

Committee: Licensing Committee

Date: 23 February 2016

Wards: All.

Subject: Licensing legislation – updates and amendments of the Licensing Act 2003.

Lead officer: Chris Lee, Director of Environment and Regeneration.

Lead member: Councillor Nick Draper, Cabinet Member for Community and Culture.

Contact Officer: Barry Croft, Licensing Manager, London Boroughs of Merton and Richmond upon Thames Joint Regulatory Services Partnership and Guy Bishop Senior Lawyer Litigation and Planning Team the South London Legal Partnership.

Recommendations:

- A. Members to note and to pass comment on the agenda items set out in this report.

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1 To provide members of the licensing committee with information concerning the following matters:

- Community and Ancillary Sellers Notices (CAN's);
- Deregulation of Late Night Refreshment as a licensable activity; and
- Amendment -Temporary Event Notices (TEN's).
- The Policing and Crime Bill – Proposed amendments to the Licensing Act 2003 (published on Wednesday 10 February 2016).

2. DETAILS.

2.1 Community and Ancillary Sellers Notice (CAN).

The Community and Ancillary Sellers Notice (CAN) will be a new authorisation under the Licensing Act 2003 that will benefit community groups and particular small businesses (such as bed and breakfast providers) who wish to sell limited amounts of alcohol as part of a wider service.

Under existing arrangements, these community groups and smaller businesses are subject to the same licensing regime and scrutiny as other businesses, which sell much higher quantities of alcohol (such as large hotels and off-licences). They have said that existing licensing requirements are costly and heavy-handed in light of the small, low-risk sales of alcohol that they wish to make.

For a relatively low, one-off fee a CAN user will be able to sell a limited amount alcohol (to be set out in regulations) over the course of three years between the hours of 7am and 11pm.

Community group users will be able to name up to three premises at which they intend to provide alcohol at organised events, with a maximum of 300 attendees. The alcohol sold at the event must also be ancillary to the main purpose of the event (such as a glass of wine at a play or with a lunch).

Ancillary business sellers will name single premises at which they will be making sales of alcohol. The sales must be ancillary to the goods or main service being provided and the alcohol must be consumed on the premises unless regulations provide otherwise. An example is a drink for paying guests at a B&B, although alcohol limits and circumstances of use for different groups will be set out in regulations.

A copy of the Home Office guidance sheet on Community and Ancillary Sellers Notices (CAN's) is attached at **Appendix A**.

The Home Office are yet to confirm a start date for this provision.

2.2 **Deregulation of Late Night Refreshment.**

On 1 October 2015, the Home Office issued revised guidance on the licensing of late night refreshment:

1. On or from premises which are wholly situated in a designated area;
2. On or from premises which are of a designated description; or
3. During a designated period (beginning no later than or earlier than 23:00 hours and ending no later than 05:00 hours).

The provision of late night refreshment is regulated primarily because it is often linked to alcohol-fuelled crime and disorder in the night-time economy, such as at fast-food takeaways where late-night drinkers congregate.

However, these safeguards may not be needed everywhere or for every type of late night refreshment business. For example, some late-night cafés serving hot drinks after 11pm may be located nowhere near pubs and nightclubs or areas associated with alcohol-related crime and disorder.

Paragraph 2A of Schedule 2 to the Licensing Act 2003 (as inserted by the Deregulation Act 2015) gives licensing authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment. Decisions to exempt supplies of late night refreshment are best made with local knowledge. The powers therefore allow licensing authorities to choose to apply an exemption specifically where they think it will be helpful to businesses and where there are no problems with antisocial behaviour or disorder associated with the night time economy. As well as freeing up the businesses in question from unnecessary costs, this can also provide greater flexibility for licensing authorities to target their resources more effectively.

The powers allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:

- On or from premises which are wholly situated in a designated area;

- On or from premises which are of a designated description; or
- During a designated period (beginning no earlier than 11:00pm and ending no later than 05:00 am).

Members of the Licensing Committee are asked to consider the points set out above, and to debate the possibility of de-regulation if considered appropriate for the borough. It should be noted that the de-regulation of this activity could lead to an increase in noise and disturbance for local residents and an increase in crime and disorder.

A copy of the Home Office guidance document on the de-regulation of Late Night Refreshment is attached at **Appendix B**.

2.3 **Amendment - Temporary Event Notices (TEN).**

From the 1st January 2016, the limit of temporary events that can be notified to the Licensing Authority in a calendar year has been increased from 12 events to 15 events.

2.4 **The Policing and Crime Bill – Proposed amendments to the Licensing Act 2003.**

The Policing and Crime Bill was introduced to Parliament on Wednesday 10 February 2016 and had its first reading in the House of Commons. The bill (relevant part is Part 7 of the bill) proposes to make the following amendments to the Licensing Act 2003:

- Amending the definition of alcohol to ensure that powered alcohol and vaporised alcohol fall within the definition;
- Amending the summary review process to allow licensing authorities to keep interim steps in place between the review hearing and the outcome of any appeal. Also amending section 53b to limit the number of times a licensee can make representations against the interim steps before the review hearing;
- Giving licensing authorities the power to revoke or suspend a personal licence when the holder is convicted of a relevant offence;
- Adding to the list of relevant offences; and
- Removing the requirement to lay the section 182 Guidance to Licensing Act 2003 document before Parliament when it is revised.

The full version of the Policing and Crime Bill can be found on the Parliament website by using the following link:

<http://services.parliament.uk/bills/2015-16/policingandcrime.html>

A copy of the relevant section (Part 7) of the Policing and Crime Bill is attached at **Appendix C**.

- 3. Alternative options.**
- 3.1 None for the purpose of this report.
- 4. Consultation undertaken or proposed.**
- 4.1 None for the purpose of this report.
- 5. Timetable.**
- 5.1 None for the purpose of this report.
- 6. Financial, resource and property implications.**
- 6.1 None for the purposes of this report.
- 7. Legal and statutory implications.**
- 7.1 None for the purposes of this report.
- 8. Human rights, equalities and community cohesion implications.**
- 8.1 These are statutory functions and are applied globally.
- 9. Crime and Disorder Implications.**
- 9.1 The service has a statutory duty to contribute to the reduction of crime and disorder within the London Borough of Merton under Section 17 Crime and Disorder Act 1988. The prevention of crime and disorder is also one of the licensing objectives as defined in the Licensing Act 2003 and in the Council's current Statement of Licensing Policy.
- 10. Risk management and health and safety implications.**
- 10.1 All risk and health and safety implications have been considered when compiling this report. None are apparent.
- 11. Appendices – the following documents are to be published with this report and form part of the report.**
- 11.1 **Appendix A** - Home Office guidance document on Community and Ancillary Sellers Notices.
- 11.2 **Appendix B** - Home Office guidance document on the deregulation of Late Night Refreshment.
- 11.3 **Appendix C** – Relevant section of the Policing and Crime Bill (Part 7) proposed amendment to the Licensing Act 2003 published on the Parliament website on Wednesday 10 February 2016.
- 12. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report.**
- 12.1 The Licensing Act 2003; and
- 12.2 Revised guidance issued under section 182 of the Licensing Act 2003.