

MUNICIPAL YEAR 2011/2012 REPORT NO. 126

MEETING TITLE AND DATE:

Licensing Committee
7 November 2011

REPORT OF:

Director of Environment

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Agenda – Part: 1	Item: 3
Subject:	
Developments within the licensing regime	
Wards: All	

1. EXECUTIVE SUMMARY

- 1.1 Regulated Entertainment.
- 1.2 Police Reform and Social Responsibility Act 2011.
- 1.3 Licensing Consultation 2011.

2. RECOMMENDATION

- 2.1 To consider and make any suggestions as to the amendment of the Council's response to the Government's consultation in respect of Regulated Entertainment.
- 2.2 To note the amendments to the Licensing Act 2003 contained within the Police Reform and Social Responsibility Act 2011.
- 2.3 To note the Council's consultation in respect of 3 licensing proposals.

3. REGULATED ENTERTAINMENT

- 3.1 Currently, the Licensing Act 2003 provides that the following types of regulated entertainment require a licence or authorisation under the Act :
 - 3.1.1 Plays.
 - 3.1.2 Films.

- 3.1.3 Indoor sports.
 - 3.1.4 Boxing/wrestling.
 - 3.1.5 Live music.
 - 3.1.6 Recorded music.
 - 3.1.7 Performance of dance.
 - 3.1.8 Facilities for making music.
 - 3.1.9 Facilities for dancing.
- 3.2 Before the introduction of the Licensing Act 2003, each of the above types of entertainment was licensed under separate legislation.
- 3.3 The Department of Culture, Media & Sport ('DCMS') proposed to deregulate each of the above types of entertainment, with the exception of boxing/wrestling, sexual entertainment and audiences of 5,000 and over.
- 3.4 The DCMS's proposals would, in effect, allow any promoter to provide any type of regulated entertainment at any time in any place to any audience (other than boxing/sexual entertainment or events for 5,000+ people) without ever requiring a licence.
- 3.5 The Home Office has just legislated (under the Police Reform and Social Responsibility Act 2011, please see Section 4 below) to rebalance alcohol licensing to give more power to local communities, local authorities and the Police.
- 3.6 We believe that the DCMS's proposals, if enacted, will rebalance entertainment licensing in favour of promoters and to the detriment of local communities, local authorities and the Police and will cause a measurable reduction in the quality of life of local communities.
- 3.7 The DCMS proposals are currently subject to public consultation, the closing date for responses is 3rd December 2011.
- 3.8 Attached as Annex 1 is the DCMS consultation proposal.
- 3.9 Attached as Annex 2 is the DCMS impact assessment.
- 3.10 Attached as Annex 3 is our draft response to the DCMS consultation.

4. POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

- 4.1 On 15 September 2011 the Police Reform and Social Responsibility Act 2011 ('the Act') received Royal Assent.
- 4.2 The Act amends the provisions of the Licensing Act 2003. The Home Office confirms that these amendments are designed to rebalance alcohol licensing to give more power to local communities, local authorities and the Police.

- 4.3 None of the amendments to the Licensing Act 2003 have yet taken effect. It is expected that they will take effect between April and October 2012.
- 4.4 The amendments are :
 - 4.4.1 To require licence applicants to consider their local area. The applicant would be required to demonstrate an awareness of the local environment and to contextualise the application.
 - 4.4.2 To make the licensing authority a responsible authority. The licensing enforcement team would be able to make representations as 'the licensing authority' rather than as 'trading standards'.
 - 4.4.3 To make the local health body a responsible authority. The local health body will be able to make representations in addition to the Police and Fire Brigade.
 - 4.4.4 To reduce the burden of proof on the Licensing Sub-Committee. The Sub-Committee will decide what is 'appropriate' for the promotion of the licensing objectives rather than what is 'necessary'.
 - 4.4.5 To increase the weight that the Licensing Sub-Committee will give to Police evidence. The Sub-Committee will adopt all Police recommendations unless there is evidence that the recommendations aren't relevant.
 - 4.4.6 To increase the opportunities for local residents and businesses to oppose applications. The 'in the vicinity' test is removed so representations can be made by any person.
 - 4.4.7 To reduce the evidential hurdle for Cumulative Impact Policies. The Council, in deciding to adopt any such policies, may give weight to the view of local people rather than solely rely on empirical evidence.
 - 4.4.8 To give more autonomy regarding closing times. The Council may decide to introduce staggered closing times, zoning and fixed closing times.
 - 4.4.9 To introduce early morning restriction orders. The Council may decide to introduce orders preventing the sale of alcohol between midnight and 6am in any area of the borough.
 - 4.4.10 To allow licence fees to be set locally. The licence fees were set by the DCMS in 2005 and have not increased since then. The Council may set fees (subject to a national cap) to ensure cost recovery.
 - 4.4.11 To introduce a late night levy. The Council may charge late-night licensed businesses for the extra enforcement costs that such business generate.
 - 4.4.12 To double the maximum fine for under-age alcohol sales, from £10,000 to £20,000.
 - 4.4.13 To enable the Council to suspend licences due to the non-payment of fees.

4.4.14 To amend the Temporary Event Notice regime.

4.5 Attached as Annex 4 are Home Office fact Sheets addressing each of the 14 amendments above.

5. LICENSING CONSULTATION 2011

5.1 On 12 October 2011 we commenced a borough-wide public consultation in respect of 3 licensing proposals, as follows :

5.1.1 Cumulative Impact Policy. We propose to introduce a Cumulative Impact Policy in the areas of Edmonton, Enfield Highway, Enfield Town and Southgate. In these areas, applications for new licences or for variations of existing licences, for alcohol and/or entertainment and/or hot food take-aways will be granted up to a closing time of 11pm. Licences for closing times after 11pm will usually be refused. Existing licences will not be affected by this policy.

5.1.2 Attached as Annex 5 is the proposal in detail.

5.1.3 Sexual Entertainment Venues. We propose to refuse to adopt legislation in respect of Sexual Entertainment Venues. By not adopting this legislation we will prevent businesses from being granted an automatic right to provide 'live displays or performances involving nudity' on up to 11 separate occasions a year without a licence.

5.1.4 Attached as Annex 6 is the proposal in detail.

5.1.5 Olympics & Paralympics. We propose to introduce a policy to cover licensable events that may take place during the Olympic and Paralympic Games between June and September 2012.

5.1.6 Attached as Annex 7 is the proposal in detail.

5.2 The results of the public consultation will be reported to the Licensing Committee after the closing date for responses of 13 January 2012.

6. ALTERNATIVE OPTIONS CONSIDERED

Not applicable

7. REASONS FOR RECOMMENDATIONS

Not applicable

8. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

8.1 Financial Implications

Not applicable

8.2 Legal Implications

Not applicable

8.3 Property Implications

Not applicable

9. PERFORMANCE MANAGEMENT IMPLICATIONS

Not applicable

10. PUTTING ENFIELD FIRST

Not applicable

Background Papers

Not applicable