

Telford & Wrekin Council

Licensing Committee 27th June 2012

Police Reform and Social Responsibility Act 2011

Report of the Service Delivery Manager – Public Protection

1. Purpose

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

2. Recommendations

- 2.1 Members are asked to note the content of this report.
- 2.2 Members are asked to :
- 2.2.1 Delegate authority to suspend a licence following non-payment of fee to the Principal Licensing Officer and Service Delivery Manager, Public Protection.
- 2.2.2 Approve a period of 7 days, following the holder being notified in writing, for the suspension to take effect.
- 2.3 That Members delegate authority to make representations as a Responsible Authority to the Principal Licensing Officer and Service Delivery Manager, Public Protection.
- 2.4 That Members delegate authority to issue notices imposing conditions on Temporary Event Notices to the Licensing Technical and Principal Licensing Officers (where agreement has been reached by all parties).

3. Summary

- 3.1 The Home Office conducted a public consultation exercise on the Rebalancing of the Licensing Act 2003 from July to September 2010.
- 3.2 Proposals outlined in the Rebalancing the Licensing Act consultation were taken forward in the Police Reform and Social Responsibility Bill which received royal assent on 15 September 2011 and is now the Police Reform and Social Responsibility Act 2011 (PRSRA 2011).

4. Previous Minutes

4.1 There are no previous minutes.

5. Information

5.1 Background

5.1.1 The Police Reform and Social Responsibility Act 2011 (PRSRA 2011).received Royal Assent in Parliament on 15 September 2011. Part 2 of the Act introduces new measures which bring changes to the Licensing Act 2003, under which Telford & Wrekin Council has statutory powers and duties as a licensing authority.

5.1.2 The majority of these measures came into force on 25 April 2012. Some of the alcohol provisions introduced in the Act require substantive changes to secondary legislation prior to commencement and these will, therefore, be brought in at a later date (October 2012 or April 2013).

5.1.3 The new measures in the Act include:

- doubling the fine for persistent underage sales to £20,000
- introducing a late night levy to help cover the cost of policing the late night economy
- increasing the flexibility of early morning alcohol restriction orders
- lowering the evidential threshold on licensing authorities
- removing the vicinity test for licensing representations to allow wider local community involvement
- reforming the system of temporary event notices (TENS)
- suspension of premises licences due to non-payment of annual fees

5.1.4 The late night levy, early morning alcohol restriction orders and locally set fees measures will require secondary legislation and a further report will be brought before Members of the Licensing Committee once Regulations have been laid later this year or early next year.

5.1.5 The Changes which came into effect on 25th April 2012 are as follows :

5.1.5a Licence Applicants To Give Greater Consideration to The Local Area When Making Their Application

Applicants will be required to provide contextual information as part of the licence application form on issues such as the local area's social demographic characteristics, specific local crime and disorder issues and an awareness of the local environment which will be of benefit to the licensing authority when determining the application. Specific local issues, such as crime and disorder issues, are likely to influence the steps that applicants will need to take to promote the licensing objectives in their own premises and applicants will therefore be required to demonstrate an awareness of such issues when setting out why particular steps will be taken to promote the licensing objectives.

5.1.5a Making Local Health Bodies Responsible Authorities

Responsible authorities are public bodies that must be notified of new licence applications, reviews and other licensing functions. They are entitled to make relevant representations to the licensing authority in relation to the application for the grant, variation or review of such a licence.

Current responsible authorities in the Licensing Act 2003 are:

- The chief officer of police
- The fire authority
- The health and safety authority
- The local planning authority
- The environmental health authority
- Bodies recognised as being responsible for protection of children from harm.
- The trading standards authority

Local health bodies have been made responsible authorities. This will include a Primary Care Trust or, in Wales, a Local Health Board for an area any part of which is in the licensing authority's area.

5.1.5b Making Relevant Licensing Authorities Responsible Authorities

Licensing Authorities have been made responsible authorities under the Licensing Act. This will enable

them to make representations in respect of applications.

A licensing authority also acting as responsible authority must achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will still be made by the Licensing Sub Committee. A separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority. The officer advising the Licensing Sub-Committee (i.e. the authority acting in its capacity as the licensing authority) will be a different person to the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority.

5.1.5c Interested Parties – Removing “Vicinity” Test

The “vicinity” test is removed. Given that interested parties are defined with reference to ‘vicinity’, the term interested parties has been removed from the Licensing Act 2003.

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.

5.1.5d Replacing “Necessary” with “Appropriate

The wording has been amended throughout the Licensing Act 2003 to lower the evidential threshold which licensing authorities must meet when making licensing decisions by requiring that they make decisions which are ‘appropriate’ rather than necessary for the promotion of the licensing objectives.

5.1.5e Suspending Licences Due To The Non-payment of Fees

Provision has been made for licensing authorities to suspend licences due to non-payment of fees. This will provide a much stronger incentive for

businesses to pay their fee in a timely manner and save licensing authorities the time and cost of pursuing non-payment. This measure will not impact on responsible businesses that pay their licence fees on time. It is suggested that this function is delegated to the Principal Licensing Officer and Service Delivery Manager as it is purely an administrative function.

There will be a grace period of 21 days for licence holders to pay their fee. The licence will be reinstated as soon as the fee is paid and the licensing authority must notify the licence holder when their licence has been reinstated. If an administrative error has occurred or there is a dispute about liability to pay a fee, a licence cannot be suspended under this provision.

If a licensing authority suspends a licence or certificate, it must notify the holder in writing and specify the date on which the suspension takes effect. The Home Office guidance states that this date must be at least two working days after the day the authority gives the notice. Members are requested to approve that a licence will be suspended if payment has not been received within 7 days of the holder being notified in writing.

5.1.5f Temporary Event Notices

- The right to object to a Temporary Event Notice has been extended to the environmental health authority.
- The police and environmental health officers can now object to a Temporary Event Notice on the basis of all of the licensing objectives.
- The police and environmental health officers now have three working days to object to a Temporary Event Notice.
- Licensing authorities now have discretion to apply existing licence conditions to a Temporary Event Notice if there are objections from the police or environmental health authority. Where agreement has been reached by all parties on imposing conditions on a Temporary Event Notice, Members have been requested to delegate the issue of the Notice to the Licensing Technical and Principal Licensing Officers.
- Late Temporary Event Notices (i.e. those submitted less than ten working days but at least 5 days before the beginning of the event), unless the police or

- environmental health officers object are now allowed.
- The statutory limits on the duration of a single temporary event have been relaxed from 96 hours to 168 hours, and on the total annual availability covered by a Temporary Event Notice in relation to a single premises from 15 days to 21 days.

5.1.5g Persistently Selling Alcohol to Children

The maximum fine for persistently selling alcohol to Children has increased from £10,000 to £20,000.

Previously the police or trading standards authority could impose a period of voluntary closure for up to 48 hours, as an alternative to prosecution. Now a minimum closure period of 48 hours and maximum closure period of two weeks can be imposed.. The intention behind setting a minimum and upper limit for the period of voluntary closure is to give police the flexibility to decide upon an appropriate period of voluntary closure as an alternative to prosecution based on the type of premises being sanctioned.

5.1.5h Licensing Policy Statements

Now reviewed every 5 years as opposed to the current 3 years.

- 5.1.6 The statutory guidance issued under [section 182 of the Licensing Act 2003](#) has been revised to reflect the changes introduced by the PRSRA 2011.

5.2 Equal Opportunities

- 5.2.1 None – statutory provisions being implemented only.

5.3 Environmental Impact

- 5.3.1 Not applicable for the purposes of this report.

5.4 Legal Comment

- 5.4.1 Section 7(1) Licensing Act 2003 provides that all licensing functions (except approval of licensing policy) rest with the Licensing Committee.
- 5.4.2 Section 10 (1) Licensing Act 2003 provides that functions can be delegated to a Sub-Committee or officers unless a specified function. The two delegations sought are not

within the specified functions and therefore can be delegated to officers.

- 5.4.3 Officers will implement appropriate measures to ensure functions are exercised with the necessary separation of powers i.e. the same officer will not make a representation and then act as officer for the licensing authority.

5.5 **Links with Corporate Priorities**

- 5.5.1 This report has links to community protection and cohesion.

5.6 **Financial Comment**

- 5.6.1 Costs arising from the Police Reform and Social Responsibility Act are mainly in the form of officer time which will be met from existing resources. The ability to suspend premises licenses due to non payment of fees should improve cash flow and the level of debt against the licensing service. Debt levels in respect of licensing are currently £15.4k with the majority of this being in respect of premises licenses.

MLB 30.05.12

5.7 **Risks and Opportunities**

- 5.7.1 In proposing this action the Corporate Risk Management Methodology has been complied with. This approach is not intended to eliminate risks but to identify the risks and manage them. However not all risks can be managed all of the time and some risks may not have been identified.

- 5.7.2 The following key risks and opportunities associated with this action have been identified and assessed and arrangements will be put in place to manage them.

- (i) A legal challenge by way of Judicial Review should the Council resolve not to implement the changes brought about by the PRSRA 2011.

- 5.7.3 Having identified this risk, processes and procedures have been put in place to ensure that Regulations are complied with.

6. **Ward Implications**

- 6.1 This report has Borough wide Implications.

7. Background Papers

- 7.1 Police Reform and Social Responsibility Act 2011
- 7.2 Licensing Act 2003
- 7.3 Home Office Amended Guidance Issued Under Section 182 of The Licensing Act 2003
- 7.4 Licensing Authorities As Responsible Authorities
Preliminary Guidance: April 2012 – Home Office
- 7.5 Rebalancing the Licensing Act Consultation – Home Office

Report prepared by, Suzanne Fisher, Public Protection Team Leader, Licensing Services, Darby House - For further information please telephone 01952-383261 or email Licensing@telford.gov.uk