

Gambling and Licensing Acts Committee

3 September 2010

Report of the Director of Communities & Neighbourhoods

Licensing Act 2003

Rebalancing the Licensing Act

Summary

1. This report advises members of recent consultation from the Home Office entitled "Rebalancing the Licensing Act". It seeks members approval regarding the councils response to the consultation.

Background

2. The Licensing Act 2003 (the Act) has be in operation since November 2005. During this operation period there has been some revisions however the new Government are proposing new measures to rebalance the Act to empower individuals, families and local communities to shape and determine local licensing. The consultation document is attached at Annex 1.
3. The Government is prosing the following measures: -
 - (a) Give licensing authorities the power to refuse licence applications or call for a licence review without requiring relevant representations from a responsible authority.
 - (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.
 - (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.

- (g) Enable more involvement from 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 tough 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.
- (p) Consult on the impact of the Mandatory Licensing Conditions Order and whether the current conditions should be removed.

Consultation

19. The Home Office has consulted a wide range of persons and organisations, as indicated in page 7 of the consultation document. The council has only taken a limited local consultation on this document. Due to restricted timescales it has been circulated to the councils Environmental Protection and Trading Standard Units. North Yorkshire Police are responding as a force to the document.

Options

20. The questions in the consultation document are listed in Chapter 11 of the Home Office consultation document. Officers responses are attached at Annex 2. It is recognised that Members may have some different views on the legislation operating as a decision making body.
21. Option 1 - Agree with the officers responses as attached at Annex 2.
22. Option 2 - Amend officers responses.

Analysis

23. Officers views are set out in the proposed response to the Home Office at Annex 2. As the legislation has been in force since November 2005 in light of experience of dealing with the legislation, Officers believe a review of the legislation and guidance is necessary.

Corporate Strategy

24. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
25. The promotion of the licensing objectives will support the Council's strategy to make York a safer city with low crime rates and high opinions of the city's safety record.

Implications

26. **Financial:** None

Human Resources (HR): None

Equalities: None

Legal : None

Crime and Disorder: None

Information Technology (IT): None

Property: None

Other: None

Risk Management

27. There is no risk to the council in submitting this response.

Recommendations

28. Members are asked to approve option 1 and instruct officer to submit the response to the Home Office.

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Neighbourhoods and
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Report Approved



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Wards Affected: All



For further information please contact the author of the report.

Annexes:

Annex 1 – Rebalancing the Licensing Act – a consultation on empowering individuals, families and local communities to shape and determine local licensing.

Annex 2 – List of questions and officers responses.