

FLINTSHIRE COUNTY COUNCIL

REPORT TO: LICENSING COMMITTEE

DATE: 24TH SEPTEMBER 2012

REPORT BY: DIRECTOR OF ENVIRONMENT

SUBJECT: LICENSING ACT 2003 UPDATE

1.00 PURPOSE OF REPORT

1.01 To inform Members of the Licensing Committee of the recent changes to the Licensing Act 2003 as amended by the Police Reform and Social Responsibility Act 2011

2.00 BACKGROUND

2.01 In 2010, the Home Office launched a public consultation entitled 'Rebalancing the Licensing Act'. This consultation sought views for a number of proposed changes to the Licensing Act 2003 with the overall aim of achieving a fundamental shift in the licensing regime in this country, with more emphasis on local accountability.

2.02 The Bill was subject to some amendments, and received Royal Assent and became law on 15 September 2011

2.03 The timetable for commencement was split into two stages. The first came into effect in April 2012, and the later changes are due to take effect in October 2012.

3.00 CONSIDERATIONS

3.01 April 2012 changes:

3.02 Local Health Boards became one of the Responsible Authorities and are now entitled to make representations in relation to alcohol licensing. The Betsi Cadwaladr University Local Health Board has therefore been added to our current list of Responsible Authorities and must be notified of new licensing applications.

3.03 The fine for persistent selling of alcohol to persons under the age of 18 years has doubled to £20,000

3.04 Residents, businesses or associations will now be able to make representations on applications even if they do not live or work in the 'vicinity' of the premises. The only test on validity is whether their representation is relevant to the licensing objectives. It was thought

that this would prompt an increase in the amount of representations received, but no increase has been seen since the legislation came in to force in April.

- 3.05 The new legislation lowers the evidential threshold for licensing. In determining an application, a Licensing Sub Committee is now only required to consider what is 'appropriate' to promote the licensing objectives, rather than what is considered 'necessary' which was the case prior to April 2012. This will give licensing authorities greater power to tackle irresponsible premises.
- 3.06 Prior to April a Temporary Event Notice (TEN) had to be submitted at least 10 working days prior to the event taking place. A new facility for the acceptance of 'late' TEN's has been introduced. A late TEN can be accepted if it is received within five and ten working days of the event, from the day after it was received by the local authority. These late TEN's can only be accepted in exceptional circumstances. The maximum period for an event covered by a TEN has increased from 96 hours to a maximum of 168 hours (i.e. one week).
- 3.07 Environmental Health are now able to make representations in relation to a TEN or a late TEN as well as the Police.
- 3.08 The licensing authority are now able to suspend a Premises Licence for non payment of an annual fee. This will remove the need for the Council's finance section to follow up debtors.
- 3.09 The Licensing Authority itself is now also a Responsible Authority. This will mean that the licensing authority is able to respond to concerns and perhaps take action without having to wait for representations from other responsible authorities. In cases where a licensing authority is also acting as a responsible authority in relation to the same process it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. Accordingly it is proposed in such circumstances that the Community Protection Manager assumes the role of Responsible Authority with the Team Leader-Licensing and the Licensing Officers continuing their traditional role of processing all licence applications in accordance with the Council's Statement of Licensing Policy.
- 3.10 The proposed changes which will come in to effect in October 2012 are as follows:
- 3.11 The licensing authority can opt for a time between midnight and 6am to impose an Early Morning Restriction Order (EMRO) which would restrict the sale of alcohol within that adopted period. An EMRO can be applied to different parts of the district and can have effect at different times on different days of the week or year. It can be applied for a limited period. It is likely that the revised Home Office guidance

to Licensing Authorities will exclude some classes of premises such as hotels and B&B's entirely.

- 3.12 The introduction of a Late Night Levy (LNL) would enable licensing authorities to introduce a charge for all premises in the local authority area which are authorised to sell alcohol between midnight and 6am. This is a matter which will need separate consideration.

4.00 RECOMMENDATIONS

- 4.01 That Members note the changes to the Licensing Act outlined above.
- 4.02 That the Licensing Committee nominates the Community Protection Manager as the officer authorised to act as a Responsible Authority when necessary.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None in respect of this report

6.00 ANTI POVERTY IMPACT

- 6.01 None

7.00 ENVIRONMENTAL IMPACT

- 7.01 None

8.00 EQUALITIES IMPACT

- 8.01 None

9.00 PERSONNEL IMPLICATIONS

- 9.01 None

10.00 CONSULTATION REQUIRED

- 10.01 None

11.00 CONSULTATION UNDERTAKEN

- 11.01 None

12.00 APPENDICES

- 12.01 None

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

Licensing Act 2003

Police Reform and Social Responsibility Act 2001

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