

Gambling and Licensing Acts Committee

20 November 2009

Report of the Director of Neighbourhood Services

Licensing Act 2003 – Problem Premises

Summary

1. This report advises members of recent advice from the Department of Culture, Media and Sport (DCMS) in respect of the adoption of a 'Yellow and Red' card approach to Licensing reviews.

Background

2. Under section 51 of the Licensing Act 2003 (section 87 for clubs) where problems exist at a licensed premise a responsible authority or interested party may call for the licensing authority to hold a hearing and review the licence. The DCMS has suggested that in some areas there was a reluctance among responsible authorities to review licences without very strong evidence.
3. The DCMS have therefore been encouraging, through a series of regional seminars, that police, trading standards and environmental health officers be more pro-active in seeking early reviews of premises causing problems in communities.
4. Where reviews are sought the DCMS suggest that licensing committees consider adopting a yellow card / red card approach where premises are found to be failing to promote one or more of the licensing objectives.
5. A yellow card involves the imposition of tough new conditions that are appropriate to the problems at issue ie sale of alcohol to children together with a warning that if a further review is necessary and matters have not improved, there would be a presumption that the licence would be revoked (red card). It is recognised that for serious issues revocation would be the only appropriate action.
6. The government also advise that any yellow card should be highly visible in the community and send a clear message to alcohol retailers and the public that action will be taken against those who act contrary to the licensing objectives and the law. This will make an important contribution to the community's confidence in the licensing authority. This approach does not necessarily mean the physical issue of cards but the imposition of a condition requiring the

premises to display a visible notice at the premises detailing the outcome of the review and the warning that has been given maybe appropriate.

Consultation

7. All responsible authorities have been made aware of this advice from the DCMS.

Options

8. Members may consider adopting this approach or not when considering any reviews brought before them.

Analysis

9. Whilst the DCMS have launched this approach as a new initiative this type of graduated enforcement has been practiced in York for many years by regulatory departments. It also mirrors the way that licensing committees have dealt with licence applications and in the two reviews that have been determined by members. The adoption of a yellow/red card approach will therefore not see any major change to our policies. Members may however wish to consider the imposition of a condition requiring the visible display of a notice in premises detailing the outcome of any review.

Corporate Strategy

10. Effective regulation of problematic licensed premises will make York a Safer City

Implications

11. **Financial:** None

Human Resources (HR): None

Equalities: None

Legal : None

Crime and Disorder: None

Information Technology (IT): None

Property: None

Other: None

Risk Management

12. There is no risk to the council in adopting this approach to reviews.

Recommendations

13. Members are asked to adopt the yellow/red card approach when conducting reviews and where appropriate attach a condition requiring premises to display a notice on their premises detailing the outcome of the review.

Reason : To assist with the effective implementation of the Licensing Act 2003 in the city.

Author:
Richard Haswell
Head of Licensing and Safety

Chief Officer Responsible for the report:
Andy Hudson
**Assistant Director of Neighbourhoods and
Community Safety**

**Neighbourhoods and
Community Safety**

Report Approved Date 9/10/09

Tel No.01904 551515

Specialist Implications Officer
Legal - Martin Blythe
Tel No. 01904 551044

Wards Affected: All



For further information please contact the author of the report.

Background Papers:

Criminal Justice and Police Act 2001

Annexes:

Annex 1 Letter to local authorities from Gerry Sutcliffe MP, Minister for Sport