

Licensing Committee

No Specific Ward Relevance

14th December 2009

LICENSING ACT 2003 – ANNUAL UPDATE

(Report of the Head of Environment)

1. Summary of Proposals

This report provides an annual update on the Licensing Act 2003. This report is an overall view of functions carried out under the Act by the Licensing Team. It shows how Licensing Officers are developing working practices and procedures in partnership with the responsible authorities and Community Safety to ensure licence holders comply with all relevant legislation and that our licence trade contribute to a safe and successful night time economy.

The annual report includes at Appendix 1 a register of applications, temporary event notices, personal licenses and all other functions carried out under the Act.

2. Recommendations

The Committee is asked to RESOLVE that

The Annual report on the Licensing Act 2003 be noted.

3. Financial, Legal, Policy Risk and Sustainability Implications

Financial

3.1 There are no financial implications within this report.

Legal

3.2 The Council is responsible for carrying out the licensing function under the Licensing Act 2003. The Act regulates the sale of alcohol, the provision of entertainment, and late night refreshment.

3.3 The Council has delegated its licensing function to its Licensing Committee, Sub Committees and Licensing Officers referred collectively to as the "Licensing Authority".

Policy

- 3.4 The Statement of Licensing Policy was prepared in accordance with the provisions of the Licensing Act 2003 and the Guidance issued by the Secretary of State under section 182 of the Act. The Council's Policy was adopted and came into force on the 7th February 2008.
- 3.5 The Statement of the Licensing Policy is a live document, subject to review to meet the changing needs of the community, business circumstances and legislation.
- 3.6 A formal review of the policy and further consultation should be undertaken every three years and the next scheduled review will be carried out during 2010 and in place by end January 2011.

Risk

- 3.7 There are no risk implications within this report.

Sustainability / Environmental

- 3.8 There are no sustainability or climate change implications, however, the night time economy can have a major impact on the environment i.e. litter, noise etc.

Report

4. Background

- 4.1 The Council must promote the four licensing objectives which are:

- a) Prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- d) The protection of children from harm

4.2 The Prevention of Crime and Disorder

The Licensing Authority also has a duty under Section 17 of the Crime and Disorder Act 1988 to do all it can to prevent Crime and Disorder in the District. The Licensing Authority works closely in partnership with all other relevant bodies and works towards the exchange of intelligence where ever possible to prevent Crime and Disorder.

4.3 Public Safety

The Licensing Authority works in partnership with West Mercia Police and other responsible authorities to ensure the safety of the public who use licensed premises. A targeted approach to

inspection and enforcement of licensed premises has been implemented.

4.4 **The Prevention of Public Nuisance / anti social behaviour**

The Licensing Authority has taken an objective view following relevant representations as to the potential for nuisance and anti social behaviour and has worked with the responsible authorities and the applicant to mediate and has attached appropriate and proportionate conditions to the licences and certificates in agreement with all parties where necessary in order to prevent it.

4.5 **The Protection of Children from Harm**

The Licensing Authority recognises that there are a range of activities for which licences may be sought, meaning that children can be expected to visit many of these premises, sometimes on their own, for food and/or other entertainment.

4.6 The Licensing Act 2003 allows access by children to licensed premises subject to certain statutory restrictions. For example, children are allowed to be on premises, or part of premises, where the primary function is other than the retail sale of alcohol.

a) Licensing Officers are continuing to work together with the responsible authorities to improve exchange of intelligence to those who have a concern in the protection of children from harm; including the West Mercia Police, Trading Standards and the Safeguarding Children Board.

b) Officers of the Worcestershire Trading Standards have conducted a programme of test purchases to Shops and off licences in Redditch to assess breaches of selling alcohol to young persons.

4.7 The Council's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact on local residents. Licenses we issue under the Licensing Act 2003 are:

- a) Personal Licence
- b) Premises Licence
- c) Temporary Event Notice

4.8 The Licensing Authority is responsible under the Act for granting licences for any licensable activity, namely:

- a) The sales by retail of alcohol
- b) The supply of alcohol by or on behalf of a club or, to the order of a member of the club.
- c) The provision of regulated entertainment and
- d) The provision of late night refreshment

- 4.9 Late night refreshment means the sale of hot food or drink to members of the public between the hours of 11pm and 5am.
- 4.10 Regulated entertainment provided in the presence of an audience for the purpose of entertaining that audience, which consists of:
- a) The performance of a play
 - b) The exhibition of a film
 - c) An indoor sporting event
 - d) Outdoor boxing or wrestling
 - e) A performance of live or recorded Music
 - f) A performance of Dance.
- 4.11 The Licensing Authority is aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations. The Licensing Authority is working together with all interested parties, statutory agencies and licensed business to ensure a mutual co-existence.

5. Key Issues

- 5.1 There have been 22 complaints made to environmental health regarding noise issues from licensed premises this year. Some have been resolved very quickly through mediation, letter or advice, by Environmental Health Officers and Licensing Officers working in partnership whilst others have been prolonged, requiring the gathering of evidence.

Loud music	19
Humming Noise – machinery	2
People noise	1

- 5.2 On 1st July 2007 legislation became effective to control all smoking in enclosed public spaces, and workplaces, including shops, pubs, restaurants and public vehicles (transport). The main purpose is to protect employees and the public from the effects of second hand smoke.
- 5.3 198 visits were made to premises during the first year of this legislation being in force and since then it is evident that:
- a) Trade in licensed premises has been reduced through the no smoking policy.
 - b) Smoking issues have been self policing.
 - c) No fixed penalties have been required/issued to licensees.

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- 5.4 The number of complaints which have been investigated by the Licensing Officer for Project, Liaison and Enforcement for smoking on licensed premises:

Smoking on Licensed Premises	2
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- 5.5 The following complaints have been investigated by the Licensing Officer for West Mercia Police and the Licensing Officer for Project Liaison and Enforcement

Breach of Licensing Conditions	1
Irresponsible drinks promotions	1

- 5.6 No permission is required from the Licensing Authority in relation to Temporary Event Notices. This is a notification scheme; the only responsible authority who can object is the Police; who must then serve a counter notice. Premises may have up to 12 events in any one year.

- a) 40 Notices were served on the Council. No counter notices were received from the Police.
- b) No premises used their full quota of temporary events and therefore no advice was issued regarding the need for a Premises Licence.
- c) No problems using this system have been reported to the Council.

- 5.7 The Licensing Authority works towards the proper integration of its Licensing Policy with other strategies adopted by the Council for example the Enforcement Policy – using a graduated approach including advice, guidance and then enforcement/court action only if necessary.

- 5.8 Where relevant representations have been made, any Conditions attached to premises licences have reflected so far as possible local crime prevention strategies.

- a) The Licensing Authority has taken account of the local Crime and Disorder Reduction Partnership and the Licensing Manager regularly attends these meetings.
- b) The Licensing Authority has made comment on various government transport strategies, which touch on the provision of night-time and evening services including the recent Consultation on Improving Access to Taxis.

- c) The Licensing Authority has ensured that planning, building control and licensing functions have been properly separated to avoid duplication and inefficiency.
 - d) The Licensing Authority has conducted itself in a way that has promoted good race relations with due regard to the need to eliminate unlawful discrimination.
- 5.9 Pubwatch - The Licensing Authority has consulted with the representatives from licensed premises and other appropriate bodies by attending the Pubwatch meetings; these meetings are held on a monthly basis, and are attended by most of the town centre licensed premises managers, West Mercia Police, CCTV staff and licensing staff. A member of the Licensing team will continue to attend on a regular basis to discuss and keep under review matters relating to licensing.
- 5.10 Enforcement/Licensing Forum - The Council's Statement of Licensing Policy states that the Licensing Authority would establish protocols with local police and other relevant authorities. The protocols will set out how the Enforcement will be effected by cooperative working between the Licensing Authority (which has certain enforcement duties) and the Police and other Responsible Authorities and gathering evidence on problem premises.
- 5.11 Local Police and Trading Standards have asked for the Statement of Licensing Policy to be reviewed with a view to giving it "more teeth" but a recent Home Office programme of training on Licensing Enforcement confirmed that areas where there are high instances of alcohol related problems (as there are in Redditch) tend to be those where robust enforcement protocols do not exist.
- 5.12 The responsible authorities and the licensing authority signed up to an enforcement protocol co-written by previous forum members. This document is due to be reviewed by the licensing forum with a view to ensuring a more robust response by all agencies.
- 5.13 The Home Office has also promoted active Police evidence gathering to identify problem premises.
- 5.14 When a more robust enforcement protocol is in place and implemented the Licensing Authority will then be in a position to fulfil its enforcement role under the legislation, by way of Reviews of premises instigated by the responsible authority, as envisaged by the Licensing Act.
- 5.15 The comments made by the local Police and Trading Standards regarding the countywide Statement of Licensing Policy have been taken forward to the Countywide Licensing Officers group and it has

been agreed by the group that those comments should be included within the formal review of the Statement of Licensing Policy due to be implemented early next year. The Police and Trading Standards will also have an opportunity to make further recommendations at that time should they wish.

- 5.16 The Licensing Forum established with the help of CDRP holds quarterly meetings to discuss the wider issues of licensing with responsible authorities.
- 5.17 The Licensing Forum has now been split to form a sub group. This sub group has been formed so that monthly meetings of the responsible authorities can be held to work in partnership to target problem premises and co-ordinate enforcement action. This group will meet as and when necessary.
- 5.18 Out of Hours and Daytime Inspections - Premises in the district are inspected late at night and at weekends periodically by a Licensing Officer in partnership with the West Mercia Licensing Officer for Redditch PC Neil Sharpe. Joint daytime inspections are also conducted and both Officers act in advisory roles to Licensees to ensure that premises are run in accordance with conditions and the operating schedule of the premises.
- 5.19 Officers gather intelligence on any change in status which may give rise for concern for responsible authorities or the Licensing Authority. For example a change in the DPS (Designated Premises Supervisor) which has not been notified to the Council.
- 5.20 The Community Safety Team, the Police and Trading Standards co-operated to produce a joint risk assessment of a number of high risk on and off premises in the first quarter of 2009. The findings of this work informed the selection of premises targeted through the Home Office funded "Due Diligence Audit" programme.
- 5.21 The Community Safety Officers, Councillors and Licensing Officers have received feedback from the auditors regarding those premises that were targeted for the Due Diligence Audit and the improvements that this Audit has made.
- 5.22 Early Intervention - Where complaints are made against premises, or where there is a concern by Officers that there is a failure of general management, an early intervention programme is commenced. It may be that this information comes via the Police Licensing Officer prompting a joint visit to engage with the Licensee and the Brewery Area Manager.
- 5.23 This action accords with the Enforcement Policy and National Guidance to follow three distinct stages, (Traffic light warnings)

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| a) | Advice | (green) |
| b) | Written warning | (amber) |
| c) | Licence Review / Court Action for Breach of Statute / Licence Condition | (red) |
- 5.24 Officers work with the representatives and responsible authorities to achieve a resolution to any problems. This method of working has only recently been implemented and is still in the early stages of development.
- 5.25 SIA (Security Industry Authority) – Authorisation to carry out inspections on behalf of the SIA has been endorsed by Councillors at the meeting of the Licensing Committee on 2nd November 2009. Application forms have now been sent to the SIA for individual officers to be authorised and the first inspection of door staff working in Redditch has been agreed with the SIA, West Mercia Police and Licensing Officers as a training exercise in December. Further inspections are planned for the future.
- 5.26 County Licensing Officers Working Group - The responsibility of the Licensing Authority is created by statute and is administered by the district Licensing Officers operating within the county of Worcestershire. To prevent legal challenge, it is important that the Licensing function is operated in a consistent way, both through local offices and the Worcestershire Hub. To achieve this aim, Officers meet on a regular basis to share information on services and to engage in the drafting of Licensing Policies. This has been a successful formula over the past three years to provide common Licence Application Forms, Policy and Guidance Notes throughout the County. The Licensing Manager for Redditch is currently the chair of this working group.
- 5.27 The Institute of Licensing is a National organisation of England and Wales and is divided into regions. It offers direction to local authorities on new legislation and training. Membership of this organisation is by way of an eligibility criteria and this Council is a member of this organisation and a contributor to the Institute through your Licensing Manager having the necessary qualification in Licensing Law.
- 5.28 Professor Colin Manchester of the Faculty of Law, University of Warwick has undertaken research of the Licensing Act 2003 and for the past 12 months has engaged with Wyre Forest District Council (as a small authority) to study its administration of the Licensing Act. In 2009, research will also extend to Solihull Metropolitan Council, (a medium sized authority) and to the Birmingham City Council, (as a large authority). Wyre Forest District Councils administration of

Licensing has been under scrutiny, and Redditch Borough Council has benefited from the advice and guidance given through the Licensing Officers Group. Professor Manchester attended the review training given jointly to Members and other authorities by Officers of Redditch and Wyre Forest and gave positive feedback at its conclusion.

- 5.29 It is paramount that Members receive regular and modern training in the matters of Hearings and Reviews (Licensing Act 2003) and that every opportunity is shared to reduce cost.
- 5.30 Redditch Borough Council Licensing Officers worked with Wyre Forest District Council Licensing Officers to provide training on Reviews under the Licensing Act 2003 at Redditch on 12th February 2009.
- 5.31 Community Safety highlighted the lack of information members had received regarding the Licensing Act 2003.
- 5.32 Licensing Officers responded to this need; produced and distributed a handbook for Members which contained a copy of the Licensing Act 2003, the guidance under Section 182, a Jargon buster and Lacors guidance on the role of the elected Member. It also contained Redditch Borough Councils Statement of Licensing Policy. Each Licensing Committee Member was issued with one in August this year.
- 5.33 The handbook was considered good practice by Walsall Council.
- 5.34 A copy of the Public Register can be found at appendix 1.

6. Other Implications

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| Asset Management | - | None. |
| Community Safety | - | Licensing and the regulation of the night time economy plays a key role in the prevention of crime and disorder. There is a real fear of alcohol related violence and crime. |
| Human Resources | - | None. |
| Social Exclusion | - | None. |

7. Lessons Learnt

- 7.1 The Statement of Licensing Policy is due to be formally reviewed in 2010 and has to be implemented by early January 2011. The last

formal review of the policy took place in 2007 and no responses to the consultation were received at that time. The review of the policy has to include all stakeholders and the responsible authorities. Since the consultation in 2007 Issues have been raised by two of the responsible authorities; the Police and Trading Standards regarding the countywide policy statement and this has highlighted whether the consultation process was robust enough and whether the countywide officers should be inviting responsible authorities to their group meetings during the consultation process.

- 7.2 It was decided by the countywide Licensing Officers group that the responsible authorities should be invited to a meeting during the consultation process to discuss any comments they may have regarding any proposed changes to the policy and this would be implemented during the next formal consultation in 2010.

8. **Background Papers**

Statement of Licensing Policy - Redditch Borough Council
Licensing Act Guidance
Crime and Disorder Act 1988

9. **Consultation**

This report has been prepared in consultation with relevant Borough Council Officers and;

West Mercia Police
Trading Standards

10. **Author of Report**

The author of this report is Sue Garratt (Licensing Manager) who can be contacted on extension 3032 (email: sue.garratt@redditchbc.gov.uk) for more information.

11. **Appendices**

Appendix 1 - Licensing Act 2003 Public Register.