

Body: Licensing Act Committee

Date: 23rd April 2012

Subject: Central Governments National Alcohol Strategy and changes to the Licensing Act 2003

Report Of: Karen Plympton, Licensing Manager

Ward(s) All

Purpose Licensing Update – The National Alcohol Strategy And Changes To The Licensing Act 2003

Decision Type: Information

Recommendation: (a) Note the contents of this report and its implications for the Authority and other “Responsible Authorities.”

(b) Note the next steps for the Authority.

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1.0 Overview

- 1.1 Alcohol consumption represents an integral part of modern culture in the UK and internationally. The production of alcoholic beverages such as beer, wine and spirits occurs on a vast scale as part of a multi-billion pound global industry.
- 1.2 Alcohol is a psychoactive substance and its consumption in moderation can lead to feelings of relaxation and euphoria, causing it to be consumed widely in many social scenarios and across the socio-economic spectrum. Alcohol is also an addictive drug, however, and its misuse is associated with a wide range of dose-related adverse consequences that can lead to significant harm to the individual and society.
- 1.3 Recent years have seen increasing interest in the levels of alcohol misuse in the UK, and in particular the pattern of binge drinking and heavy drinking. Alcohol consumption is causally associated with a wide range of medical conditions and is a significant cause of morbidity and premature death worldwide. The control of alcohol at a national and international level is therefore essential. This requires the implementation of strategies that are effective at reducing overall alcohol consumption levels in a population, as well as targeted interventions aimed at specific populations such as young people

or individuals who are dependant on alcohol. Tackling alcohol misuse also requires greater personal responsibility from individuals who consume alcohol in a manner that is harmful to themselves and those around them.

- 1.4 Alcohol misuse is associated with crime, violence and anti-social behavior, and can impact significantly on family and community life. The cost of alcohol misuse in the UK is substantial, both in terms of direct costs, for example, costs to hospital services and the criminal justice service) and indirect costs, for example, loss of productivity and the impact on family and social networks.

2.0 National Alcohol Strategy

- 2.1 On March 23rd 2012, the Home Secretary announced the publication of the Government's National Alcohol Strategy. The Strategy will radically reshape the approach to alcohol and aims to reduce the numbers of people drinking to excess.

- 2.2 It sets the Government key policies including:

- A minimum unit price for alcohol;
- An intention to consult on the banning of multi-buy discount deals in off licences;
- Review of the mandatory licensing code to ensure that irresponsible drinks promotions are targeted;
- Introducing stronger powers for local areas to control the density of licensed premises;
- Zero tolerance of drunken behaviour in Accident & Emergency departments;
- Working with the industry to secure their support in changing drinking behaviour;
- A late night levy to get pubs and clubs to pay for policing and support services;
- An emphasis on powers to stop serving alcohol to intoxicated people and underage.
- Supporting individuals to make informed responsible choices about their drinking, and increased powers conveyed to the Courts via sentencing and punishment orders.

- 2.3 A full briefing note, prepared in conjunction with East Sussex Safer Communities Team, sent to the Licensing Committee on 9th April 2012 is attached at Appendix 1.

3.0 Police Reform and Social Responsibility Act 2011

- 3.1 Central Government have sought to overhaul the Licensing Act 2003 through the Police Reform and Social Responsibility Act 2011. This aims to give local areas the powers to tackle issues in their area and empowers Local Authorities to instate fixed closing times, staggered hours and zoning, whilst also seeking to improve community awareness and knowledge of licence applications, alcohol hotspots, licence conditions and licensing initiatives.

- 3.2 The National Alcohol Strategy sets out the Government's intention to bring into force all of the Police and Social Responsibility Act 2011 alcohol reforms on

25th April 2012, except for Early Morning Restriction Orders, the late night levy and locally set licensing fees, all of which require complex secondary legislation. These measures are likely to be introduced from 1st October 2012.

4.0 Timescale For Commencing the Alcohol Provisions in the Act on 25th April 2012

Underage Sales of Alcohol

- 4.1 Legislation to double the fine for persistent underage sales to £20,000 and making it easier to shut down businesses found guilty of this offence. It also increases the period of voluntary closure, as an alternative to a fine or prosecution, from 48 hours to 336 hours, (2 weeks.) The Statutory Guidance will include a section which amended to state that the premises licence should be reviewed in all cases where they are found to be persistently selling alcohol to children.

Local Authorities to be Responsible Authorities

- 4.2 Local Authorities are to become Responsible Authorities in their own right, giving stronger powers to make representations in relation to licensing applications and seek reviews of premises licence where it is demonstrated that the site is causing problems without having to wait for the Police, Trading Standards, Noise Team or other Responsible Authority to take action.

Primary Health Care Trusts/Boards To Become Responsible Authorities

- 4.3 Health Bodies will become Responsible Authorities, so that they are notified about new premises applications or variations in connection with the Licensing Objectives. This body will be able to comment on applications and bring about a review of a premises licence. Whilst Central Government did consider creating a 5th Licensing Objective of the "Promotion of Public Health, however this has not been progressed so it is likely that they will make representations under the prevention of crime and disorder licensing objective.

Reducing The Evidence Threshold & Burden of Proof

- 4.4 This means reducing the evidential threshold in relation to cases and requiring the Licensing Authority to accept reasonable representations and strengthening the weight given to representations made by the Police. Licensing Authorities must act to ensure that any conditions attached to licences or actions taken are considered to be "appropriate" in connection with the Licensing Objectives, as opposed to "necessary," the current test.
- 4.5 This will give the Licensing Authority greater powers to intervene. Applicants will also have to give greater consideration to the local area and the impact a premises has on such, for example, noise, transport facilities, parking availability.

Suspension Of Premises Licences For Non Payment of Annual Fees

- 4.6 Currently, unpaid annual fees are recovered through the County Court as a civil debt. This process is time consuming and costly to the Authority. This

provision will allow for licences to be suspended until such time as the fees are paid.

Scrapping The "Vicinity" Test When Making Representations

- 4.7 This means that the ability to make representations to applications if you live or operate a business in the vicinity will be scrapped, so that anyone can make a representation irrespective of location. This strengthens the position of local residents and businesses and allows them greater say in licensing decisions.

Reforming The System of Temporary Event Notices (TENs)

- 4.8 Under the current regime, Sussex Police are the only Authority permitted to object to a TEN. The changes will extend this right to the Environmental Health Authority in respect of all 4 Licensing Objectives. It will also enable the Licensing Authority to impose any existing licence

conditions on a TEN to address any objections by the Police or Environmental Health Authority. The changes to the law include a more flexible approach to TENs and objections, which currently require 10 working days notice. The changes include extending the period of a TEN from 96 hours (4 days) to 168 hours (7 days) A Late Notice TEN can be submitted up to 5-9 days before an event, but can be vetoed by Sussex Police. Conditions will also be able to be added to a TEN if there is an objection. The Government does not want late notice TENs to be the norm. The limits will be:

- Personal licensees – 50 TENS or 10 late TENS
- Non Personal Licensees – 5 TENS or 2 TENS

Extending The Frequency of Review of Licensing Policy Statements

- 4.9 The "lifespan" of the Councils Statement of Licensing Policy will be extended from 3 years to 5 years. However, the current Statement of Licensing Policy will need to be consulted upon, and amended to take account of the changes within the Act.

Addition Of Further Relevant Offences To The Licensing Act 2003

- 4.10 Additional offences have been included for consideration in granting new personal licences to individuals, and in the event of conviction, forfeiture or suspension of such.

5.0 Queens Diamond Jubilee

- 5.1 In March 2012, Central Government relaxed licensing hours to allow for the celebration of the Queens Diamond Jubilee. It will allow licensed premises to stay open between 11pm on Friday 1st June 2012 – 1am Saturday 2nd June 2012, and between 11pm on Saturday 2nd June 2012 – 1am Sunday 3rd June 2012 for the sale or supply of alcohol on the premises, provision of regulated entertainment and late night refreshment (food.)

6.0 Other Legislative Proposals & Revisions later in 2012/2013

6.1 The Government is considering two further measures to specifically target the problems of late night drinking – Early Morning Restriction Orders (EMROs) and a Late Night Levy. It will also consider empowering Local Authorities to set licensing fees locally. An implementation timetable commencing on 1st October 2012 has been suggested.

Early Morning Restriction Orders (EMROs)

6.2 An EMRO allows the Licensing Authority to restrict sales of alcohol in specific areas for any specified period between 12am and 6am if it is considered appropriate for the promotion of the Licensing Objectives.

Late Night Levy

6.3 The late night levy is a power to introduce a charge for premises that have a late night alcohol licence. This is a discretionary levy, and the revenue will be split, with 70% going to Sussex Police and 30% to the Council. Whilst 10% of all Councils countrywide have expressed an interest in the levy proposals, no Authority in Sussex is minded to implement the proposals given the current economic climate, and complexities surrounding the calculation and recovery of fees. An overview of proposals, including the matrix of charges set by Central Government is included at Appendix 2.

Locally Set Licensing Fees

6.4 Fees will no longer be set centrally, but the responsibility devolved to Councils, based on cost recovery. This will be set the level of each fee category as set out in the regulations rather than designing their own fee structure. The fee will be limited to the Licensing Authority carrying out its functions under the Licensing Act 2003, not the wider costs associated with it, for example, managing the night time economy.

Live Music Act 2011

6.5 This Act received Royal Assent on 23rd March 2012. Whilst its timetable for implementation has been suggested as 1st October 2012, latest information suggests it may not be implemented at all. In summary it removes the licensing requirements for, and any conditions associated with:

- Amplified live music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol on the premises;
- Amplified music between 8am and 11pm before audiences of not more than 200 people in workplaces not licensed under the Licensing Act 2003;
- Unamplified live music between 8am and 11pm in all venues.

6.6 However, activities can be regulated, conditions attached or removed following a review of a premises licence.

6.7 It will also remove licensing requirements for the provision of entertainment facilities and widen the exemption for live music integral to a performance, for example, morris dancing or similar.

7.0 Conclusion & Next Steps

7.1 The changes proposed are designed to “re-balance” the Licensing Act 2003, offering “interested parties” such as residents, and businesses the chance to have more of an influence over licensing decisions. It also affords the Licensing Authority and Sussex Police with more powers to deal with errant individuals and premises. The introduction of Health Boards as Responsible Authorities, coupled with the National Alcohol Strategy underlines the Governments intention to take steps to tackle alcohol misuse, irresponsible marketing, and mechanisms to address the binge drinking culture. The next steps are:

- Whilst there is an aspiration that the above measures will be implemented from 25th April and October 2012 respectively, at the time of writing this report, the Authority are waiting for the release of amended Section 182 Guidance under the Licensing Act 2003, which will shape the future approach to licensing practice and decision making.
- The Councils Statement of Licensing Policy 2011 – 2014 will need to be revised to take account of any legislative changes.
- Further partnership working and awareness raising with the Primary Health Care Trust to ensure that any input they provide as newly appointed “Responsible Authorities is of benefit and appropriate in relation to licensing decisions.
- Consideration given in late 2012/2013 to the proposals surrounding EMROs and the Late Night Levy.

7.2 The Licensing Act Committee is asked to:

- (a) Note the content of this report and its implications for the Authority and other “Responsible Authorities.”
- (b) Note the next steps for the Authority.

Kareen Plympton
Licensing Manager

Background Papers:

The Background Papers used in compiling this report were as follows:

1. The Licensing Act 2003
2. Police and Social Responsibility Act 2011
3. National Alcohol Strategy 2012
4. Guidance To Local Authorities, Consultation Documents in connection with the Licensing Act 2003 and Police and Social Responsibility Act 2011
5. Home Office Guidance and Consultation Document (Above) March 2011
6. Eastbourne Licensing Policy Statement 2011 – 2014
7. British Medical Association – Alcohol Misuse Overview 2012

To inspect or obtain copies of background papers please refer to the contact officer listed above.