

REBALANCING THE LICENSING ACT

(Report by Head of Democratic and Central Services)

1. Introduction

- 1.1 Since coming into force in 2005, the Licensing Act 2003 has attracted considerable comment as to whether it has achieved the aim of the previous Government of relaxing the licensing laws, thereby encouraging a more sensible approach to alcohol consumption and a vibrant night time economy. Over the past 5 years, the Licensing Act has been the subject of continuous amendment by subsequent legislation intended to tackle the problem of binge drinking and changes in drinking patterns, particularly among young people.

2. Current View

- 2.1 The new coalition Government is of the view that the current regime is overly prescriptive and there is insufficient flexibility to address those premises where alcohol consumption has caused a problem for local communities. Although the present system was intended to make it easier for communities to ask for a review of premises that cause concern, there have been few such applications for reviews in Huntingdonshire and elsewhere. The Government therefore proposes to introduce greater flexibility for local communities to deal with the minority of premises that are managed irresponsibly or give rise to crime and disorder or public nuisance.
- 2.2 As part of the changes being mooted elsewhere, the Government is proposing a shift in the licensing regime away from central direction towards more local accountability. Among the proposals suggested are
- (a) giving licensing authorities the power to refuse applications or call for a licence review without requiring relevant representations from a responsible authority;
 - (b) removing the need for licensing authorities to demonstrate their decisions on licences 'are necessary' for (rather than of benefit to) the promotion of the licensing objectives;
 - (c) reducing the evidential burden of proof required by licensing authorities in making decisions on licence applications and licence reviews;
 - (d) increasing the weight that licensing authorities will have to give to relevant representations and objection notices from the police;
 - (e) simplifying cumulative impact policies to allow licensing authorities to have more control over outlet density;
 - (f) increasing the opportunities for local residents or their representative groups to be involved in licensing decisions, without regard to their immediate proximity to premises;
 - (g) enabling more involvement by local health bodies in licensing decisions by designating health bodies as a responsible authority and seeking views on making health a licensing objective;
 - (h) amending the process of appeal to avoid the costly practice of rehearing licensing decisions;

- (i) enabling licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences;
- (j) repealing the power to establish alcohol disorder zones and allowing licensing authorities to use a simple adjustment to the existing fee system to pay for any additional policing needed during late-night opening;
- (k) overhauling the system of temporary events notices to give the police more time to object, enabling all responsible authorities to object, increasing the notification period and reducing the number that can be applied for by personal licence holders;
- (l) introducing tougher sentences for underage sales;
- (m) triggering automatic licence reviews following persistent underage sales;
- (n) banning the sale of alcohol below cost price;
- (o) enabling local authorities to increase licence fees so that they are based on full cost recovery;
- (p) enabling licensing authorities to revoke licences due to non-payment of fees; and
- (q) consulting on the impact of the Mandatory Licensing Conditions Order and whether the current conditions should be removed.

3. Consultation

- 3.1 The Government has issued a consultation paper on the proposals under the heading of 'Rebalancing the Licensing Act'. The consultation period ran for a relatively short space of 6 weeks over the summer holiday period with a closing date for responses of 8th September.
- 3.2 Many of the proposals are to be welcomed, particularly the introduction of greater flexibility for the licensing authority to determine applications which was severely constrained under the current legislative arrangements.
- 3.3 As the closing date for comments on the consultation paper passed some time ago, the Chairman and Vice Chairman endorsed a proposed response to the questions posed in the document. These are attached as an appendix to this report.

4. Conclusion

- 4.1 The regulation of alcohol sales has a history in this country of swinging between prescription and flexibility, none of which have successfully tackled the problem of irresponsible sales and drinking habits among the population. Following the relaxation of the rules introduced by the Licensing Act, the pendulum appears to be moving back to greater control and discretion on the part of licensing authorities and the police in determining applications and reviewing problem premises.
- 4.2 Further information on any changes that ensue from the consultation paper will be brought to the attention of the Committee as they emerge.
- 4.3 The Committee is therefore

Recommended

to note the content of this report and the changes forecast in the licensing regime.

Background Papers:

'Rebalancing the Licensing Act' consultation paper issued by the Home Office

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