep their premises smoke free. Most complaints and enquiries

concerned smoking shelters. All other incidents have been resolved satisfactorily following a warning letter being sent where this was thought necessary.

19. There has been an increase in the number of variations for premises which is attributable to the need for licensed premises to secure a facility for patrons to be able to smoke (other than inside the premises). It has prompted licensees to seek to vary conditions to accommodate approved smoking shelters in beer gardens and other outside areas.
20. Where possible the licensing committee is granting such variations, as it is the view of the Responsible Authorities that it is preferable to contain the activities of patrons within the curtilage of the licensed premises and thus afford a level of control via conditions attached to the licence to protect residents.
21. There are however premises especially in the city centre where this has not been possible and patrons have to smoke outside the premises, on the footpath or highway. This is a cause for concern giving rise to public nuisance from noise and litter.
22. The advice given to licensees in such circumstances is that they are responsible for behaviour of patrons in the immediate vicinity of their premises and adverse impact to the community may effect their trading position.
23. Experience indicates that whilst there is little non-compliance regarding smoke free premises there is something of a displacement effect and there has been an increase in complaints regarding potential nuisance from outside areas.
24. Officers are seeking to support licensees in achieving a win/win position for both residents and patrons, which does not adversely affect their trading position or residents enjoyment of their properties.
25. Personal visits from the specifically appointed smoking officer, licensing and environmental protection officers are being supported by written guidance and advice.

## **Options**

26. Not applicable for information only.

## **Analysis**

27. None

## **Corporate Priorities**

28. 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.

## Implications

29.

- **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 licensing policy under review, making such alterations to it, if any, it considers appropriate. The policy was last updated in January 2008
- **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

30. Not applicable.

## Recommendations

31. Members are recommended to:

- Note the contents of this report and have regard to it when exercising duties under the Act.

Reason: To keep Members informed of local and national trends.

## Contact Details

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Report Approved  Date *20<sup>th</sup> May 2008*

## Specialist Implications Officers

None

Wards Affected:

All

For further information please contact the author of the report

## Background Papers:

### Annexes

1. Evaluation of the impact of the Licensing Act 2003
2. Nightsafe crime figures for York City Centre and CIZ
3. List of hearings to date.