

Rebalancing the Licensing Act

Question 1: What do you think the impact would be of making relevant licensing authorities responsible authorities?

This would have a positive impact, licensing authorities would have more power and be able to take all 4 licensing objectives into consideration, making sure that more robust and enforceable licensing conditions are placed on licenses. As licensing authorities undertake a lot of enforcement work and deal with complaints, it is justifiable that they should be able to review licenced premise that are not operating in accordance with the licensing objectives.

Question 2: What impact do you think reducing the burden of proof on licensing authorities will have?

Members will be able to refuse or place conditions on licences if they believe the granting of a premise licence will have an impact on the licensing objectives. This may enable members to address more easily the understandable concerns of residents.

Question 3: Do you have any suggestions about how the licence application process could be amended to ensure that applicants consider the impact of their licence application on the local area?

With respect to the application form experience has shown that applicants do not fully understand the importance of completing Section P (operating schedule), therefore further guidance should be included. This guidance should state that information included in Section P will form part of the premise licence.

It should be a legal requirement that the blue display notice must clearly stipulate what has been applied for within the application, for example licensing activities applied for, days and times. It should be a legal requirement that licensing authorities approve the content of blue notices.

Question 4: What would the effect be of requiring licensing authorities to accept all representations, notices and recommendations from the police unless there is clear evidence that these are not relevant?

This matter is not a concern within the City of York Council as members always take the polices issues/concerns/evidence into consideration.

Question 5: How can licensing authorities encourage greater community and local resident involvement?

The City of York Council currently consults widely on the Statement of Licensing Policy. However we are restricted by the content of the Statutory Guidance and model policies produced by LACORS. Licensing Authorities should have greater discretion to reflect the local situation.

Question 6: What would be the effect of removing the requirement for interested parties to show vicinity when making relevant representations?

More representations would be received against application from interested parties who would not be affected by the licensed premise (frivolous & vexatious), and therefore more licensing hearings would be required. The question of vicinity does cause conflict when officers do not agree that a representor lives within the vicinity.

Questions 7: Are there any unintended consequences of designating health bodies as a responsible authority?

Licensing authorities currently try to liaise with their local PCT's and ambulance service regarding statistics on alcohol related A&E admissions, however they do not record this information and do not have the resources to do so.

We are unsure whether health bodies have the resources to deal with licence applications. Who would be the responsible authority?

Question 8: What are the implications in including the prevention of health harm as a licensing objectives?

There would be difficulties in burden of proof that one premise has caused 'health harm'. Who would enforce? What are the implications on premises that are already licensed?

Question 9: What would be the effect of making community groups interested parties under the Licensing Act, and which groups should be included?

Within the City of York Council we class community groups as been interested parties (within the definition in Section 13(3) of the Act) if they are within the vicinity of a licensed premise and believe they will be affected by said premise. Our concerns would be with regards to the vicinity as this would be equally valid for groups.

This could lead to increased number of representations and therefore more hearings.

Question 10: What would be the effect of making the default position for the magistrates' court to remit the appeal back to the licensing authority to hear?

Since the introduction of the Licensing Act the City of York Council has only had 5 appeals to magistrates.

Appellant could perceive that the licensing authority will make the same decision, by appealing to magistrates a different body hears and determines the applications. There is also the issue of licensing authorities determining applications submitted by their own authority.

Question 11: What would be the effect of amending the legislation so that the decision of the licensing authority applies as soon as the premises licence holder receives the determination?

This would give licensing authorities more power. It will be clear to all parties (especially interested parties) which licence and conditions are currently in force. However legislation should be in place to protect licensing authorities from any claims for loss of business.

Question 12: What is the likely impact of extending the flexibility of Early Morning Restriction Orders to reflect the needs of the local area?

This provides additional powers to licensing authorities if issues arise. It also needs to be extended to cover late night refreshment house as they cause issues within residential areas.

Question 13: Do you have any concerns about repealing Alcohol Disorder Zones?

No.

Question 14: What are the consequences of removing the evidential requirement for Cumulative Impact Policies?

Within City of York Council we have had no problems with providing evidence to support a CIZ, however it has proved difficult to establish a logical boundaries, for example streets are included within the zone that do not have any licensed premise.

The provision to include a CIZ within the statement of licensing policy is only provided in statutory guidance not within the Act, if it was included in legislation its us would be strengthened.

Question 15: Do you agree that the late night levy should be limited to recovery of these additional costs? Do you think that the local authority should be given some discretion on how much they can charge under the levy?

Any levy should be set by central government, this will make it easier for licence holders to understand. Guidance will be required on mechanisms to assess policing costs..

Question 16: Do you think it would be advantageous to offer such reductions for the late night levy?

This would be difficult for licensing authorities to administer/enforce.

Question 17: Do you agree that the additional costs of these services should be funded by the late night levy?

Late night activities do have an impact on the city and funding is required to provide services such as taxi marshals, keeping toilets open, street cleaning. Licensing authorities should decide how the levy is spent within their area as they will be aware of the issues. It will also be for licensing authorities to monitor that these services are provided.

Question 18: Do you believe that giving more autonomy to local authorities regarding closing times would be advantageous to cutting alcohol-related crime?

A greater flexibility and discretion for meeting local needs will be better. Now that premise operate later into the evening / early hours there has been increases in noise nuisance.

Question 19: What would be the consequences of amending the legislation relating to TENs to that:

a) All the responsible authorities can object to a TEN on all of the licensing objectives?

This could prevent impact on the local community. However, could create more objections and therefore more hearings will take place. The City of York Council currently circulates a copy of the TENs register to a number of responsible authorities for information purposes. Within York we deal with approximately 370 per year.

b) The police (and other responsible authorities) have five working days to object to a TEN?

This would give the police more time to consider TEN's. However, this would only work if the timescale for dealing with applications is also increased for licensing authorities.

c) The notification period for a TEN is increased, and is longer for those venues already holding a premises licence?

Increasing the notification period would assist licensing authorities, especially if the objection timeframe is increased.

d) Licensing authorities have the discretion to apply existing licence conditions to a TEN?

This would be helpful, and will make sure the licensing objectives are upheld.

Question 20: What would be the consequences of:

a) Reducing the number of TENs that can be applied for by a personal licence holder to 12 per year?

None. However this is impossible to track nationally.

b) Restricting the number of TENs that could be applied for in the same vicinity (eg a field)?

None. As applicants do not have to submit a plan(s) as part of the application Licensing Authorities are unable to correctly monitor this currently for outside areas.

Question 21: Do you think 168 hours (7days) is a suitable minimum for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?

Yes, as time will be needed to implement any requirements requested by the police.

Question 22: What do you think would be an appropriate upper limit for the period of voluntary closure that can be flexibly applied by the police for persistent underage selling?

28 days, this will give the police time to submit a review application. Anything longer than this time could affect the traders business.

Question 23: What do you think the impact will be of making licence reviews automatic for those found to be persistently selling alcohol to children?

It will give licensing authorities more powers to deal with poor operators. It will also give clarity to licence holders that their licence will be reviewed.

Question 24: For the purpose of this consultation we are interested in expert view on the following.

Issues relating to cost are not a matter that licensing authorities have any experience in and therefore we cannot comment.

The City of York Council does have issues with pre loading due to the availability of cheap alcohol in supermarkets.

a. Simple and effective ways to define the 'cost' of alcohol

b. Effective ways to enforce a ban on below cost selling and their costs

c. The feasibility of using the Mandatory Code of Practice to set a licence condition that no sale can be below cost, without defining cost.

Question 25: Would you be in favour of increasing licence fees based on full cost recovery, and what impact would this have?

Based on figures for 2009/10 the City of York Council total income from the Licensing Act was £219349, the total expenditure including responsible authorities was £255556, a difference of £36207. Fees should be based on full cost recovery.

Question 26: Are you in favour of automatically revoking the premises licence if the annual fees have not been paid?

Yes, this has been an issue for this authority with licence holders not paying or selling premises and not making sure that licences are transferred.

Question 27: Have the first set of mandatory conditions that come into force in April 2010 had a positive impact on preventing alcohol related crime?

Yes and no. We have received a number of phone calls from operators checking if their drinks promotions are ok, and asking who is a customer with regards to providing drinking water.

Question 28: Would you support the repeal of any or all of the mandatory conditions (conditions (a) – (e) above)?

Condition (a) and should be reworded to make it easier for operators to understand and therefore adhere to.

Condition (b) is not required as it can be address by rewording condition (a) accordingly

Condition (c) has caused the most confusion, operators have no issues with giving free drinking water to customers, however the condition does not define a customer (can someone just go into a pub and expect to be served free drinking water all night, or does a customer have to buy a drink and then request a free drinking water).

Question 29: Would you support measures to de-regulate the Licensing Act, and what sections of the Act in your view could be removed or simplified?

The application forms should be simplified making it easier for applicants to complete and easier for responsible authorities and interested parties to read and understand.

The legislation relating to club premise certificates should be simplified or removed, making clubs apply for premise licences. There are currently issues with clubs operating outside the legal requirements of the legislation regarding membership.

The system should be simplified for small and community premises that only provide regulated entertainment.

Licensing Policies should not have to be fully reviewed every 3 years, just as and when the licensing authority requires.