

Public Document Pack

Date of meeting **Wednesday, 4th July, 2012**

Time **7.00 pm**

Venue **Committee Room 1, Civic Offices, Merrial Street,
Newcastle Under Lyme, Staffordshire ST5 2AG**

Contact **Geoff Durham 01782 742222**

Licensing Committee

AGENDA

PART 1- OPEN AGENDA

- 1** **Apologies**
- 2** **Declarations of Interest**
- 3** **Minutes of the meeting held on 7th March 2012** **(Pages 1 - 2)**
- 4** **Minutes of Sub Committee Meetings** **(Pages 3 - 14)**
- 5** **Changes to the Licensing Act 2003 and Responsible Authorities** **(Pages 15 - 18)**
- 6** **Changes to the Licensing Act 2003** **(Pages 19 - 56)**
- 7** **Urgent Business**

Members: Councillors E Bates, J Cooper, Eastwood, T Hambleton (Chair), A Heames, T Lawton (Vice-Chair), Mancey, S Simpson, S Tagg, B Welsh, A Wemyss, S White, G Williams, J Williams and Winfield

'Members of the Council: If you identify any personal training / development requirements from the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Committee Clerk at the close of the meeting'

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

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LICENSING COMMITTEE

Wednesday, 7th March, 2012

Present:- Councillor Simon Tagg – in the Chair

Councillors B Welsh, J Cooper, T Hambleton, A Heames, R Slater,
A Wemyss and J Williams

5. APOLOGIES

Apologies were received from Cllr Mrs Williams and Cllr Mrs Simpson.

6. DECLARATIONS OF INTEREST

There were no declarations of interest.

7. MINUTES OF PREVIOUS MEETING

That the minutes of the previous meeting held on 29th November 2011 be agreed as a correct record.

8. MINUTES OF SUB COMMITTEE MEETINGS

That the minutes of the Sub-Committee meetings held on 21st December 2011, 26th January 2012 and 8th February 2012 be received.

9. APPLICATION FOR A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003

The Committee considered an application for a premises licence for Mow Cop Community Hall, Congleton Road, Mow Cop, Newcastle.

Having taken into account the Licensing Act 2003, the guidance issued under Section 182 of the Act, the Councils statement of Licensing Policy and also the fact that the Police had objected to the application pending the inclusion of specific conditions on the premise licence. The Committee resolved to grant the following:

Resolved: That the application be granted with the inclusion of the following conditions as specified by Staffordshire Police:

- All functions to be subject to a hire agreement and to be vetted by Committee members.
- Customer departure notices to:
 - (i) Be displayed at all exits to the premises in places where they can be seen and easily read by the public.
 - (ii) Require customers to leave the premises and the surrounding area quietly whether on foot or by motor vehicle.

(iii) Be maintained in good repair and condition and replaced when necessary to ensure that conditions 2(i) and 2(ii) are complied with.

10. SPECIAL SATURATION POLICY

A report was submitted for Members to consider whether the Special Saturation Policy that was agreed at the meeting held on 17 November 2010 was still required.

Staffordshire Police were in attendance at the meeting and provided a presentation to the Committee highlighting rates of crime and disorder and antisocial behaviour in the Borough and specifically in the area covered by the special saturation policy.

There are currently a number of licensed premises concentrated together in one area that together have a detrimental impact on levels of crime and disorder and public nuisance and in particular violent crime in the Town Centre. This being the case, the Council has previously satisfied itself that it is appropriate and necessary to include in the Licensing Policy a special saturation policy.

The Policy allowed the Council to refuse new licences whenever it received relevant representations about the cumulative impact on the licensing objectives which could be substantiated by evidence. Where such representations were received, applications for new premises licences or club premises certificates or variations that were likely to add to the existing cumulative impact would normally be refused unless it could be demonstrated that the operation of the premises involved would not add to the cumulative impact already being experienced.

RESOLVED: That the area covered by the Special Policy remain as it currently stands and be reviewed in 12 months.

11. URGENT BUSINESS

There was no urgent business.

COUNCILLOR SIMON TAGG
Chair

LICENSING SUB-COMMITTEE

Monday, 19th March, 2012

Present:- Cllr Welsh in the Chair

Councillors Heames and Mrs Williams

1. APPLICATION FOR A REVIEW OF A PREMISES LICENCE UNDER SECTION 51 OF THE LICENSING ACT 2003

CASTLE STORES, 47-49 HIGH STREET, HALMER END, ST7 8AG

Having taken into account the Licensing Act 2003, the guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy and also the fact that Staffordshire County Council Trading Standards had requested a review of the premises licence to promote the licensing objective relating to the Protection of Children from Harm.

The Committee considered the relevant Licensing Objective in the light of what had been said and were persuaded that action did need to be taken by the Licensing Authority under its statutory powers to promote the Licensing Objectives.

In view of the evidence given, the poor management of the business was a direct reflection of poor business practise and policing and reflected upon the Designated Premises Supervisor.

The committee was very concerned about the undermining of the Licensing Objective relating to the Protection of Children from harm and the Secretary of State in the guidance at 11.26 considered that the purchase and consumption of alcohol by minors which impacted on health etc should be treated particularly seriously.

Substantial evidence was given that the business had, following an anonymous complaint about the sale of alcohol to children, failed a test purchase exercise undertaken by the Trading Standards and Police Licensing on the 25th August. This followed at least two visits to the store by responsible authorities giving advice about required policies and procedures.

The committee were also concerned that the current Designated Premises Supervisor Mrs Kalatharan, under caution had admitted that she had not taken the advice given and the information provided seriously and as a result the recommended procedures had not been adopted. Further, Mrs Kalatharan admitted that she had forgotten some of the information taught during her Personal Licence course and had not sought refresher education.

Of lesser concern but of note was the admission that Mr Kalatharan, the joint licence holder had difficulty in reading English and therefore potentially could not read the advice himself.

The Guidance at 11.16 provided a range of powers for the licensing authority to exercise, for the promotion of the Licensing Objectives. Firstly the committee could modify the conditions of a licence. Conditions had been put forward by Trading

Standards and agreed by the licensee as being necessary and important and the committee had considered these.

Other options open to the committee were set out in the guidance at 11.16 which included the removal of the Designated Premises Supervisor and suspension of the Premises Licence for a period of 3 months.

In view of what had been said the committee considered that both of these types of remedial action were necessary and proportionate as being directed at the cause of concern.

The committee were therefore disposed to:

1. Remove the Designated Premises Supervisor because of the problems that resulted from poor management of the premises.
2. Suspend the premises licence for a period of 3 months as the current Designated Premises Supervisor was out of the country for periods of time and to enable the premises to put in place the remedial actions agreed with Trading Standards and to ensure that all relevant staff were trained and for a new Designated Premises Supervisor to be appointed.
3. Impose new conditions set out on pages 16 and 77 of the report to the committee as being agreed between the parties.

In addition the committee recommended that further staff training be given at least every 6 months upon the objectives relating to underage sales and gave notice that any further complaints regarding underage sales could result in the revocation of the premises licence.

**CLLR WELSH
Chair**

LICENSING SUB-COMMITTEE

Monday, 26th March, 2012

Present:- Cllr Simon Tagg – in the Chair

Councillors Mrs Cornes and John Williams

2. APPLICATION FOR A PREMISES LICENCE, THE OLD HALL COUNTRY HOUSE MADELEY.

Having taken into account the Licensing Act 2003 and the Guidance issued under Section 182 of the Act, the Councils statement of Licensing Police and also the fact that the Police have objected to the application on the basis that to grant the application in its present form would undermine the Crime and Disorder licensing objective.

Representations received from interested parties in the vicinity of the premise had also been considered.

The Committee examined the relevant licensing objectives in the light of what had been said and listened to the arguments.

The Committee also took into account the fact that the Police had put forward a condition which would be acceptable to them to promote the licensing objectives. The applicant had agreed that condition.

The Committee heard from the Interested Parties that they had been disturbed by noise in 2009 but the Environmental Health Officers confirmed that since that time and following their intervention in the activities there had been no further issues. Given that and also the fact that assurances were given by the applicant that there would be no noisy activities outside the Hall itself, the residents had withdrawn their representations to the licence. Therefore subject to the condition agreed with the Police the Committee were prepared to grant the Licence.

Chair

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LICENSING SUB-COMMITTEE

Monday, 16th April, 2012

Present:- Cllr Tagg – in the Chair

Councillors Cllr Mrs Heames and Cllr Mrs Simpson

1. APPLICATION FOR A PREMISE LICENCE Y2K

The Sub-Committee took into account the Licensing Act 2003 and the guidance issued under Section 182 of the act, the Council's Statement of Licensing Policy and also the fact that the Police and the Environmental Health Department had objected to the application on the basis that to grant the application would undermine the Crime and Disorder and Public Nuisance Licensing objectives.

The Sub-Committee considered that Licensing objective in the light of what had been said and listened to the arguments.

The Sub-Committee took into account that the Police had reached agreement with the applicant over a number of conditions to be attached to the proposed licence that would promote the Licensing objectives.

However, the Committee heard from Environmental Health that at this moment in time the grant of a licence would offend the Licensing objectives. In view of the fact that there had been no material improvement to the ventilation system installed at the premises since the review of the previous licence in 2008.

The Sub-Committee had sympathy for the plight of the applicant and would have like to assist him but the fact remained that the noise associated with activities such as the operation of the extractor fan and smells emitting there from would continue to affect neighbouring residential properties. Evidence to this effect had been given by Environmental Services.

The applicant had again raised the fact that his rights under the Human Rights Act were being breached.

The Sub-Committee had again taken that into consideration and weighed the rights of the applicant, against, those of the general public and concluded that the effect of the nuisance on the public outweighed the loss to the applicant.

The Sub-Committee had also taken into account the control measures referred in the injunction obtained against the applicant and also the fact that Environmental Health regarded the noise and smell issue as a statutory nuisance.

On balance the Sub-Committee was satisfied that the only action which would reasonably promote the licensing objective was for the applicant to replace the extractor fan system in consultation with the Environmental Health Department. Until this was done taking into account that the applicant could give no absolute guarantee that the system would in fact be installed, the Sub-Committee considered that they had no real alternative but to refuse the application.

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LICENSING SUB-COMMITTEE

Tuesday, 15th May, 2012

Present:- Cllr Tagg – in the Chair

Councillors B Welsh and J Williams

1. APPLICATION FOR REVIEW OF RIZWAN NEWS FROM STAFFORDSHIRE TRADING STANDARDS

Having taken into account the Licensing Act 2003, the guidance issued under Section 182 of the Act and the Councils Statement of Licensing Policy and also the fact that Trading Standards had requested a review of the premises licence to promote the Licensing objective relating to the Protection of Children from Harm

The Sub Committee considered that Licensing Objective in the light of what had been said and were persuaded that action did need to be taken by the Licensing Authority under its powers to promote the Licensing Objectives.

There was evidence that poor management at the premises had a direct reflection on poor business practice and policy which reflected upon the Designated Premises Supervisor.

The Committee was very concerned about the undermining of the Licensing Objective relating to the Protection of Children from Harm and the Secretary of State in the guidance at 11.29 considered that the illegal purchase and consumption of alcohol by minors which impacted on health etc, should be treated particularly serious. Substantial evidence was been given that the business has failed.

The reasons behind the Sub Committees decision were:

A test purchase exercise undertaken by Trading Standards on the 25th August. This followed visits to the premises by the responsible authority giving advice about required policies and procedures.

The Committee were also concerned that a Challenge 25 policy had not been adopted and training had been inadequate.

It was clear from what had been said that the current DPS had failed in his capacity as premises owner and Licence holder to satisfactorily manage previously identified gaps in the due diligence measures operated at the premises.

The guidance at 11.20 provided a range of powers for the Licensing authority to exercise for the promotion of the Licensing Objectives.

Firstly the Committee could modify the conditions of a Licence. Conditions had been put forward by Trading Standards and agreed by the licensee as being necessary and proportionate and the Committee have considered these. Other options open to the Committee and set out in the guidance included the removal of the DPS and the suspension of the Premises Licence for up to 3 months.

In view of what has been said the Committee considered both of these options.

Firstly, the Committee considered removal of the DPS but decided to afford him another chance. Informally though the Committee warned that should there be any reoccurrence of the offence then it might take an entirely different view.

The Committee then considered exclusion of the licensable activity for a temporary period for up to 3 months. The Committee was however alert to the long term stability of the business and the detrimental financial impact that may result from this. However, it considered that the premise had been found to be trading irresponsibly and in view of the serious nature of the offence tough remedial action needed to be looked at which was necessary and proportionate and directed at the cause of action.

The Committee were therefore disposed to:-

1 Suspend the premises licence for a period of 2 weeks to enable the premises to put in place the remedial actions agreed with Trading Standards and to ensure that all relevant staff were trained.

2 Impose the conditions set out on pages 11 and 13 of the additional supplementary information provided to the Committee.

And a notice will be issued to that effect.

In addition the Committee warned the Licence holder that any further underage sales could result in a further review of the Premises Licence and possible revocation of the licence.

2. LYMESTONE VAULTS APPLICATION FOR A PREMISE LICENCE

Having taken into account the Licensing Act 2003 and the guidance issued under Section 182 of the Act, the Councils statement of Licensing Policy and also the fact that the Police had objected to the application on the basis that to grant the application would undermine the Crime and Disorder Objective.

The Committee also took into account the fact that agreement had been reached between the parties as to the imposition of conditions to promote that Licensing Objective.

As the conditions had been agreed and there being no other objections to the application, the Committee were disposed to grant the Variation to the Premises Licence subject to the inclusion in the Licence of the agreed conditions set out in item 8 of the report to the Committee.

3. APPLICATION FOR A PREMISE LICENCE CASTLE STORES

Having taken into account the Licensing Act 2003 and the guidance issued under Section 182 of the Act, the councils statement of Licensing Policy and also the fact that the Trading Standards have objected to the application on the basis that to grant the application would undermine the Protection of Children from harm.

The Committee have also taken into account that agreement has been reached between the parties as to the imposition of conditions to promote that Licensing Objective. As the conditions had been agreed and there being no other objections to

the application, the Committee were disposed to grant the Premises Licence subject to the inclusion in the Licence of the agreed conditions set out in the report to the Committee and also that a sign be put up in a prominent position advising that the Premises is under new management.

Chair

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LICENSING SUB-COMMITTEE

Tuesday, 29th May, 2012

Present:- Cllr Welsh – in the Chair

Councillors A Heames and S White

1. **APPLICATION FOR A REVIEW OF A PREMISE LICENCE - CROSS HEATH NEWS**

Resolved: The parties having made a joint application to the Sub-Committee for an adjournment of this matter and the Sub-Committee considering that it was necessary in the public interest; the Sub-Committee, in accordance with regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005 were disposed to adjourn the application for 10 working days from the date of the hearing in order to allow the parties time to reach an agreement.

2. **APPLICATION FOR A REVIEW OF A PREMISE LICENCE - BARGAIN BEERS AND WINES**

Having taken into account the Licensing Act 2003, the guidance issued under Section 182 of the Act and the Councils Statement of Licensing Policy and also the fact that Trading Standards had requested a review of the premises licence to promote the licensing objective relating to the Prevention of Crime and Disorder.

The Committee considered the relevant Licensing Objective in the light of what had been said and were persuaded that action did need to be taken by the Licensing Authority under its powers to promote the Licensing objectives.

In view of the evidence given, the poor management of the premises was a direct reflection of poor business practise and policy and reflected upon the Designated Premises Supervisor.

The Committee was very concerned about the undermining of the licensing objective relating to Crime and Disorder and the Secretary of State in his guidance at 11.29 considered that the sale of smuggled tobacco and alcohol should be treated as particularly serious.

Substantial evidence was given that the business had failed to uphold the Crime objective in that bottles of Arctic Ice Vodka were being sold at the premise which was over 26 times the limit for methanol which rendered the product so contaminated that it was unfit for consumption. The alcohol by volume being 51.6 per cent instead of 37.5 per cent as stipulated on the labelling of the bottle.

The Committee were also concerned about the possession for supply of illicit alcohol at the premises as it placed the public health at risk.

It was clear from what had been said that the current DPS purchased the illegal goods for supply and such had been admitted by the Premises Licence holder.

The guidance at 11:20 provided a range of powers for the Licensing Authority to exercise for the promotion of the Licensing objectives. Firstly, the Committee could modify the conditions of the licence.

Conditions had been put forward by Trading Standards as being necessary and proportional and the Committee considered these. Other options open to the Committee as set out in the guidance included the removal of the DPS, the revocation of the licence and the suspension of the premises licence for up to 3 months. In view of what has been said the Committee considered all these options.

Firstly, the Committee considered removal of the DPS in view of poor management decisions but in view of the mitigation put forward that such action would in effect close the business it decided reluctantly to give the current DPS another chance.

The Committee's consideration of the power of revocation was dismissed for similar reasons. Informally the Committee warned that should there be any re-occurrence of the offence then it could take an entirely different view.

The Committee then considered exclusion of the licensable activity for a Temporary period of 3 months. The Committee were aware as to the long term stability of the business and detrimental financial impact that may result from removal of the licensable activity. However, it did consider that the premises had been found to be trading irresponsibly and that in view of the serious nature of the offence tough remedial action needed to be looked at which was necessary and proportional. The Committee considered that it was sheer luck that members of the public had not been harmed by the sale of the product.

The Committee were therefore disposed to:-

1. Suspend the premises licence for a period of 2 weeks to enable the premises to put in place the remedial actions proposed by Trading Standards.
2. Impose conditions set out on page 45 of agenda item 11 set out in the report.
3. In addition the Committee warned the licence holder that any further sales of/or supply of illicit alcohol could result in a further review of the premises licence and possible revocation of the licence.

Chair

CHANGES TO THE LICENSING ACT 2003 AND RESPONSIBLE AUTHORITIES

Portfolio: Safer and Stronger Communities

Wards Affected: All

Purpose of the Report

To advise the committee of the overhaul of the Licensing Act to give local authorities much stronger powers to remove licences from or refuse to grant licences to, any premises that are causing problems in the local area and to delegate the powers of the licensing authority as a responsible authority to a recognised area of the Council.

Recommendations

(a) That the report be received.

(b) That the powers of the licensing authority as responsible authority be delegated to and exercised by a designated area of the Council (your officers are awaiting legal advice regarding this matter and an officer recommendation will be provided closer to the date of the meeting).

1. Background

1.1 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.

1.2 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
- Trading standards officers

1.3 Relevant representations are written representations, about the likely effect of the grant of an application for, or variation to a premises licence or club premises certificate, on the promotion of the licensing objectives. Responsible authorities and interested parties, such as local residents, make representations regarding licensing functions. To be considered relevant, representations must have regard to the potential impact of the licensing determination on the promotion of the licensing objectives.

2. Issues

2.1 The Police Reform and Social Responsibility Act 2011 makes licensing authorities responsible authorities under the Licensing Act. This empowers them to refuse, remove or review licences themselves without first having had to have received a representation from one of the other responsible authorities listed above.

2.2 The advantages of giving licensing authorities this additional power is to ensure that licensing authorities are better able to respond to the concerns of local residents and businesses by taking the necessary actions to tackle irresponsible premises without having to wait for representations for other responsible authorities.

2.3 The rationale behind this proposal is to enable licensing authorities to take the necessary actions to tackle irresponsible premises without having to wait for representations from other responsible authorities.

2. **Issues**

2.1 The main issue facing this Committee is to decide how to delegate the function of responsible authority to an area of the Council. A separate report is included on this agenda for members to consider this. Your officers are awaiting legal opinion regarding how best to proceed and an Officer recommendation will be provided before the meeting.

3. **Options Considered**

3.1 A supplemental report will be sent to Members prior to the Committee meeting with options attached (legal advice is currently being sought).

4. **Proposal**

4.1 That the Committee consider the options on the supplementary report and delegate the powers of the licensing authority as a responsible authority to a recognised area of the Council.

5. **Reasons for Preferred Solution**

5.1 Legislative changes in the Police Reform and Social Responsibility Act 2011.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- creating a cleaner, safer and sustainable Borough
- creating a healthy and active community

7. **Legal and Statutory Implications**

7.1 Implementation of changes to the Licensing Act 2003 as set out in the Police Reform and Social Responsibility Act 2012.

8. **Equality Impact Assessment**

8.1 This is government legislation that has come into force following a nation wide consultation process.

9. **Financial and Resource Implications**

9.1 There should not be any additional financial or resource implications.

10. **Key Decision Information**

This is not a key decision

11. **Earlier Cabinet/Committee Resolutions**

This Committee considered the original consultation 'Rebalancing the Licensing Act' at its meeting on 7 September 2010.

12. **List of Appendices**

None

15. **Background Papers**

Rebalancing the Licensing Act Government Consultation
Report to the Licensing Committee 7 September 2010
Police Reform and Social Responsibility Act 2011.

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CHANGES TO THE LICENSING ACT 2003

Submitted by: Julia Cleary, Democratic Services Manager

Portfolio: Safer Communities, Culture and Leisure

Ward(s) affected: All

Purpose of the Report

To update the Committee on changes to the Licensing Act 2003.

Recommendation

That the report be received

Reasons

The Police Reform and Social Responsibility Act received Royal Assent on 15 September 2011, Part 2 of the Act contained a number of amendments to the Licensing Act 2003 which this report will detail.

1. Background

- 1.1 On 7 September 2010, the Council's Licensing Committee considered proposals outlined in the Rebalancing the Licensing Act consultation and responded to the Home Office with its thoughts on the proposals. The proposals were then 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 (PRSR Act).
- 1.2 The new measures in the Act include which will affect Licensing specifically are:
 - 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.
 - The Licensing Authority becoming a Responsible Authority.
- 1.3 A set of fact sheets have been produced by the Home Office which provide detailed and factual information on the main alcohol proposals currently being taken forward and implemented. These fact sheets are attached to this report.
- 1.4 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. The late night levy, early morning alcohol restriction orders and locally set fees measures will therefore be brought in at a later date (October 2012 or April 2013).

2. Issues

- 2.1 The main issue facing this Committee is to decide how to delegate the function of responsible authority to an area of the Council. A separate report is included on this agenda for members to consider this. Your officers are awaiting legal opinion regarding how best to proceed and an Officer recommendation will be provided before the meeting.

3. **Options Considered**

- 3.1 That the report be received and that the Committee consider the changes that are being implemented and those that will be implemented at a future date and what affects these changes will have on how the Sub Committee operates.

4. **Proposal**

- 4.1 That the Committee receive the report, discuss the changes highlighted and form an understanding of how these changes will affect the ways in which the current Licensing Sub-Committee and Full Committee operate.

5. **Reasons for Preferred Solution**

- 5.1 Legislative changes in the Police Reform and Social Responsibility Act 2011.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- creating a cleaner, safer and sustainable Borough
- creating a healthy and active community

7. **Legal and Statutory Implications**

- 7.1 Implementation of changes to the Licensing Act 2003 as set out in the Police Reform and Social Responsibility Act 2012.

8. **Equality Impact Assessment**

- 8.1 This is government legislation that has come into force following a nation wide consultation process.

9. **Financial and Resource Implications**

- 9.1 The new ability of the Licensing Authority to suspend licences due to non-payment of annual fees and to set fees locally could see an increased income to the Council.

10. **Key Decision Information**

This is not a key decision

11. **Earlier Cabinet/Committee Resolutions**

- 11.1 This Committee considered the original consultation 'Rebalancing the Licensing Act' at its meeting on 7 September 2010.

12. **List of Appendices**

- 12.1 Attached to this report are the fact sheets issued by the Home Office in relation to the changes.

13. **Background Papers**

Rebalancing the Licensing Act Government Consultation
Report to the Licensing Committee 7 September 2010

Police Reform and Social Responsibility Act 2011.

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Police Reform and Social Responsibility Bill - March 2011

Increase the opportunities for local residents or their representative groups to be involved in licensing decisions by removing the vicinity test for interested parties

Who is an 'interested party'?

The Licensing Act 2003 allows local residents to raise concerns regarding new licence applications or existing licensed premises. Local residents are classed as interested parties under the Licensing Act 2003, and as such are able to make relevant representations to licensing authorities about the impact of licensed premises on the promotion of the licensing objectives in their area.

Interested parties are defined within the Licensing Act 2003 as:

- A person living in the vicinity of the premises
- A body (e.g. a residents association) representing people that live in that vicinity
- A person involved in a business in the vicinity of the premises
- A body (e.g. a trade association) representing people involved in businesses in the 'vicinity' of the premises

What is vicinity?

The Licensing Act 2003 does not define 'vicinity'. Under current legislation licensing authorities use their discretion to set the 'vicinity' in their licensing area. This means that local residents living in the 'vicinity' can make a representation to the licensing authorities as an interested party. Local residents who live outside the 'vicinity' of licensed premises will be unable to make a representation as an interested party even if they may be able to justify that they are affected by those licensed premises.

What is the policy aim?

We will reduce any uncertainty amongst residents or other persons as to whether or not they are in the 'vicinity' of a premises, and therefore whether they are able to make relevant representations. This will be achieved by removing the requirement to show 'vicinity'. This means that any person, body or business will be able to make a relevant representation in relation to a premises, regardless of their geographic proximity.

What is the proposed change to be made through the Bill?

We will remove the 'vicinity' test. Given that interested parties are defined with reference to 'vicinity', this term will become redundant and the definition of interested parties will be removed from the Licensing Act 2003.

In addition, we will introduce a requirement to publish key information on licence applications on the relevant licensing authority's website. This will ensure that interested parties are aware of new (and other) licence applications and have access to the relevant information.

Doesn't removing the 'vicinity' test mean that anyone will have the right to make a relevant representation on a licensing application? Won't this just place an increased burden on licensing authorities to have to deal with unnecessary representations?

No, representations will still need to be relevant and relate to one or more of the licensing objectives. Existing safeguards to protect against vexatious, frivolous or repetitious representations will also still be in place.

Doesn't this proposal mean that competitors will be able to make representations against new premises that might introduce more competition into the local area?

Businesses, residents and bodies will be entitled to make representations against (or for) a new or existing premises licence. However, they will need to demonstrate that their representations relate to the promotion of one or more of the licensing objectives. A representation submitted on the basis of local competition would not be relevant and may be considered 'vexatious' by the licensing authority.

Main views of consultation respondents

Although criticisms were raised during the consultation that this proposal could lead to an increase in frivolous and vexatious representations, many respondents welcomed greater community involvement in the licensing process and acknowledged that licensed premises can have an effect beyond their immediate 'vicinity'. Whilst we understand the concern raised by respondents, we will mitigate any adverse impacts by amending the guidance to set out more clearly what is classed as relevant, frivolous and vexatious representation. We believe that this proposal will encourage greater community involvement in local licensing decisions.

Temporary Event Notices

What is a Temporary Event Notice?

A Temporary Event Notice is a notification to the licensing authority that an individual intends to carry on licensable activities for a period not exceeding 96 hours.

What is the process for obtaining a Temporary Event Notice?

A Temporary Event Notice must be sent to the licensing authority and the police at least ten working days in advance of a planned event. Only the police can object to a Temporary Event Notice on crime and disorder grounds. The police have two working days after the receipt of the Temporary Event Notice to object, and (unless the premises user agrees to modify the Temporary Event Notice) the licensing authority must hold a hearing to consider any objection that has been received. If the licensing authority decides that the objection is valid, it must issue a counter notice to the applicant at least 24 hours before the beginning of the event to prevent it going ahead.

Recent changes to Temporary Event Notices

On 19 July 2010 the Government amended the Licensing Act 2003 by a Legislative Reform Order (LRO) to extend the police objection period from 48 hours to two working days. The new arrangements, which came into force in October 2010, ensure that the police always have two full days to object to a Temporary Event Notice, even when it is submitted at the weekend or over a Bank Holiday. Restrictions on the use of LROs meant that it was not possible to use this mechanism to make more wide-ranging changes.

What are the key changes that will be made through the Bill?

- We will extend the right to object to a Temporary Event Notice to the environmental health authority.
- We will allow the police and environmental health officers to object to a Temporary Event Notice on the basis of all of the licensing objectives.
- We will give the police and environmental health officers three working days to object to a Temporary Event Notice.
- We will give licensing authorities discretion to apply existing licence conditions to a Temporary Event Notice if there are objections from the police or environmental health authority.

- We will allow 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.
- We will relax the statutory limits on the duration of a single temporary event 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.

What is the justification for making these changes?

We are making these changes in response to concerns expressed by our key partners including residents' associations, the police, licensing authorities, arts and voluntary organisations and circuses.

Why has the maximum length of a temporary event been increased? Why was 96 hours insufficient?

Touring theatres, circuses and voluntary groups told us that they were losing business and income by having to break for 24 hours half way through a week long event. The new limit of 168 hours will allow these organisations to run events for a week without a break.

Who will benefit from these proposals?

- Residents - who will be given more protection from noise, crime and disorder and unsafe conditions at temporary events.
- The environmental health authority which will be able to object to temporary events.
- The police and environmental health authority - which will have longer to consider a Temporary Event Notice and place any objections.
- Touring theatres, circuses and voluntary organisations which will gain extra business and income by being able to run events for a week without a break,
- Anyone (but particularly voluntary organisations and circuses) - who will still be able to put on temporary events (subject to annual limits) if they miss the 10 day deadline.

What are the main views of consultation respondents?

There was a mixed response to these proposals with residents, the police and licensing authorities asking for greater restrictions on temporary events and the arts and third sector organisations requesting a relaxation of some of the current limits and controls. Our proposals aim to strike a balance between these views by imposing stricter controls when a temporary event is notified

(e.g. to allow environmental health authorities to object and give them and the police more time to do so), but relaxing some of the limits and allowing a limited number of late Temporary Event Notices.

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Police Reform and Social Responsibility Bill - March 2011

Enable licensing authorities to suspend licences due to non-payment of fees

What is the policy aim?

We are committed to reducing the burden and bureaucracy of licensing and will strike the right balance between the requirements on businesses, the cost to the taxpayer and helping the police and other enforcement agencies address alcohol related crime and disorder. This policy will ensure that licensing authorities do not face additional costs as a result of licence holders not paying their annual fees.

What changes are being proposed through the Bill?

We will make provision 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.

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 cannot be suspended under this provision.

What are the benefits to this proposal?

This is a simple change that could save local authorities many thousands of pounds currently spent in recovering unpaid annual fees through councils' own recovery sections and bailiffs. An effective precedent can be found for this approach in the Gambling Act 2005.

Main views of consultation respondents

This proposal received strong support from the vast majority of consultation respondents. This change is hugely welcomed by local authorities who have faced significant costs in the past trying to recover unpaid licence fees.

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Police Reform and Social Responsibility Bill - March 2011

Reducing the burden of proof on licensing authorities**What is the policy aim?**

The Coalition Agreement included a commitment to overhaul the Licensing Act 2003 to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems in the local area.

What is burden of proof?

When making decisions on new and existing licences, and fulfilling their licensing responsibilities, licensing authorities are currently required under the Licensing Act 2003 to demonstrate that these decisions are 'necessary' for the promotion of the licensing objectives in their local area.

The four licensing objectives are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

The requirement to demonstrate that their actions are 'necessary' places a significant evidential burden on the licensing authority to prove that no lesser steps would suffice for the promotion of the licensing objectives in the local area. This is a consequence of statutory references to actions having to be "necessary", and which is therefore reflected in statutory guidance, and has become custom and practice. The guidance states that licensing authorities should ensure that any conditions that they impose are only those which are necessary for the promotion of the licensing objectives, which means that they must not go further than what is needed for that purpose.

What are the proposed changes to be made through the Bill?

The wording will be 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. This will, for example, give licensing authorities greater power to tackle irresponsible premises.

How is appropriate defined? What is the difference between a change being necessary and appropriate?

The statutory guidance will be amended to provide licensing authorities with advice on how to determine if an action is 'appropriate'. Licensing authorities will be required to demonstrate that their actions are 'appropriate' to promote the licensing objectives in that the actions are suitable for the particular condition, occasion or place. This provides some flexibility to consider the effects of the decision on the promotion of the objectives. The current requirement to demonstrate that actions are 'necessary' requires that licensing authorities demonstrate that no lesser steps would suffice for the promotion of the licensing objectives in their area which is a greater evidential hurdle.

A decision that is 'appropriate' for the promotion of the licensing objectives provides some flexibility to consider the effects of the decision on the promotion of the objectives. It may therefore be decided to take steps that are suitable for, rather than necessary to, the promotion of the objectives. It provides an element to deal with reluctance or resistance, to enable local communities to assert themselves properly in relation to this particular approach.

Won't reducing the burden of proof for licensing authorities mean they can make whatever decision they want without having to justify it?

No. Under the new proposals licensing authorities will still have to justify that any action they take is 'appropriate' for the promotion of the licensing objectives, and consider relevant representations from other responsible authorities and interested parties. Determinations will still have to be evidence based, limited to the parameters set by the licensing objectives and have regard to the impact of other legal responsibilities on the employer or operator; whether any conditions being imposed can feasibly be met and the impact of the conditions on promoting other licensing objectives.

Main views of consultation respondents

This proposal was supported by large numbers of respondents. Respondents were keen to ensure that appropriate safeguards were in place to ensure that all decisions were fair. Whilst the evidential hurdle is being lowered, determinations will still have to be evidence based and give regard to the impact of other legal responsibilities on the employer or operator; whether any conditions being imposed can feasibly be met and the impact of the conditions on promoting other licensing objectives.

Increase the weight licensing authorities will have to give to relevant representations and objection notices from the police

What is a relevant representation?

These are written representations, about the likely effect of the grant of an application for, or variation to a premises licence or club premises certificate, on the promotion of the licensing objectives. Responsible authorities and interested parties, such as local residents, make representations regarding licensing functions. To be considered relevant, representations must have regard to the potential impact of the licensing determination on the promotion of the licensing objectives.

The four licensing objectives are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

For a representation to be relevant it must be centred around the likely effect of the application on the promotion of one or more of the four licensing objectives.

What is the policy aim?

When determining an application for a premises licence, an application for a licence review or the granting of a personal licence, the licensing authority must have regard to relevant representations or objection notices (in the case of personal licence applications) from the chief officer of police.

We propose to strengthen the weight that licensing authorities must give to police representations (including those voiced by the police at a hearing) and objection notices by amending the statutory guidance to require licensing authorities to accept all representations and notices and adopt all recommendations from the police, unless there is clear evidence that these are not relevant.

Why should police representations be given more weight than those from other responsible authorities?

We want to reduce alcohol related crime and disorder and the police have a wealth of experience in relation to this. Too often police evidence is dismissed

by counter objections from other interested parties.

However, it is vital that licensing authorities consider relevant representations on the impact of crime and disorder from **all** responsible authorities.

Does this mean that the licensing authority will have to accept all representations and objection notices from the police?

No. Licensing Authorities will make licensing decisions based on all the evidence that they have available.

Why is this only being taken forward in statutory guidance?

The policy objective can be achieved through statutory guidance; otherwise this would make primary legislation unnecessarily burdensome.

Police Reform and Social Responsibility Bill - March 2011

Persistently selling alcohol to children

What is our aim?

The Coalition Agreement included two commitments to reduce persistent under-age alcohol sales. These were:

- We will double the maximum fine for under-age alcohol sales to £20,000
- We will allow councils and the police to shut down permanently any shop or bar found to be persistently selling alcohol to children

The intention of the following policy proposals is to deliver the above Coalition Commitments and take tough action against those persistently selling alcohol to children.

What classifies as persistently selling alcohol to children?

Persistently selling alcohol to children is defined as when a licence holder is found to be selling alcohol to children two or more times within a three month period.

What are the current penalties for those persistently selling alcohol to children?

Currently there are three routes of action that can be taken against those found to be persistently selling alcohol to children.

1. The licence holder can plead not guilty and go to court where if prosecuted they can be given a fine of up to £10,000 (for the premises licence holder) with up to 3 months suspension of their alcohol licence.
2. As an alternative to prosecution the police or trading standards officers can give the licence holder the option to voluntarily accept a 48 hour closure notice rather than face criminal liability.
3. The police can make a representation to the relevant licensing authority to ask them to review the licence. This can also happen in addition to options 1 and 2.

How often are these penalties used?

In 2009/10 two licences were suspended by a court for persistently selling alcohol to children. A 48 hour closure notice for persistently selling alcohol to

children was issued by police or trading standards officers 100 times in 2009/10. It is not clear how many reviews have been conducted following a licence holder being found to have been persistently selling alcohol to children.

To date, the full £10,000 fine has not been issued and licence holders are more likely to accept voluntary closure rather than going to court where if convicted they would face the fine of up to £10,000 and potentially a closure order for up to 3 months.

What are the key changes that will be made through the Bill?

- We will double the maximum fine for persistently selling alcohol to children from £10,000 to £20,000.
- We will extend the period of voluntary closure that can be issued by the police or trading standards officers as an alternative to prosecution to impose a minimum closure period of 48 hours and maximum closure period of two weeks. Police will be able to apply this flexibly to take into account the nature of the premises.

What are the intentions of these policies?

The aim of these policies is to deliver the above Coalition Commitments and take tough action against those persistently selling alcohol to children. Alongside doubling the maximum fine, extending the period of voluntary closure will ensure that this is not seen as a softer option. Amending the Statutory Guidance to state that all licences will be reviewed where the licence holder is found to be persistently selling alcohol to children and making the presumption will be that the licence will be revoked at review will encourage licensing authorities to make greater use of these powers.

Are any other policy changes being made in this area?

- The Statutory Guidance issued under section 182 of the Licensing Act 2003 will be amended to state that the premises licence should be reviewed in all cases where the premises is found to be persistently selling alcohol to children and the presumption at review is that the licence will be revoked.
- Alongside these changes we will work with the Sentencing Council and the Crown Prosecution Service to encourage greater use of powers to prosecute those found guilty of persistent underage selling.

Police Reform and Social Responsibility Bill - March 2011

Making local health bodies responsible authorities

What is a responsible authority?

Responsible authorities within the Licensing Act 2003 include police, fire authorities, health and safety authorities, local planning authorities, environmental health, bodies responsible for protecting children from harm and any licensing authorities (other than the relevant licensing authority) in whose area a premises is situated.

Responsible authorities are able to make relevant representations regarding new licence applications and request reviews of existing licences. To be considered relevant, representations must have regard to the potential impact of the licensing determination on the promotion of the licensing objectives.

Responsible authorities have significant power within the Licensing Act 2003 as the licensing authority must hold a hearing to consider any relevant representations made and must consider these representations when making its determination. A relevant representation could lead to conditions being imposed upon the licence, or the licence being refused or revoked.

What are the key changes that will be made through the Bill?

We will make local health bodies 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

What does health have to do with licensed premises?

Drunkenness can lead to accidents and injuries, which cause A&E attendances. These incidents are often traceable to individual premises and fall under the 'Public Safety' objective in the Licensing Act.

There is some evidence that the density of premises and the hours of sale in an area can also influence the local population's alcohol consumption and the level of alcohol-related ill health, over time.

What are the intentions of these policies?

At present, the determination of licensing decisions gives little consideration to the views of local health bodies as they are not included as responsible authorities in the Licensing Act. This means that they are unable to make representations to the local licensing authorities regarding concerns about the impact of new licensed premises on the local NHS (primarily A&E

departments and ambulance services) or more generally the safety of the public within the night-time economy.

Making health bodies responsible authorities will ensure that the safety of the public within the night time economy is taken into consideration for new and existing licence applications.

What were the main views of the consultation respondents?

Consultation respondents were broadly supportive of this proposal and recognised the value of considering information such as local A&E statistics when making licensing determinations although some respondents questioned the ability of health bodies to provide representations specific to individual premises. Whilst we acknowledge this, we believe it is vital for Primary Care Trust's and Local Health Bodies to be able to influence licensing decisions by making relevant representations. Such impacts may include public safety issues, reflected in stretching A&E resources and over-burdening of staff. These representations will still need to be made in relation to the existing licensing objectives and we are confident that local health bodies will be able to do this.

We also see merit in the proposal to make the prevention of health harm a material consideration in the Licensing Act 2003. We want to ensure that this is considered alongside wider work to address the harm of alcohol to health. Accordingly, we do not intend to legislate at this stage but will consider the best way to do so in the future.

Police Reform and Social Responsibility Bill

Locally set fees under the Licensing Act 2003

April 2011

What does the change mean?

The Government has introduced an amendment to the Police Reform and Social Responsibility Bill that will allow the Secretary of State to introduce locally-set licensing fees. The level of each fee category would be set by the licensing authority to whom it is payable, based on cost recovery. The amendment preserves the power of the Secretary of State to set fees.

What is the policy aim?

The policy aim is to ensure that fees recover the full costs of local licensing authorities in exercising their functions under the Licensing Act. The current fees were intended to achieve the same aim, but they have not been increased since the Act was introduced in 2005.

Who will be affected?

Locally-set fees will affect all those paying fees under the Licensing Act, including applicants for premises licences and club premises certificates; holders of licences and certificates; and those using Temporary Events Notices (TENs). Licensing authorities will also have a new duty to set fees.

What will the new fees be, and what costs will be included?

Fees will be set locally by licensing authorities, on a cost recovery basis. The licensing authority will set only the level of each fee category as set out in regulations, rather than designing their own fee structure. The costs recovered will be those of the licensing authority in exercising its functions under the Act, not the wider costs of, for example, managing the late night economy or policing. We will provide Statutory Guidance to licensing authorities on what can and cannot be included in their costs for the purposes of calculating fees.

Will there be a maximum fee level?

To reassure fee-payers that the fees will not be a 'blank cheque' for licensing authorities, a nationally-set cap for each fee category will be imposed in regulations. We will consult on the appropriate level of the cap before we introduce the regulations. The Secretary of State will issue guidance to

licensing authorities on setting the fees, and on the principles of good regulation (including risk-based and targeted inspection).

Will small businesses and not-for-profit members' clubs be hit by massive increases? What will happen to the current "fee band" structure for applications, annual fees, and full variations, which is based on rateable value?

Our current intention is that locally-set fees will retain the 'fee bands' based on rateable value, as this is fairer to smaller businesses and small members' clubs than a flat rate for all fee-payers. We will consult before bringing in regulations governing the fee band structure.

Will small businesses / not-for-profit members' clubs / sports clubs be exempt from locally-set fees?

The principle under which fees are changed will remain one of full cost recovery. If some premises types were exempt in a full cost recovery regime, this implies that other fee-payers would be charged more for the administration of their licence. This would be an unfair form of taxation.

When will locally-set fees be introduced?

We intend to consult further on the details of the proposal, including the maximum level for each fee. We expect to be in a position to lay the regulations bringing in locally-set fees in October 2012.

What were the views of consultation respondents on the proposal?

The "Rebalancing the Licensing Act" consultation, held between 8 July and 28 September 2010, requested views on our proposal to "enable local authorities to increase licensing fees so that they are based on full cost recovery." The proposal received broad support, as described in the consultation analysis, published on 30 November 2010.

Police Reform and Social Responsibility Bill - March 2011

Making relevant licensing authorities responsible authorities

What is the policy aim?

The Coalition Agreement included a commitment to overhaul the Licensing Act to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems in the local area.

What is a responsible authority?

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
- Trading standards officers

What is a relevant representation?

These are written representations, about the likely effect of the grant of an application for, or variation to a premises licence or club premises certificate, on the promotion of the licensing objectives. Responsible authorities and interested parties, such as local residents, make representations regarding licensing functions. To be considered relevant, representations must have regard to the potential impact of the licensing determination on the promotion of the licensing objectives.

What is the proposed change to be made through the Bill?

We will make licensing authorities responsible authorities under the Licensing Act. This will empower them to refuse, remove or review licences themselves without first having had to have received a representation from one of the other responsible authorities listed above.

What are the advantages of giving licensing authorities this additional power?

This proposal will ensure that licensing authorities are better able to respond to the concerns of local residents and businesses by taking the necessary actions to tackle irresponsible premises without having to wait for representations from other responsible authorities.

What is the rationale behind this proposal and what evidence base was used?

This proposal will enable licensing authorities to take the necessary actions to tackle irresponsible premises without having to wait for representations from other responsible authorities. The Home Office conducted a 6 week public consultation exercise with a wide range of sectors including representatives from the on trade, off trade, police, health bodies and interested organisations.

Won't it mean that licensing authorities will be able to make a relevant representation regarding an application and determine the same application?

Yes. However, there is a precedent for this in the Gambling Act 2005 whereby different members of the licensing committee are required to fulfil different functions when determining an application. The Government has decided to follow this approach, and will specify in guidance that licensing committee members shall be allocated responsibility for different roles when determining a licence application. This will ensure that the same licensing officer is not responsible for acting as a responsible authority and making a determination on an application. Any actions taken will need to be justified on the basis of the promotion of the licensing objectives.

Main views of consultation respondents

A large number of consultation respondents supported this proposal, with some raising concerns this could lead to procedural unfairness. However, we are confident that this will not be the case since there will be a separation of responsibilities within the licensing authority to ensure the functions of acting as a responsible authority and determining the application cannot be exercised by the same individual. This regime is similar to that which operates effectively under the Gambling Act 2005.

Late night levy

What is the late night levy?

The late night levy is a power for licensing authorities to introduce a charge for premises that have a late alcohol licence. Whether or not to implement the levy will be left entirely at the discretion of the licensing authority that will make the decision based on the situation in their local area. In the areas that it is introduced the levy will be collected annually and the revenue will be split between licensing authorities and the police.

What is the policy's aim?

To permit licensing authorities to charge those businesses that benefit from trading alcohol in a safe late-night economy for the extra enforcement costs that the night-time economy generates for police and local authorities.

Why is the late night levy needed?

We cannot avoid the status of alcohol as a controlled substance and the impact of alcohol related crime and disorder. Businesses profit from selling alcohol in a late night economy that is safe by virtue of the considerable police and licensing authority resources dedicated to mitigating crime and disorder.

The problems caused by the late night economy are particularly costly for the taxpayer as the increased need for a police presence on the streets late at night requires expensive overtime arrangements to be made. We believe it is right that those businesses which profit by selling alcohol in the night time economy contribute towards these costs, rather than relying on other taxpayers in the community to bear the full costs.

Who will the late night levy affect?

In areas where the licensing authority decides to apply the levy it will affect all premises (both in the on-trade and the off-trade) that are licensed to sell alcohol during the hours to which the levy applies. It will be up to the licensing authorities to decide the time at which the levy applies in their area, although it will be restricted to applying between the hours of midnight and 6am.

We will consult with interested parties over the summer to define categories of premises that may be subject to reductions in their levy charge or indeed be exempt from the levy in its entirety.

For example, it may be appropriate for the licensing authority to be able to offer exemptions or discounts to members of best practice schemes such as Business Improvement Districts in order to help encourage responsible

trading. Further, there may be types of premises - such as certain hotels with a late night licence for mini-bars in rooms - who do not benefit from the policing of the late night economy.

There will be hotels whose guests drink in the hotel bar or at functions, such as weddings and parties, who go out later in the evening and benefit from the policing of the late night economy. And there may be bars who are members of best practice schemes but who are not fulfilling their duties under these schemes. For these reasons, the categories of exemptions and reductions will be optional so that licensing authorities have the discretion to decide what is appropriate for their own circumstances.

We will specify in secondary legislation the categories of business to whom licensing authorities may be able to grant an exemption and or reduction.

What will be charged under the late night levy?

Premises are split into bands based upon their rateable value to determine how much they pay under the levy. This system applies to the existing licence fee and means that larger businesses will make greater contributions to the levy than smaller ones.

The late night levy will be set at a national level. While the final detail will be confirmed in secondary legislation we currently anticipate the following charge to be issued under the late night levy:

Rateable value bands	A	B	C	D	E	Dx2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol	Ex3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Annual levy charge	No rateable value to £4,300 £299	£4,301 to £33,000 £768	£33,001 to £87,000 £1,259	£87,001 to £125,000 £1,365	£125,001 and above £1,493	£2,730	£4,440

A multiplier is added to premises in the Bands D and E that primarily or exclusively sell alcohol. This will ensure that larger pubs and clubs contribute more to the levy than restaurants and theatres which may serve alcohol, but are likely to have a smaller impact on late-night crime. Further, businesses selling alcohol benefit from doing so in a safe late night economy.

Why is the late night levy not targeted at individual premises?

The costs caused by the night time economy are often not directly linked to particular businesses but instead occur as a result of the night-time economy

as a whole – for example a fight may take place between groups of individuals who have each visited a variety of different premises over an evening.

The levy will allow licensing authorities to charge all premises that benefit from the existence of the night-time economy through selling alcohol beyond midnight to contribute towards covering the costs that it causes the community.

Will this not put more community pubs out of business?

Many community pubs will not have licences to open beyond midnight - as the earliest the levy will only apply is from midnight, such premises will not face any costs related to the levy.

Furthermore, premises that do not want to pay the levy will be able to change their opening hours free of charge to avoid being required to do so. This will enable all premises to make an informed decision on whether to remain open and pay the levy, balancing the extra charge against the revenue they would be likely to raise from remaining open past midnight.

Main views of consultation respondents

Many residents and resident groups informed us that the night-time economy makes certain parts of the town no-go-areas at night and anti-social behaviour associated with late night drinking extends into residential communities not just around licensed premises. We are committed to ensuring that licensing authorities and enforcement agencies are given the right tools to address the problems in their area whilst promoting a healthy night-time economy to benefit business and the community that they serve.

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Police Reform and Social Responsibility Bill - March 2011

Give more autonomy to licensing authorities regarding closing times

What are flexible opening hours?

The previous Government introduced 24 hour alcohol licences, with the intention of allowing premises to adopt flexible opening hours. The objective was that consideration would be given to the impact of opening hours on local residents and businesses.

However, the introduction of 24 hour alcohol licences discouraged the use of provisions contained in the Licensing Act 2003 such as staggered closing times, zoning and fixed closing times:

- **Staggered closing times**

With staggered closing times licensing authorities are given the power to impose different closing times for different premises to spread the closing times in an area over the course of an evening. In situations where a licensing authority decides to impose this it will help ensure that people leave pubs and clubs over a longer period of time, rather than all premises closing at the same time with a large number of people ending up on the street at the same point.

- **Zoning**

Under this measure licensing authorities are able to prevent premises from opening beyond a time that they choose within certain zones in their area while all other parts of their area remain unaffected. For example, a licensing authority will be able to decide that an area which is largely residential should not have any premises opening beyond the hours of midnight, while still allowing later opening premises to exist in other zones in their area, such as town centres.

- **Fixed closing times**

Fixed closing times can be enforced by the licensing authorities in designated areas where there are issues with crime and disorder and noise disruption. By setting fixed closing times a premises will need to close by a time as specified by the licensing authority. This prevents noise and disruption late in the evening.

What are the proposed changes through the Bill?

We will amend Section 182 of the statutory guidance to make it clear to local authorities that they can make decisions about the most appropriate licensing

strategy for their area. Licensing authorities will be encouraged to consider using measures including fixed closing times, staggered closing times and zoning.

This change acknowledges the fact that different licensing approaches may be best for different areas and will empower licensing authorities to implement a licensing strategy that is best placed to meet the needs of their local area, based on their local knowledge.

What are the benefits of this proposal?

The rationale behind 24 hour licensing was that, with an extension of opening hours, concentrations of people leaving licensed premises at a set time should be reduced, with people dispersing more gradually from licensed premises at their different closing times. To this effect, in Section 182 of the guidance issued alongside the Licensing Act 2003, local areas were actively discouraged from implementing measures that could reduce this flexibility such as fixed closing times, staggered closing times, and zoning (where fixed closing hours are set within a designated area). This proposal will provide the licensing authorities with different options to use to manage the dispersal of people from premises and will minimise disruption as well as crime and disorder.

What is the rationale behind this change?

The present Government is committed to empowering licensing authorities and local communities to tackle alcohol related crime in their area. The change in the Government's policy on fixed and staggered closing times and zoning reflects this change in emphasis, as it gives licensing authorities greater autonomy over closing times in their area.

What evidence is there that fixed closing times/ staggered closing times/ zoning help to reduce alcohol-related crime and disorder and public nuisance?

This power is about giving licensing authorities the right to decide to take control of closing times in their area based on local evidence. Many local communities and licensing authorities do not want premises opening late in their area, or would like certain parts of their local area to not have any late opening premises in them. This is linked to the impact that people leaving a premises late at night has on problems such as creating noise which disturbs local people.

We appreciate that this is not the case in every local authority area, but in cases where licensing authorities have evidence that existing closing times are causing problems in their areas we feel it is right that they should be able to take action to tackle these problems.

Won't allowing licensing authorities to use methods such as fixed and staggered closing times and zoning result in unfair restrictions on responsible retailers?

We believe that local licensing authorities are the best placed and most informed people to make decisions on what times premises close in their area. For this reason, we believe they should be given discretion to impose fixed closing times if they feel it is appropriate.

When considering the option of imposing fixed closing times the licensing authority will need to consider the possible effects this would have on factors such as many people leaving premises simultaneously and to consider taking action to mitigate any problems this may cause.

What were the main views of consultation respondents on this proposal?

This proposal received widespread support in consultation responses.

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Police Reform and Social Responsibility Bill - March 2011

Extend Early Morning Restriction Orders so they can be applied flexibly between midnight and 6am

What is the policy aim?

The Coalition Agreement included a commitment to overhaul the Licensing Act 2003 to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems in the local area.

The intention of these policy proposals is to extend the flexibility of Early Morning Restriction Orders to provide licensing authorities with an additional tool to shape and determine local licensing.

What is an Early Morning Restriction Order?

An Early Morning Restriction Order is an uncommenced power within the Licensing Act 2003 that will allow licensing authorities to restrict sales of alcohol in the whole or a part of their areas for any specified period between 3am and 6am if they consider this appropriate for the promotion of the licensing objectives. This applies to premises licences, club premises certificates and temporary event notices.

What are the key changes that will be made through the Bill?

1. We will amend the provisions with regard to Early Morning Restriction Orders in the Licensing Act 2003 to allow licensing authorities to decide which hours they would like to prevent premises from selling alcohol, between 12am and 6am, in accordance with what they consider to be most appropriate for their local area.
2. Licensing authorities will be able to make Early Morning Restriction Orders if they consider this to be appropriate (and not necessary, as they must do now) for the promotion of the objectives.

What are the intentions of these policies?

Many residents and resident groups have told us that the night-time economy makes certain parts of the town no-go areas at night and anti-social behaviour associated with late night drinking extends into residential communities not just around licensed premises. We are committed to ensuring that licensing authorities and enforcement agencies are given the right tools to address the problems in their area whilst promoting a healthy night-time economy to benefit business and the community that they serve.

What evidence will licensing authorities need to make an Early Morning Restriction Order?

The licensing authority will need to be satisfied that an EMRO is appropriate for the promotion of the licensing objectives in a particular area.

Won't allowing licensing authorities to impose Early Morning Restriction Orders result in unfair restrictions on responsible retailers?

Licensing authorities will have to advertise the proposed order and hold a hearing to consider any representations before making an Order. This gives responsible retailers an opportunity to submit evidence against an Early Morning Restriction Order being imposed. It will also be possible to exempt certain types of premises from Early Morning Restriction Orders in secondary legislation. These would typically include premises such as hotels and casinos that generally operate responsibly and do not contribute to alcohol related crime and disorder and public nuisance late at night.

How wide an area will the Early Morning Restriction Order be able to apply to?

An Early Morning Restriction Order may only be applied to the whole or part local authority area – if the licensing authority considers this is appropriate for the promotion of the licensing objectives.

Main views of consultation respondents

This proposal received widespread support with many residents and resident groups informing us that the night-time economy makes certain parts of the town no-go-areas at night and anti-social behaviour associated with late night drinking extends into residential communities not just around licensed premises. We are committed to ensuring that licensing authorities and enforcement agencies are given the right tools to address the problems in their area whilst promoting a healthy night-time economy to benefit business and the community that they serve.

Lower the evidential hurdle for Cumulative Impact Policies to allow licensing authorities to have more control over outlet density

What is a Cumulative Impact Policy?

Cumulative Impact Policies were introduced as a tool for licensing authorities to limit the growth of licensed premises in a problem area. This is set out in the statutory guidance issued under section 182 of the Licensing Act 2003.

When is a Cumulative Impact Policy used?

At present, Cumulative Impact Policies can only be applied by a licensing authority to an application for a licence when it has received relevant representations from a responsible authority, or interested party, on the potential cumulative impact of the grant of the application in question. Responsible authorities under the Licensing Act 2003 include (but are not limited to) police, fire authorities, health and safety authorities, local planning authorities, environmental health, bodies responsible for protecting children from harm and any licensing authorities (other than the relevant licensing authority) in whose area a premises is situated.

How does a licensing authority implement a Cumulative Impact Policy?

The licensing authority will set out the detail of its Cumulative Impact Policy in its Licensing Policy Statement. Before implementing a Cumulative Impact Policy, a licensing authority will usually conduct a consultation exercise and consider the effect that additional premises will have on the cumulative impact.

What changes are proposed through the Bill?

The statutory guidance governing Cumulative Impact Policies will be more focused on local needs and easier for licensing authorities to implement. This will reduce the evidential requirement on licensing authorities. This will give greater weight to the view of local people as the licensing authority will not be constrained by the requirement to provide detailed additional evidence where such evidence is unavailable.

Why isn't this being taken forward in primary legislation?

Cumulative Impact Policies are currently set out in guidance and at present we do not see a need to put this forward through legislation.

What were the main views of consultation respondents?

Having listened to the views of consultation respondents, we will ensure that the statutory guidance sets out clearly how Cumulative Impact Policies should be used to ensure that these are implemented fairly.

Police Reform and Social Responsibility Bill - March 2011

Licence applicants to give greater consideration to the local area when making their application

What is the policy aim?

As part of its commitment to rebalance the Licensing Act 2003 in favour of local communities, the Government is keen that licence applicants give greater consideration to the local area when making their application.

Currently, as part of the licence application process, applicants are required to set out in the operating schedule accompanying their application the steps they intend to take to promote the licensing objectives. Some licensing authorities have reported that this section of the application is often poorly completed, providing licensing authorities with very little information on which to make their determination. Applicants also do not have to consider issues specific to the local area which they may need to address, and the onus is on the licensing authority to assess the potential impact of granting the licence on the local area.

The aim of this proposal is to shift the onus onto the applicant to give greater consideration to the local area when setting out the steps they will take to promote the licensing objectives and to provide responsible authorities and the licensing authority with better information on which to make informed representations or determinations.

How will this change be made?

The guidance for applicants and statutory guidance for licensing authorities will be amended to require licence applicants, when outlining the steps they will take to promote the licensing objectives, to provide further contextual information to support the steps they intend to take and demonstrate an awareness of the local community in which the premises would be based. This may include contextual information on issues such as the local area's social-demographic characteristics, specific local crime and disorder issues and an awareness of the local environment, although we do not intend to be prescriptive about the specific information applicants should provide. We will work with the licensed trade to work out the best way to introduce this new requirement.

What are the benefits to the local area of introducing this proposal?

This proposal will ensure that greater consideration is given to local issues when determining licence applications. The additional contextual information will be of significant value to licensing authorities, responsible authorities and other parties who are able to make representations with regard to licence

applications when making representations determining steps that may be required to ensure the promotion of the licensing objectives in the local area.

How will licence applicants be required to demonstrate that they are considering the interests of the local community when setting out the steps they will take to promote the licensing objectives?

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.

What information are licence applicants currently required to provide on the steps they will take to promote the licensing objectives?

When preparing an operating schedule applicants are required to set out the steps necessary, if any, for the promotion of the licensing objectives. In doing so, applicants are expected to have regard to the statement of licensing policy for their area and to be aware of the expectations of the licensing authority and responsible authorities in terms of the steps that are necessary to promote the licensing objectives.

Will this create an additional burden on the licensing authorities?

We do not expect this proposal to create an additional burden on licensing authorities. Some licensing authorities have reported that applications often contain insufficient information on steps that will be taken to promote the licensing objectives, which can make it difficult to determine what action it is necessary to take. This additional contextual information will be therefore be of significant value to licensing authorities when considering applications and should make it easier for them to make an informed determination.

What were the main views of consultation respondents?

When asked for suggestions about how the licence application process could be amended to require licence applicants to give greater consideration to the local area when making their application, respondents expressed strong support for licence applicants being required to give greater consideration to the local area and how any potential harm would be minimised.