

Committee: Licensing Committee

Date: 13 June 2017

Wards: All.

Subject: Reforms to the Licensing Act 2003 in the Policing and Crime Act 2017 and the Immigration Act 2016.

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 (part of the Regulatory Services Partnership).

Recommendations:

1. **Discuss the changes and amendments to the Licensing Act 2003 brought about by the Policing and Crime Act 2017 and the Immigration Act 2016.**
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2. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 2.1 To provide members of the Licensing Committee with information concerning amendments to the Licensing Act 2003 in connection with the following matters:

- Modern Crime Prevention Strategy 2016;
- Policing and Crime Act 2017; and
- Immigration Act 2016.

3. DETAILS.

3.1 Modern Crime Prevention Strategy 2016.

- 3.2 In March 2016 the Home Office published their Modern Crime Prevention Strategy, a copy of which can be found **at appendix "A"** containing six key drivers of crime, these are as follows:

- Opportunity;
- Character;
- Effectiveness of Criminal Justice System;
- Profit;
- Drugs; and
- Alcohol.

- 3.3 The key points of the Home Office Modern Crime Prevention Strategy document for the Council, as Licensing Authority, under the Licensing Act 2003 to consider, are summarised as follows:

- More power for local authorities and police;

- Improve the late night levy by making it more flexible for local areas, fairer to business and more transparent;
- Greater role for Policing and Crime Commissioners (PCC) given the right to request that a local authority consult on the introduction of a late night levy; and
- Put Cumulative Impact Policies on a statutory footing.

3.4 Some of the points set out in the Home Office Modern Crime Prevention Strategy have been included in the Policing and Crime Act 2017, which will have an effect, in the future, on the Council's Statement of Licensing Policy and the three Cumulative Impact Zones covering Wimbledon Broadway, Wimbledon Village and Mitcham Town Centre and the surrounding area.

4.1 Policing and Crime Act 2017

4.2 The Policing and Crime Act 2017, which received Royal Assent on the 31 January 2017, sets out a number of amendments to the Licensing Act 2003, which came into effect on the 6 April 2017, which are as follows:

- An amendment to section 5 of the Licensing Act 2003, which covers the Statement of Licensing Policy by inserting a new section 5a (1) Cumulative Impact Assessments;
- An amendment to the Police Reform and Social Responsibility Act 2011 in connection with the Late Night Levy, which will give more flexibility to local authorities to impose a Late Night Levy;
- An amendment in connection with summary reviews;
- An amendment in connection with Personal Licenses by giving similar powers as the court to licensing authorities to suspend or remove a personal licence from the holder;
- Schedule 4 of the Licensing Act 2003, which details relevant offences for personal licence holders, has been updated.
- An amendment to the definition of alcohol; and
- Proposed changes to future revision of the Home Office guidance, to the Licensing Act 2003, issued under S182.

4.3 The majority of these amendments, set out in the Policing and Crime Act 2017, came into effect on the 6 April 2017, following publication of Regulations and a Statutory Instrument, save for the provisions on Cumulative Impact and the Late Night Levy.

4.4 The amendment to s5 of the Licensing Act 2003, which covers the requirement for a Statement of Licensing Policy, has a new s5 (a) added, which deals with Cumulative Impact Assessments. This section, which is unlikely to be enacted until the Home Office Minister has considered any recommendation made by the House of Lords Select Committee, who have reviewed and published a report with suggested changes to the Licensing Act 2003, puts any proposed Cumulative Impact Assessment on a statutory footing (please see paragraph 4.9 of this report).

- 4.5 A further amendment to the Licensing Act 2003 introduces s5 (a) (1) which states, a Licensing Authority may publish a document (a Cumulative Impact Assessment) stating that the Licensing Authority considers that the number of relevant authorisations in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the Authority's duty (to promote the licensing objectives) to grant any further relevant authorisations (i.e. premises licenses or club premises certificates) in respect of premises in that part or parts of the borough. Before introducing a Cumulative Impact Assessment the Licensing Authority is required to undertake a formal public consultation processes. Any Cumulative Impact Assessment must set out evidence for the Licensing Authorities opinion for the introduction of a Cumulative Impact Assessment.
- 4.6 If the Licensing Authority publishes a Cumulative Impact Assessment, including detailed evidence following public consultation, the Cumulative Impact Assessment must be reviewed before the end of a three year period.
- 4.7 The Policing and Crime Act 2017 has introduced changes to the Police Reform and Social Responsibility Act 2011, which gave the Licensing Authority power to charge a Late Night Levy for premises licenced under the Licensing Act 2003, which sell alcohol beyond midnight.
- 4.8 In summary, the Late Night Levy is an additional charge the Licensing Authority could impose on licensed premises, which trade beyond midnight and before 06:00 hours in an area of the borough which is not covered by a BID. The requirements for Late Night Levy are summarised as follows:
- The Late Night Levy is an annual charge and it will apply to all licensed premises (except those deemed to be exempt by the Licensing Authority) throughout its geographical area trading during the Late Night Levy period.
 - The Late Night Levy will apply to premises where the premises licence or club premises certificate permits the sale of alcohol beyond midnight and before 6 am although the Licensing Authority can specify hours within the midnight to 6 am period when the Late Night Levy will apply.
 - 70% of the Late Night Levy fees collected by the Licensing Authority are payable to the Police. The Licensing Authority is permitted to remove administration and enforcement costs from the fees collected before the 70% payment is made to the Police. The remaining 30% can be used by the Council for street cleansing or other enforcement.
 - Before implementing the Late Night Levy the Licensing Authority is required to consult with the local chief of Police and the licensed trade.
 - The Late Night Levy will not apply to a temporary event notice.

- The Late Night Levy will not apply to a number of exempted premises, such as:
 - Premises with overnight accommodation;
 - Theatres and cinemas;
 - Bingo halls;
 - Community Amateur Sports Clubs;
 - Community premises;
 - New Year's Eve; and
 - Premises that are included in a Business Improvement District scheme (BID) (Richmond and Twickenham Town Centres are now covered by a BID).

- There is a scheme allowing the Late Night Levy to be reduced by up to 30% where there is a business-led best practice scheme or are in receipt of Small Business Rate Relief and a rateable value of under £12,000.

- The Licensing Authority is required to publish details of moneys collected by the Late Night Levy and where it is to be spent. The same requirement does not apply to the Police.

- There is no obligation on the Police to spend the money collected by the Late Night Levy on policing neither during the late night supply period nor in the area/borough where the Late Night Levy was collected.

- Non-payment of the Late Night Levy will result in a premises licence or club premises certificate being suspended.

- Premises licence holders will have the right to apply for a minor variation, free of charge, to reduce the hours shown on their premises licence to avoid paying the Late Night Levy.

4.9 The changes to the Police Reform and Social Responsibility Act 2011 for the Late Night Levy brought about by the Policing and Crime Act 2017 are as follows:

- The Late Night Levy can apply to a particular geographic area, rather than the whole borough.

- The Late Night Levy can apply to late night refreshment premises, as well as premises licensed for the sale by retail of alcohol.

- The local Police and Crime Commissioner (in the case London Boroughs, this post is held by the Mayor of London) may request a Licensing Authority to undertake a formal public consultation processes on implementing the Late Night Levy. Details of the outcome of the public consultation must be published.

- The Licensing Authority must publish information as to how it spends any monies collected under the Late Night Levy.

4.10 The Policing and Crime Act 2017 introduced changes to the Licensing Act 2003 in connection with an application for a Summary Review of a premises licence, and to interim steps, which can be imposed by a Licensing Sub-Committee at the request of the Police. It is now possible for a Licensing Sub-Committee to withdraw or to modify the interim steps imposed, at the early stages of the application processes, at the full review hearing. Furthermore, the premises licence holder will only be permitted to make further representations to the interim steps imposed, if there has been a material change in circumstances since the Licensing Sub-Committee made its determination.

4.11 The Policing and Crime Act 2017 amended the Licensing Act 2003 by giving the Licensing Authority that granted the personal licence the power to revoke or suspend a personal licence for up to six months following summary conviction by the holder of a relevant offence.

4.12 The list of relevant offences set out in schedule four of the Licensing Act 2003 for persons holding or applying for a personal licence has been updated to include the following offences:

- Sexual offences as listed in schedule 3 to the Sexual Offences Act 2003 (sexual offences for the purposes of notification and orders);
- An offence listed in Part 1 of schedule 15 to the Criminal Justice Act 2003 (specified violent offences);
- An offence under any of the following provisions of the Violent Crime Reduction Act 2006 (a) section 28 (using someone to mind a weapon) and section 36 (manufacture, import and sale of realistic imitation firearms); and
- An offence listed in section 41 of the Counter-Terrorism Act 2008 (terrorism offences).

4.13 Section 191 of the Licensing Act 2003 defines alcohol as:

- Spirits;
- Wine;
- Beer;
- Cider; or
- Any other fermented distilled or spirituous liquor (in any state).

Section 191 of the Licensing Act 2003 has been amended to include powdered alcohol and vaporised alcohol.

4.14 Section 182 Guidance to the Licensing Act 2003 will no longer require Parliamentary approval under section 142 of the Policing and Crime Act 2017. The Home Office have published a revised version of the Section 182 Guidance to the Licensing Act 2003, which reflects the amendments in the Immigration Act 2016 and the Policing and Crime Act 2017. A copy of this document is attached **at Appendix “B”**.

5 Immigration Act 2016

- 5.1 Schedule four of the Immigration Act 2016 sets out amendments to the Licensing Act 2003 in connection with the entitlement to work in the United Kingdom. The amendments to the Licensing Act 2003 took effect following the publication of Regulations and a Statutory Instrument, on the 6 April 2017.
- 5.2 Any person or persons wishing to apply for a premises licence, or a personal licence under the Licensing Act 2003, must now demonstrate that they have entitlement to work in the United Kingdom. The statutory application forms for the grant of a premises licence, or a personal licence, have been amended to include a section whereby the applicant is required to make a declaration, and provide a copy of documentary evidence to the relevant Licensing Authority of their entitlement to work in the United Kingdom.
- 5.3 The Home Office Immigration Service, and/ or the United Kingdom Border Agency, is now a Responsible Authority under the Licensing Act 2003.

6. Alternative options.

- 6.1 None for the purpose of this report.

7. Consultation undertaken or proposed.

- 7.1 None for the purpose of this report.

8. Timetable.

- 8.1 None for the purpose of this report.

9. Financial, resource and property implications.

- 9.1 None for the purposes of this report.

10. Legal and statutory implications.

- 10.1 None for the purposes of this report.

11. Human rights, equalities and community cohesion implications.

- 11.1 These are statutory functions and are applied globally.

12. Crime and Disorder Implications.

- 12.1 None for the purpose of this report.

13. Risk management and health and safety implications.

- 13.1 All risk and health and safety implications have been considered when compiling this report. None are apparent.

14. Appendices – the following documents are to be published with this report and form part of the report.

- 14.1 **Appendix A** – Home Office - Modern Crime Prevention Strategy 2016.
14.2 **Appendix B** – Revised Section 182 Guidance under the Licensing Act 2003 (dated April 2017).