

General Licensing and Registration Committee

19 January 2012

Police Reform and Social Responsibility Act 2011



Report of Resources Corporate Management Team

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Purpose of the Report

- 1 To inform Members of the Licensing Committee of the implications of the Police Reform and Social Responsibility Act 2011

Background

2. The Police Reform and Social Responsibility Act 2011 (PRSRA 2011), received Royal Assent in Parliament on 15 September 2011. Part 2 of the Act paves the way for a number of reforms of the Licensing Act 2003, under which Durham County Council has powers and duties as a licensing authority.
3. In May 2010 the Coalition agreement for Government contained a number of commitments in relation to crime and policing including reform of the Licensing Act 2003. One of the first changes the Coalition made was to transfer departmental responsibility for alcohol licensing from the Department for Culture, Media and Sport (DCMS) back to the Home Office. Responsibility for entertainment licensing remained with DCMS.
4. In Summer 2010 the Home Office launched a public consultation entitled "Rebalancing the Licensing Act 2003." This consultation sought views on a number of proposed changes to the Licensing Act 2003 with the overall aim of achieving a "fundamental shift in the licensing regime in this country, with more emphasis on local accountability and less emphasis on central interference."
5. Following this consultation the Home Office included a number of their proposed reforms in their Police Reform and Social Responsibility Bill, which was given its first reading in the House of Commons in November 2010. The Bill has since followed the normal passage for draft legislation in Parliament and as is usual, has been subject to some amendments during its journey.

6. The Bill finally received Royal Assent and became law on 15 September 2011.
7. Now that it is an Act of Parliament, the PRSRA 2011 be commenced in stages.
8. As a consequence of the PRSRA, the following changes may be made to the licensing regime:-

8.1 Temporary Event Notices (TENs)

- a. The Police and Environmental Health Officers will be able to object to TENs where they consider the proposed activities will have a detrimental effect on the licensing objectives
- b. Conditions may be applied to TEN following a hearing where:-
 - i. the Licensing Authority considers it appropriate to do so; and
 - ii. the conditions are already included on a premises licence/club premises certificate for those premises; and
 - iii. it would not be inconsistent with carrying out the licensable activities under the TEN
- c. "Late TENs" can be submitted up to 5 days in advance of the proposed event
- d. TENs will be able to last a maximum of 168 hrs (1 week) as opposed to the current 96 hrs (4 days)
- e. In addition to the current 50 standard TENs that a personal licence holder can give a year, and the five standard TENs a non-personal licence holder can give a year, they will also be able to give a further ten and two late TENs respectively.
- f. The police and EHOs will have 3 working days to object to a TEN as opposed to the current 2 working days for the police.

8.2 Responsible Authority/Interested Party

- a. The Licensing Authority will become a responsible authority; being able to make representations and apply for reviews in its own right
- b. Anyone person who lives, or is involved in a business, in the Licensing Authority area and may be affected by an application will be able to make representations, thus removing the "vicinity" test.
- c. Primary Care Trusts/Local Health Boards become a Responsible Authority.

8.3 Advertising

- a. Notices of applications are to be advertised in a prescribed manner by the Licensing Authority to bring it to the attention of "other persons" - persons

who live , or are involved in a business, in the licensing authority area and who are likely to be affected by the application.

8.4 Determination of Applications

- a. 'Necessary' has been replaced with 'appropriate' in relation to the steps a Licensing Authority may take when determining applications / requests for review

8.5 Early Morning Alcohol Restriction Order

- a. Early Morning Restriction Orders will allow Licensing Authorities to prohibit the sale of alcohol between midnight and 6am from certain types of premises specified by the order.
- b. The Order must be deemed appropriate in promoting the licensing objectives

8.6 Licence Fee

- a. Failure to pay the annual licence fee will result in suspension of the licence.
- b. Exemptions are built in to allow for administrative error, disputes and a 'grace period'
- c. Receipts must be issued within 2 working days
- d. Subject to ministerial approval, the Licensing Authority will be able to set certain fees on a cost recovery basis. The costs may include the cost of acting as other responsible authorities under the Act e.g. planning authority

8.7 Under Age Sales

- a. Maximum fines for persistently selling to under age children will be doubled to £20,000
- b. The period by which Trading Standards can order a premises to cease trading in such circumstances is amended from the current maximum 48 hours to a minimum of 48 hours and a maximum of 336 hours (14 days)

8.8 Licensing Policy Statements

- a. Reviewed every 5 years as opposed to the current 3 years.

8.9 Alcohol Disorder Zones

- a. The unused provision of Alcohol Disorder Zones will be repealed

8.10 Late Night Levy

- a. The introduction of a 'late night levy' is intended to cover the costs 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.
- b. If the Licensing Authority decides to apply the late night levy it must apply to the whole licensing area.
- c. The Licensing Authority may choose to specify time restrictions applicable to the levy and any permitted exemption categories and/or permitted reduction categories
- d. Regulations will specify how payments of the levy are collected, including the time period of payment. The regulations will also specify the relevant expenses that may be deducted in calculating the "net amount" of levy payments.
- e. Not less than 70% of the levy will go to the police to cover their policing costs and crime prevention/reduction measures, and the remainder will be applied in accordance with the regulations

Recommendations and reasons

- 9. Members are asked to note the content of this report.

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Appendix 1: Implications

Finance -

The cost of advertising all applications under the Licensing Act will need to be factored in to the budget of the Licensing Authority when the relevant amendments are brought in

Staffing -

None

Risk -

None

Equality and Diversity / Public Sector Equality Duty -

None – statutory provisions being implemented only.

Accommodation -

None

Crime and Disorder -

None

Human Rights -

None

Consultation -

None

Procurement -

None

Disability Issues -

None

Legal Implications -

Failure to ensure that all of the amendments to the Licensing Act 2003 are implemented will leave the Council vulnerable to challenge.