

Police Reform and Social Responsibility Bill

Licensing and Environmental Health Committee, 12 October 2011, item 6

Committee: LICENSING & ENVIRONMENTAL HEALTH **Agenda Item**

Date: 12 October 2011

6

Title: POLICE REFORM AND SOCIAL RESPONSIBILITY BILL

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Summary

1. The Police Reform and Social Responsibility Bill contains amendments to the Licensing Act 2003. By the time the committee meet to consider this report the probability is that the Bill will have become an Act of Parliament. This report is to inform members of the relevant amendments to the licensing legislation.

Recommendations

2. That the committee note this report.

Financial Implications

3. None at present although there are provisions to enable licensing authorities to set their own fees in the future which will be based upon cost recovery.

Background Papers

4. The following papers were referred to by the author in the preparation of this report:
 - Police Reform and Social Responsibility Bill available at www.publications.parliament.uk/pa/bills

Impact

- 5.

Communication/Consultation	The Government consulted upon the proposed amendment to the legislation prior to the Bill being placed before Parliament.
Community Safety	None.
Equalities	None.
Health and Safety	Primary Care Trusts and local health boards will become responsibility

	authorities and therefore entitled to make representations with regard to the grant of licences and seek reviews.
Human Rights/Legal Implications	The Secretary of State has certified that in his opinion the proposed amendments are Human Rights Act compliant.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

6. Members will be aware that where an application is made for a new premises licence or a club premises certificate or for a variation of such a licence or certificate, representations may be made by responsible authorities or interested parties. Similarly, responsible authorities and interested parties may apply for a review of a licence. The Bill extends the definition of the responsible authorities and also expands the ability of others to make representations.

7. Responsible authorities will include primary care trusts and local health boards. These bodies will be in a position to make representations or seek a review of licences on the basis of the licensing objectives. I would anticipate that such representations would concern primarily the objective of public safety in terms of the demands upon the health service arising from anti-social behaviour fuelled by the consumption of alcohol in some areas and that on that basis representations are unlikely to be made in Uttlesford. More controversially the licensing authority itself becomes a responsible authority. This means that the licensing authority may make representations on applications for new licences or certificates and applications for variations and may call for a review of the licence. In response to the consultation exercise on the proposed amendments members disapproved of this suggestion. Members considered it was desirable that the licensing committee should remain independent and that in any event such an amendment was unnecessary as all councillors are now interested parties in their own right and a member of the licensing committee could therefore, if he or she wished, make representations or apply for a review. The only restriction would have been that such a member would not have been able to take part in the decision making process when the matter came to be considered by the committee.

8. Interested parties are defined as being those living or carrying on business in the vicinity of premises or bodies representing them. This requirement has been removed so that anyone can make representations. It appears the only reason for retaining the distinction between responsible authorities and others is that whilst the licensing authority may reject any representations which do

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not relate to the licensing objectives, the power to reject representations on the basis that they are frivolous or vexatious or to reject a review on those grounds or on the basis that the same is repetitious only applies in the case of representations made by third parties and not representations made by responsible authorities.

9. Under the 2003 Act, when imposing conditions, licensing authorities may only impose those conditions which are considered 'necessary' for the promotion of the licensing objectives. 'Necessity' is a high threshold. The Bill amends the Act to provide that the licensing authority may impose conditions which it considers 'appropriate' for the promotion of the licensing objectives. This is a more subjective test and one which licence holders will find difficult to attack on appeal providing that the decision explains why members considered the conditions 'appropriate'.
10. The law relating to Temporary Event Notices is also being changed. At present notice of a temporary event is only served upon the licensing authority and on the police. The amendment requires notice to be served upon the police and the Environmental Health Department of the local authority in addition to the licensing authority. Where a TEN is served in respect of premises which have the benefit of a premises licence or club premises certificate the licensing authority may transpose conditions attached to such licence or certificate to the TEN if it considers it appropriate to do so for the promotion of the licensing objectives unless those conditions would be inconsistent with the carrying out of the activities covered by the TEN.
11. The Bill introduces provisions for late service of a TEN which can now be given on five working days notice although there are strict restrictions on the number of late Temporary Event Notices which can be served. The timing of temporary events has also been extended. The number of hours over which a temporary event can be conducted has been increased from 96 hours to 168 hours and the number of days in a calendar year for which temporary events can be held is increased from 15 days to 21 days.
12. With regard to underage sales, the penalty for persistent sales of alcohol to children has been doubled to £10,000 to £20,000. The police's power to issue a closure notice for persistently selling alcohol to children has been increased from 48 hours to a period between 48 hours and 336 hours at the police's discretion. Experience locally is that most underage sales are dealt with by a fixed penalty notice and an application by the police and Trading Standards to review the licence.
13. The power to make early morning alcohol restrictions order has been amended. This authority has not made any such orders to date nor are officers aware of any circumstances whereby it may decide to do so. I do not therefore propose to consider in any detail these amendments in this report.
14. The 2003 Act provides for the payment of an annual fee in respect of licensed premises. Under the Act there is no sanction for failing to pay the fee when it falls due. All the licensing authority can do is to pursue the matter as a civil debt in the County Court. The Bill provides that if the annual fee is not paid

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within 21 days of falling due the licence will be suspended. The payment of the fee has the effect of re-activating the licence. It is not clear however what the position would be if more than one annual fee was missed.

15. The Bill contains provisions which will enable the Secretary of State to transfer from himself to licensing authorities the power to assess licensing fees which would need to be set on a cost recovery basis. There will need to be consultation before the second legislation is introduced and I do not anticipate therefore that the authority will be in a position to set fees before 2013.
16. The requirements for revision of the Statement of Licensing Policy are relaxed so that instead of 3 year reviews, the policy should be re-examined at 5 year intervals. The next review of the licensing policy by this authority is therefore not now due until 2016. However, there is an ongoing requirement to keep the policy under review and should circumstances change in the interim it may be necessary to consider an earlier amendment.
17. There have been amendments to the list of relevant offences which may give rise to an objection by the police to an application for a personal licence based on the crime and disorder objective. As only the police may object I will not deal with those changes at length in this report save to say that the recommendation of this committee, that offences of dishonesty under the Social Security Administration Act should be included in the definition of relevant offences, has not been taken on board.
18. The Bill contains detailed provisions enabling a licensing authority to impose a late night levy within its area. The object of a late night levy is to offset the cost of policing and other arrangements for the reduction or prevention of crime and disorder in connection with the supply of alcohol between midnight and 6am. These provisions are intended to apply to urban districts with a significant night time economy and are unlikely to be relevant in Uttlesford.
19. Finally the power to impose alcohol disorder zones contained in the Violent Crime Reduction Act 2006 has been repealed.

Risk Analysis

20. There are no risks attached to this report.