

Committee: LICENSING

Agenda Item

Date: June 9, 2010

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**Title: MANDATORY CONDITIONS FOR A
PREMISES LICENCE/CLUB PREMISES
CERTIFICATE**

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Item for information

Summary

1. This report is to inform members of new mandatory conditions which will apply to premises licences and club premises certificates.

Recommendations

2. That members note this report.

Background Papers

3. None.

Impact

- 4.

Communication/Consultation	The Government consulted on the draft regulations before they were laid before Parliament.
Community Safety	None.
Equalities	None.
Finance	It is estimated that the cost of re-issuing licences and certificates to all premises and clubs will be in the region of £1,000 which will be met from existing budgets.
Health and Safety	None.
Human Rights/Legal Implications	Human Rights: As required by the Human Rights Act 1998 the Secretary of State has certified that in his view the new regulations are compliant with the Act. Legal: Carrying on a licensable activity otherwise than in accordance with an authorisation is an offence under the

	Licensing Act 2003 punishable by a fine of up to £20,000. A breach of the mandatory conditions whilst carrying on a licensable activity would be such an offence.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

5. Section 19 Licensing Act 2003 imposes mandatory conditions on a premises licence which authorises the supply of alcohol. There are only two such conditions. The first is that no supply of alcohol may be made under the premises licence at a time when there is no designated premises supervisor in respect of the premises licence or at a time when the designated premises supervisor does not hold a personal licence or his licence is suspended. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. Until now there have been no mandatory conditions applicable to club premises certificates relating to the supply of alcohol to members or guests.
6. Section 19A and section 73B of the Act empowers the Secretary of State to impose additional mandatory conditions. Pursuant to that power the Government has laid before Parliament the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010. These regulations impose one condition which applies to all premises licences and club premises certificates and four conditions which apply only to premises or clubs which are authorised to sell alcohol for consumption on the premises.
7. The first condition is one which requires the responsible person to take all reasonable steps to ensure that staff on premises do not carry out, arrange or participate in irresponsible promotions. The responsible person for this purpose is the premises licence holder, the designated premises supervisor (in respect of a premises licence) or an authorised individual. Irresponsible promotions are defined by the statutory instrument as being one of a list of activities (or similar activities) which were carried on for the purpose of encouraging the sale or supply of alcohol in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children. This is an interesting new provision as for the first time it imposes a positive duty upon a designated premises supervisor.
8. The second condition is that the responsible person is to ensure that no alcohol is dispensed directly by one person into the mouth of another except where that person is unable to drink without assistance by reason of a disability.

9. The third condition requires the responsible person to ensure that free tap water is provided on request to customers where it is reasonably available.
10. These three conditions came into effect on the 6 April 2010. The next two conditions come into effect on the 1 October 2010.
11. The fourth mandatory condition (which is the only one which applies equally to on and off licences) requires the premises licence holder to ensure that an age verification policy applies in relation to the sale or supply of alcohol and that the policy must require individuals who appear to the responsible person to be under the age of 18 years (or such older age as may be specified in the policy) to produce on request before being served alcohol identification bearing their photograph, date of birth and a holographic mark.
12. Finally the instrument requires alcohol for consumption on the premises to be made available in measures of half a pint for beer or cider, 25ml or 35ml for gin, rum, vodka or whisky and 125ml for still wine in a glass. Customers are to be made aware of the availability of these measures.
13. Although the conditions apply automatically to licences I consider that good practice requires that licences and licence summaries should be re-issued with all mandatory conditions displayed thereon. Accordingly the licensing team will undertake a programme of re-issuing all licences and club premise certificates to include all new mandatory conditions. To avoid duplicating this task to distinguish between the conditions which took effect on 6 April and those which will take effect on the 1 October all conditions will be listed on the re-issued licences and certificates but with a note that conditions 4 and 5 only apply with effect from the 1 October 2010.

Risk Analysis

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Risk	Likelihood	Impact	Mitigating actions
Licence holders are unaware of the new conditions.	1, the new legislation has been well publicised by the government and trade associations and the re-issue of licences will reinforce the position.	2, there is no evidence to suggest that the mischief addressed by the new legislation is prevalent within the district.	All licences and certificates to be re-issued with the appropriate conditions endorsed.

1 = Little or no risk or impact

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- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.