



LICENSING COMMITTEE

Thursday 24 November 2011

To be held immediately following the meeting of the Commissioning Board

Council Chamber, Ryedale House, Malton

Agenda

1 Emergency Evacuation Procedure

The Chairman to inform Members of the Public of the emergency evacuation procedure.

2 Apologies for absence

3 Minutes of the Meeting Held on 2 June 2011

(Pages 1 - 2)

4 Urgent Business

To receive notice of any urgent business which the Chairman considers should be dealt with at the meeting as a matter of urgency by virtue of Section 100B(4)(b) of the Local Government Act 1972.

5 Declarations of Interest

Members to indicate whether they will be declaring any interests under the Code of Conduct.

Members making a declaration of interest at a meeting of a Committee or Council are required to disclose the existence and nature of that interest. This requirement is not discharged by merely declaring a personal interest without further explanation.

PART 'A' ITEMS - MATTERS TO BE DEALT WITH UNDER DELEGATED POWERS OR MATTERS DETERMINED BY COMMITTEE

6 Gambling Act 2005 - Setting of Fees

(Pages 3 - 10)

- 7 **Hackney Carriage Fares 2012/13** (Pages 11 - 14)
- 8 **Consultation on Proposals to Examine the Deregulation of Schedule One of the Licensing Act 2003 - Regulated Entertainment** (Pages 15 - 28)
- 9 **The Police Reform and Social Responsibility Act 2011** (Pages 29 - 38)
- 10 **Any other business that the Chairman decides is urgent.**

Licensing Committee

Held at Council Chamber, Ryedale House, Malton
on Thursday 2 June 2011

Present

Councillors Mrs Cowling, Mrs Frank, Hope, Ms Sanderson, Hicks, Fraser, Walker,
Richardson and Andrews

In Attendance

Fiona Brown, Phil Long, Julian Rudd and Nicki Lishman

Minutes

1 Chairman

It was proposed by Councillor Mrs Cowling and seconded by Councillor Hope that Councillor Mrs Frank be elected Chairman of the Licensing Committee

Resolved

That Councillor Mrs Frank be elected Chairman of the Licensing Committee

2 Vice Chairman

It was proposed by Councillor Mrs Frank and seconded by Councillor Hicks that Councillor Hope be elected Vice-Chairman of the Licensing Committee.

Resolved

That Councillor Hope be elected Vice-Chairman of the Licensing Committee

3 Apologies for absence

Apologies for absence were received from Councillor Woodward and Councillor Mrs Denniss.

4 Minutes of the last meeting of the Licensing Committee held on 27 January 2011

The minutes of the meeting held on 27 January 2011 were presented.

Resolved

That the minutes of the meeting held on 27 January 2011 be approved and signed by the Chairman as a correct record.

5 **Urgent Business**

The Chairman reported that there were no items of urgent business to be considered.

6 **Declarations of Interest**

No declarations of interest were received.

7 **Any other business that the Chairman decides is urgent.**

There were no items of urgent business.

The meeting closed at 9.30 p.m.



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	LICENSING COMMITTEE
DATE:	24 NOVEMBER 2011
REPORT OF THE:	HEAD OF ENVIRONMENT PHIL LONG
TITLE OF REPORT:	GAMBLING ACT 2005 - SETTING OF FEES
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 To seek Member approval for the setting of fees under the provisions of the Gambling Act 2005

2.0 RECOMMENDATION

- 2.1 It is recommended that Members approve the fees recommended in Annex B.

3.0 REASON FOR RECOMMENDATION

- 3.1 The setting of fees must relate to the costs incurred by the local authority and be defensible.

4.0 SIGNIFICANT RISKS

- 4.1 The fees have been calculated in accordance with LACORS/Local government Regulation guidance and have been benchmarked against other North Yorkshire authorities and are defensible if challenged.

REPORT

5.0 BACKGROUND AND INTRODUCTION

- 5.1 Under the provisions of section 154(2)(b) of the Gambling Act 2005, the Licensing Authority has the discretion to delegate the decision on the setting of fees to the Licensing Committee. This delegation was approved by Council on 8 March 2007.

6.0 POLICY CONTEXT

- 6.1 The following Policies have informed this report:

- Council Plan 2009-13
- Health and Environment Service Delivery Plan
- Budget Policy 2012/13

7.0 CONSULTATION

7.1 No consultation has taken place in revising these fees.

8.0 REPORT DETAILS

8.1 Section 154 of the Gambling Act 2005 provides that all decisions relating to premises licences are delegated to the Licensing Committee of the authority that has been established under section 6 of the Licensing Act 2003, except:

- A resolution not to issue casino licences, which must be taken by the whole authority;
- Functions in relation to the three-year licensing policy, which must be taken by the whole authority; and
- Setting fees (to the extent that a licensing authority has delegated power in relation to fees). The Licensing Authority can delegate decisions to the Licensing Committee, but there is no automatic delegation, so each authority must decide its approach to setting fees.

The power of setting of fees was delegated to the Licensing Committee by Council on 8 March 2007.

8.2 The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 provide that the following types of fees are to be determined by licensing authorities:

- Licence application fee
- First annual fee
- Annual fee
- Notification of a change of circumstance fee
- Application to vary a licence fee
- Application to transfer a licence fee
- Fee for a copy of a licence
- Application for reinstatement of a licence fee
- Provisional statement application fee

8.3 Part 9 of the Gambling Act 2005 allows the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Applications for Temporary Use Notices under the Gambling Act 2005 may be made to the Licensing Authority. In accordance with The Gambling Act (Temporary Use Notices) Regulations 2007, the Licensing Authority must determine the fee payable under Section 219(b) of the Act and this amount must not exceed £500 for the fee and £25 for an endorsed copy of the Temporary Use Notice.

8.4 In each case, the fee determined by a Licensing Authority must not exceed a maximum fee specified in the relevant regulation. Section 212 of the Act requires that the income from fees as near as possible equates to the costs of providing the service to which the fee relates. For the Licensing Authority this means that the service should be cost neutral. In determining application and other fees licensing must ensure that these are limited to recovery of the costs of carrying out their functions under the Act. Licensing Authorities are required to review their fees on an annual basis. The suggested discretionary fees have been increased in line with the

2012/13 Revenue Budget and are available in Annex B. This has resulted in three of the fees reaching the maximum level. The cost of copies of documents has been increased to the maximum and in line with other North Yorkshire local authorities.

9.0 IMPLICATIONS

9.1 The following implications have been identified:

a) Financial

The Gambling (Premises Licences Fees)(England and Wales) Regulations 2007 and The Gambling Act (Temporary Use Notices) Regulations 2007, require the Licensing Authority to set fees for the granting of premises licences. The regulations set the maximum fee payable for each category of gambling premises licence and allow Licensing Authorities to determine their own fees, on a cost recovery basis. This means the service should be cost neutral. Licensing Authorities have to review their fees annually to ensure that the income from the premises licence fees in any one accounting period (i.e. in any full year) does not exceed the full costs incurred by the authority in carrying out the relevant functions.

b) Legal

There are no significant legal issues arising from this report.

c) Other

There are no significant other issues arising from this report.

Phil Long
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Background Papers:
None.

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GAMBLING ACT 2005 – SETTING OF FEES - RISK MATRIX

Issue/Risk	Consequences if allowed to happen	Likelihood	Impact	Mitigation	Mitigated Likelihood	Mitigated Impact
Failure to review and set fees for 2012/13	Revised fees would be unable to be charged	2	B	Committee Report recommends fee level for 2012/13	1	A

Score	Likelihood	Score	Impact
1	Very Low	A	Low
2	Not Likely	B	Minor
3	Likely	C	Medium
4	Very Likely	D	Major
5	Almost Certain	E	Disaster

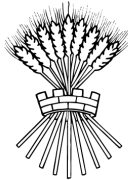
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SCHEDULE - Table of proposed fees for 2012/13

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>	<i>Column (4)</i>	<i>Column (5)</i>	<i>Column (6)</i>	<i>Column (7)</i>	<i>Column (8)</i>	<i>Column (9)</i>
<i>Classes of premises licence</i>	<i>Maximum conversion application fee for non-fast track application</i>	<i>Maximum non-conversion application fee in respect of provisional statement premises</i>	<i>Maximum non-conversion application fee in respect of other premises</i>	<i>Maximum annual fee</i>	<i>Maximum fee for application to vary licence</i>	<i>Maximum fee for application to transfer a licence</i>	<i>Maximum fee for application for reinstatement of a licence</i>	<i>Maximum fee for application for provisional statement</i>
Regional casino premises licence		£8,000	£15,000	£15,000	£7,500	£6,500	£6,500	£15,000
Large casino premises licence		£5,000	£10,000	£10,000	£5,000	£2,150	£2,150	£10,000
Small casino premises licence		£3,000	£8,000	£5,000	£4,000	£1,800	£1,800	£8,000
Converted casino premises licence	£2,000			£3,000	£2,000	£1,350	£1,350	
Bingo premises licence	£1,750	£1,200	£3,500	£1,000	£1,750	£1,200	£1,200	£3,500

Column (1)	Column (2)	Column (3)	Column (4)	Column (5)	Column (6)	Column (7)	Column (8)	Column (9)
<i>Classes of premises licence</i>	<i>Maximum conversion application fee for non-fast track application</i>	<i>Maximum non-conversion application fee in respect of provisional statement premises</i>	<i>Maximum non-conversion application fee in respect of other premises</i>	<i>Maximum annual fee</i>	<i>Maximum fee for application to vary licence</i>	<i>Maximum fee for application to transfer a licence</i>	<i>Maximum fee for application for reinstatement of a licence</i>	<i>Maximum fee for application for provisional statement</i>
Adult gaming centre premises licence	£1,000	£1,200	£2,000	£1,000	£1,000	£1,200	£1,200	£2,000
Betting premises (track) licence	£1,250	£950	£2,500	£1,000	£1,250	£950	£950	£2,500
Family entertainment centre premises licence	£1,000	£950	£1,230 (£1,180)	£370 (£355)	£1,000	£950	£950	£1,230 (£1,180)
Betting premises (other) licence	£1,230 (£1,180)	£1,200(max) (£1,180) £1,200 max	£1,230 (£1,180)	£370 (£355)	£1,230 (£1,180)	£1,200(max) (£1,180) £1,200 max	£1,200(max) (£1,180) £1,200 max	£1,230 (£1,180)

N.B. Proposed discretionary fees emboldened. This years fees in brackets. All other fees set at maximum levels. Temporary Use Notice fee £500. Copy of licence/other document £25, change of circumstances – Fee £50 (£12.50)



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	LICENSING COMMITTEE
DATE:	24 NOVEMBER 2011
REPORT OF THE:	HEAD OF ENVIRONMENT PHIL LONG
TITLE OF REPORT:	HACKNEY CARRIAGE FARES 2012/13
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

1.1 To recommend an increase to the hackney carriage table of fares in 2012/13.

2.0 RECOMMENDATION

2.1 It is recommended that Members approve the following changes in Hackney Carriage fares:

- Flagfall distance to change from 0.8 mile to 0.5 mile
- Subsequent distance to change from 1/17th mile to 1/18th mile
- Call out charge to increase from £10 to £12 and then to reflect multiplier in tariff bands i.e. 1.2 for tariff 2 and 1.5 for tariff 3.

3.0 REASON FOR RECOMMENDATIONS

3.1 The Hackney Carriage fares are subject to annual review with representatives of the taxi licensing trade and all have agreed that fares should increase in 2012/13. There has been no increase in fares since April 2008.

4.0 SIGNIFICANT RISKS

4.1 The Council have a duty to review fares on a regular basis or when asked to do so by representatives of the taxi trade.

5.0 POLICY CONTEXT AND CONSULTATION

5.1 Consultation has been carried out with members of the taxi trade with agreement from the Taxi & Private Hire Association

REPORT

6.0 REPORT DETAILS

- 6.1 Hackney Carriage Fares have been reviewed annually however they have not been increased since April 2008.
- 6.2 With increasing costs of fuel, approx 22% increase in diesel and 28% for petrol, the licensed taxi drivers are struggling to continue to absorb these costs.
- 6.3 The proposed table of fares for 2012/13 are detailed in Appendix 1 and are comparable with neighbouring councils.
- 6.3 The proposed changes to the fare structure are summarised below, the changes will allow the taxi drivers to charge more for shorter journeys when fuel consumption is at its highest:-
- Flagfall distance to change from 0.8 mile to 0.5 mile
 - Subsequent distance to change from 1/17th mile to 1/18th mile
 - Call out charge to increase from £10 to £12 and then to reflect multiplier in tariff bands i.e. 1.2 for tariff 2 and 1.5 for tariff 3.

Table 1: Proposed Increase Comparison.

Distance	Current	Proposed	Increase	%
1 mile	£3.30	£3.90	0.60p	18%
2 miles	£5.00	£5.70	0.70p	14%
3 miles	£6.70	£7.50	0.80p	12%
5 miles	£10.10	£11.10	1.00p	10%
10 miles	£18.60	£20.10	1.50p	8%

7.0 IMPLICATIONS

- 7.1 The following implications have been identified:
- a) Financial
There are no financial implications to the Council as the fares set are the maximum charges that hackney carriages may recover from their customers. The meters in the hackney carriage vehicles are tested by the Council to ensure they are set in accordance with the predetermined fare structure.
- b) Legal
The Council has a legal obligation to review the fares upon request.
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)
None

8.0 NEXT STEPS

- 8.1 Once the fares have been approved the new tariffs will be advertised as a public notice and will come into effect on 1 April 2012, following a statutory appeal period.

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Background Papers:
None



HACKNEY CARRIAGE FARES 2012/2013

TARIFF 1 - STANDARD RATE (6.00am to 11.00pm)

For the first 880yds (0.5 mile) or 3 minutes 50 seconds waiting time or a combination of both	£3.00
For each succeeding 97.8yds (1/18 th mile) or 25 seconds waiting time	10p
CALL OUT CHARGE – Maximum to be added to any one journey at any one time	£12.00

TARIFF 2 - NIGHT TIME RATE (11.00pm to 6.00am)

For the first 880yds (0.5 mile) or 3 minutes 50 seconds waiting time or a combination of both	£3.60
For each succeeding 176yds (1/10 th mile) or 46 seconds waiting time	22p
CALL OUT CHARGE – Maximum to be added to any one journey at any one time	£15.00

TARIFF 3 – Xmas Eve, New Years Eve from 6pm and all day Bank Holidays (to 6am the following day)

For the first 1056yds (0.5 mile) or 3 minutes 50 seconds waiting time or a combination of both	£4.50
For each succeeding 176yds (1/10 th mile) or 46 seconds waiting time	27p
CALL OUT CHARGE – Maximum to be added to any one journey at any one time	£18.00



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	LICENSING COMMITTEE
DATE:	24 NOVEMBER 2011
REPORT OF THE:	HEAD OF ENVIRONMENT PHIL LONG
TITLE OF REPORT:	CONSULTATION ON PROPOSALS TO EXAMINE THE DEREGULATION OF SCHEDULE ONE OF THE LICENSING ACT 2003 - REGULATED ENTERTAINMENT
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to present the Governments consultation proposals on the examination of deregulation of Schedule One of the Licensing Act 2003 and to agree a response to those proposals.

2.0 RECOMMENDATION

It is recommended that, subject to any amendments proposed by the Committee, the response to the consultation "Regulated Entertainment: A Consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003", as contained in Annex 1 to this report be approved.

3.0 REASON FOR RECOMMENDATION

- 3.1 The Department for Culture, Media and Sport (DCMS) has recently issued its consultation paper, "Regulated Entertainment: A Consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003". The Licensing Team has considered the paper and drafted a response to the consultation which is attached as Appendix 1 to this report. The response must be submitted by the 2 December 2011.

4.0 SIGNIFICANT RISKS

- 4.1 Any deregulation of Schedule One entertainment may result in more noise complaints with additional costs incurred in their investigation and enforcement.

REPORT

5.0 BACKGROUND AND INTRODUCTION

- 5.1 The Department for Culture, Media and Sport (DCMS) is currently consulting on proposals to examine the deregulation of Schedule One of the Licensing Act 2003. The proposals would have a significant effect on the way that entertainment is regulated.

6.0 POLICY CONTEXT

- 6.1 Not applicable.

7.0 CONSULTATION

- 7.1 Not applicable.

8.0 REPORT DETAILS

- 8.1 The DCMS has recently issued its consultation paper, "Regulated Entertainment: A Consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003".

Due to the length of the document and associated printing costs, a copy of the consultation paper has not been printed for distribution. The document is available to view on the DCMS website at:- <http://www.culture.gov.uk/consultations/8408.aspx>. Hard copies can be provided upon request. A list of the questions being asked in this consultation paper and a proposed response to each is attached at Appendix 1.

- 8.2 The Government is proposing a reform of activities currently classed as "regulated entertainment" in Schedule One of the Licensing Act 2003. The consultation seeks views on the removal of the requirement for entertainment, which is currently regulated by the Licensing Act 2003, to be deregulated. This would mean that no licences or Temporary Event Notices would be required for authorising activities such as live music, recorded music, exhibition of film, and in many cases these could take place without any restrictions and without the knowledge of Local Authorities and Emergency Services.
- 8.3 The main concerns being highlighted in the proposed response relate to the potential impact of increased noise complaints and the corresponding financial burden for local authorities and local communities when dealing with the problems arising from unregulated entertainment.
- 8.4 Responses to this type of consultation are normally completed and returned by the Licensing Team. On this occasion, due to the nature of the proposed changes and the impact that they may have on a wide range of services within the Council, a copy of the consultation and proposed response is being made available for consideration by the Committee.

9.0 IMPLICATIONS

- 9.1 The following implications have been identified:
- a) Financial

A deregulation of entertainment under Schedule One of the Act may result in a

very small reduction (one) in the number of licensed premises. Where community premises are authorised only for regulated entertainment, and not sale by retail of alcohol, no fees are chargeable, so there would be little expected change to annual income. In 2010, a total of 20 (7.6%) of the applications made for Temporary Event Notices were to authorise regulated entertainment only. This would equate to a reduction in income of £420. The greater impact on resources may arise from increased noise complaints from exempt entertainment, which at present is regulated through conditions on premises licences.

- b) Legal
There are no significant legal issues arising from this report.
- c) Other
There are no significant other issues arising from this report.

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Background Papers:
Nil

SUMMARY LIST OF QUESTIONS**Proposal Impacts: Questions**

Q1: Do you agree that the proposals outlined in this consultation will lead to more performances, and would benefit community and voluntary organisations? If yes, please can you estimate the amount of extra events that you or your organisation or that you think others would put on?

The breadth of potential activities under the banner of ‘regulated entertainment’ is wide ranging, and has caught a number of activities which previously were exempted from the licensing requirements for public entertainment (for example, duos and pianists in a bar). Whilst it is fair to say that some activities pose little risk to promotion of the licensing objectives, such as some of the more exceptional/anecdotal examples given in the consultation document at para 1.5, others that are far more commonplace e.g live music can pose significant risk to the prevention of public nuisance objective in particular. There is no evidence but it would seem likely that the number of performances would increase if regulations were relaxed.

However, the current licensing process also alerts Local Authorities to other regulatory aspects of an event or activity that may require their further ‘joined-up’ attention (for example health and safety, planning, police, smoke-free regulations or food safety). This can also necessitate input from other partners such as the Highways Authority, Ambulance Services, Community Safety or Safety Advisory Group. Licensing forms an integral part of the toolkit necessary to help control venues/events and also manage safe and vibrant night time economies. Licensing is clearly not just a ‘red tape’ or administrative exercise nor do the licensing objectives only become engaged through supply of alcohol activity. There are existing exemptions within Schedule 1 of the act which are applicable to some of those activities cited in paragraph 1.5, for example:

- Music performances to hospital patients
- Costumed storytellers
- Pianists in restaurants
- Magicians shows

Popular regulated entertainment events/activities, whether held indoors or outdoors, include ‘club nights’, promoted DJs, ‘drum’n’bass’ performances, battles of the bands, discos and light shows, amplified group performances, festivals, karaoke, open-mic night, and third-party hirings (including events then opened up to anyone to attend via social networking sites). These activities can clearly have a significant impact on promotion of the licensing objectives depending on when, where, their frequency, capacity, performers, and the control measures in place.

It seems therefore right and proper that a prior assessment, and recording, of all potential events/activities is made and this generally works well under the existing licensing framework. It is logical that this pro-active and balanced mechanism should continue.

Q2: If you are replying as an individual, do you think this proposal would help you participate in, or attend, extra community or voluntary performance?

n/a

Q3: Do you agree with our estimates of savings to businesses, charitable and voluntary organisations as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures that you think need to be taken into account (see paragraph 57 of the Impact Assessment).

The figures are likely to be inaccurate for the following reasons:

- During the year 2010/2011 this authority received 16 new licence applications and 7 variations **none** of which related to the provision of regulated entertainment only, all applications involved the sale of alcohol. This does not reflect the estimated 10.4% of applications the DCMS predict for new and varied licences for regulated entertainment only.
- Disagree with the estimated number of licences issued solely for regulated entertainment where an annual fee applies. In this district non alcohol licensed premises currently account for **0.35%** of the total no premises attracting an annual fee.
- No reasoning has been provided for the estimated burden lifted for TENs at paragraph 58 of the impact assessment, and this seems to be contradicted by paragraph 59. In this authority only 7.6% of all TEN applications for the year 2010 were for regulated entertainment only, the remaining 92.4% also involved the sale of alcohol

Q4: Do you agree with our estimates of potential savings and costs to local authorities, police and others as outlined in the impact assessment? If you do not, please outline the areas of difference and any figures you think need to be taken into account.

No, as can be seen from above, this authority would not expect any appreciable savings as all new/variation applications for 2010/2011 have **all** included the sale of alcohol

Q5: Would you expect any change in the number of noise complaints as a result of these proposals? If you do, please provide a rationale and evidence, taking into account the continuation of licensing authority controls on alcohol licensed premises and for late night refreshment

It is likely that there would be a significant increase in the number of noise complaints resulting from a de-regulation of Schedule 1.

Currently in this authority the split between alcohol and non alcohol licensed premises is as set out below:

Licence Type	Alcohol	Non –alcohol(fee)
Premises	343	1
Club	19	0

We disagree with the sweeping statement in the consultation document in para 3.3 that “regulated entertainment itself in general poses little risk to the licensing objectives” and this assertion is contrary to our own experience of the 2003 Act, public perception, case law and the current guidance issued under section 182 of the 2003 Act. Most of this authority’s hearings are a result of relevant representations from local communities who have responded in numbers (including petitioning and campaign groups) to oppose applications that include amplified live or recorded music. This is particularly true of applications in residential or noise sensitive locations or in areas with higher densities of elderly persons or families with young children. It can be a very emotive subject for local residents and

businesses with real potential to impact negatively on people's quality of life, amenity and the licensing objectives.

Our experience of representations against applications is that the majority centre on concerns about the impact on their amenity of noise from regulated entertainment. Few representations from interested parties raise concerns directly about the impact of the sale of alcohol.

Complaints lodged with both the Council's licensing team and environmental health services also support our views that concern over noise from regulated entertainment is consistently the issue of greatest concern to local residents. This is particularly true with respect to events which operate under TENs, where local residents have no right of consultation, and often little warning of the event. The proposals appear contradictory to the reforms introduced by the Police Reform and Social Responsibility Act 2011 which expands the meaning of "relevant person"(Section 122) in relation to TENS to allow Environmental Health Officers to object to TENS in relation to "minimising or preventing the risk of pollution of the environment..". This provision will in future allow them to make representations where they consider noise from public entertainment will be an issue. It is the noise generated by the event that is a problem, not the impact on other licensing objectives. Our experience does not therefore sit well with the statement in the consultation document at 2.21 that the Impact Assessment has found that 'there are expected to be substantial benefits to individual and collective wellbeing due to extra provision of entertainment...'. We would suggest that wholesale de-regulation will, in not an insignificant number of instances, have an opposite outcome.

Section 2.33 of the s182 guidance states that "it is important to remember that the prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined in the 2003 Act) in the vicinity of licensed premises."

'Public nuisance' under the Licensing Act 2003 'retains its broad common law meaning' according to para 2.33 of s182 and case law precedents would indicate it is a question of fact in every case. It is therefore proper that consideration at both an individual and local level should continue to be made via a licensing process.

The licensing system provides a good balance between the rights of neighbours not to be disturbed and rights of the licensed establishments. This is evidenced by the fact that we deal with very few representations, as the Licensing Act 2003 allows any issues to be resolved informally, quickly and without bureaucracy.

Q6: The Impact Assessment for these proposals makes a number of assumptions around the number of extra events, and likely attendance that would arise, if the deregulation proposals are implemented. If you disagree with the assumptions, as per paragraphs 79 and 80 of the Impact Assessment, please provide estimates of what you think the correct ranges should be and explain how those figures have been estimated.

We cannot reasonably estimate correct ranges at this stage.

Q7: Can you provide any additional evidence to inform the Impact Assessment, in particular in respect of the impacts that have not been monetised?

No

Q8: Are there any impacts that have not been identified in the Impact Assessment?

No

Q9: Would any of the different options explored in this consultation have noticeable implications for costs, burdens and savings set out in the impact assessment? If so, please give figures and details of evidence behind your assumptions.

We believe that a general de-regulation of Schedule 1 of the Licensing Act would be likely to have significant implications for environmental health services in dealing with complaints about noise from local residents.

Q10: Do you agree that premises that continue to hold a licence after the reforms would be able to host entertainment activities that were formerly regulated without the need to go through a Minor or Full Variation process?

This is a difficult issue potentially and should be assessed very carefully, otherwise there will be an inequality between existing premises and new premises licences. Licences may have generic controls to both prevent public nuisance generally or some very specific controls linked to a specific activity. Some conditions also promote more than one objective. Removal of the activity may lead to confusion over the enforceability and/or wording of remaining conditions for licence holders and regulators alike. As a result, a variation or minor variation may be preferential for the sake of clarity. This would obviously have a major cost and resource implication on licensees and relevant authorities. Licences would need to be considered individually and also some going through full variation process could potentially be subject to further representation and hearings. If given the option, licence holders will undoubtedly vary licences to remove conditions in significant numbers to reduce their potential liability. Depending on any transitional arrangements this could mean a glut of de-regulatory variations for the LA, and responsible authorities, to process.

The Role of Licensing Controls: Questions

Q11: Do you agree that events for under 5,000 people should be deregulated across all of the activities listed in Schedule One of the Licensing Act 2003?

No, 5,000 people is too large a number. The potential for disturbance, crime and disorder and public safety problems are huge. Most event organisers are grateful that the licensing process gives them access to expert advice from the regulators whilst giving ultimate control over those who do not meet the standard. To allow anyone to put on such events would give good professional operators unfair competition and would leave customers disappointed or even endangered by their experience.

Q12: If you believe there should be a different limit – either under or over 5,000, what do you think the limit should be? Please explain why you feel a different limit should apply and what evidence supports your view.

Were it to be events for under 500 (i.e. events that would normally be covered by a TEN), this would make more sense. However, setting a limit is arbitrary. Even small scale events e.g. a live band playing in a pub or beer garden, can affect the licensing objectives, and therefore each event should be assessed locally and on its individual merits, with a mechanism for local community input. The main issue is amplified live and recorded music and the suitability of the premises. The proposal strikes no balance between say allowing 2 performers in a pub and up to an audience of 5,000. One option would be to exempt the low

risk activities as in paragraph 1.5 of the consultation from the definition of “regulated entertainment”.

Q13: Do you think there should be different audience limits for different activities listed in Schedule One? If so, please could you outline why you think this is the case. Please could you also suggest the limits you feel should apply to the specific activity in question.

This would be likely to be too complex and cause confusion and challenge to the regulatory scheme, particularly where more than one type of activity is provided. Experience of outdoor events particularly is that they encompass a wide range of the activities identified under Schedule 1 as regulated entertainment.

Q14: Do you believe that premises that would no longer have a licence, due to the entertainment deregulation, would pose a significant risk to any of the four original licensing objectives? If so please provide details of the scenario in question.

Yes, particularly prevention of public nuisance and public safety. Village Halls in particular have little experience, or resources available to ensure public safety, and the licensing regime provides an opportunity to ensure that these factors are considered.

Many village halls and community centres let their premises out to different groups and individuals for parties and receptions which could have a significant impact on noise in the vicinity, and the amenity of the local area. This is particularly true with respect to lettings for birthday parties, which can often cause a nuisance.

We strongly believe the licensing objectives, ‘big society’ principles and local democracy would be undermined by deregulation due to the reasons and scenarios contained within our response commentary.

Q15: Do you think that outdoor events should be treated differently to those held indoors with regard to audience sizes? If so, please could you explain why, and what would this mean in practice.

Yes, this is because outdoor events are often held by individuals and groups who may have little or no experience in organising such complex activities. Some activities such as wedding marquees with entertainment can be unsuitable but become semi-permanent premises. Further more, these events are generally a greater risk to public safety and public nuisance, particularly where they take place over a short period of time and there may be limited investment of resources.

Outdoor events generally carry particular risks and special considerations. Again it is our experience of the 2003 Act that some small-scale indoor events have much the same potential for causing public nuisance, which has been identified by section 2.33 of the statutory guidance and case law. Audience size/capacity is therefore something that should be assessed individually on its merits together with the event, the type of activity and the site proposals.

Q16: Do you think that events held after a certain time should not be deregulated? If so, please could you explain what time you think would be an appropriate cut-off point, and why this should apply.

Yes, events taking place after 23:00 and before 08:00 hours should not be de-regulated. Local residents should have a greater say over activities likely to cause nuisance at times when they are likely to have a greater detrimental impact on the amenity of their residences.

Frequency as well as actual timings is very important to local residents. Blanket-setting of timings is arbitrary but generally more sensitive periods of the day or night are likely to attract more complaints. A noisy activity, such as thumping bass of a rock band or karaoke/disco, has the potential for impacting on the licensing objectives at any time of the day depending on where it is taking place.

Q17: Should there be a different cut off time for different types of entertainment and/or for outdoor and indoor events? If so please explain why.

Too many options are likely to make the regime too complex to enforce and add to “red tape” rather than remove it. Although the difference between indoor and outdoor events can generally be easily distinguished, in many cases, more than one type of entertainment is provided during an event, and therefore different cut off times for different activities would be likely to be impractical and the subject of dispute.

Q18: Are there alternative approaches to a licensing regime that could help tackle any potential risks around the timing of events?

No. We strongly believe that the current licensing system is already the fairest, most inclusive, balanced and locally determined and accountable method of achieving this. The LA2003 is clearly better, and less onerous, than the several individual licensing regimes that preceded it.

Q19: Do you think that a code of practice would be a good way to mitigate potential risks from noise? If so, what do think such a code should contain and how should it operate?

No, there is no point in having an unenforceable code of practice. We believe that this is a backward step from the individually considered, pro-active, proportionate, individually tailored and enforceable controls we have via the licensing system. Whilst many operators are responsible, and volunteer some excellent conditions, there are unfortunately other poor or inexperienced operators that would be unlikely to comply with any voluntary and unenforceable code. Controls should be considered and applied locally, based on local circumstances and Licensing Authorities now have considerable expertise in balancing this. The scale and scope of potential activities under the banner of ‘regulated entertainment’ is so wide that any generic or pick-list type of Code of Practice is going to be difficult to develop and unlikely to achieve adequate controls. Standard type conditions under the old PEL system were similarly flawed when compared to the LA2003 process. Paragraph 10.13 of s182 guidance endorses this approach:

“The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned. This rules out standardized conditions which ignore these individual aspects.”

Q20: Do you agree that laws covering issues such as noise, public safety, fire safety and disorder, can deal with potential risks at deregulated entertainment events? If not, how can those risks be managed in the absence of a licensing regime?

They can but we don’t think all the above mentioned issues can be properly managed in the absence of a licensing regime. In many cases, health and safety legislation depends upon the employment of individuals for it to have effect. Under new Health and Safety Executive guidance such premises would not be a priority for local authority enforcement. The Fire service have made it clear that the regulatory reform act does not apply where a premises

does not exist (e.g. where there is no physical building). Noise abatement notices would be of little help to residents where a wide range of activities organised by different individuals and organisations are taking place on open land, for example. Police powers of closure for the purposes of noise nuisance, and local authority powers for warning or seizure only apply to licensed premises. If a premises were to provide regulated activity without retail sale or supply of alcohol, or late night refreshment, and therefore no longer require a premises licence, then these powers could not be used. If reliance is placed on noise nuisance legislation a good level of evidence will be required and be retrospective. The provisions of the Licensing Act 2003 allows control by condition. The knowledge that the EHO could make a representation for a review of the licence following noise complaints/breach of conditions is normally sufficient to resolve issues arising from entertainment noise

The current licensing system is mature, balanced and works well, with some excellent licences in place to both offer the flexibility and diversity operators need but also adequately promoting the licensing objectives and protecting the rights of interested parties. Licensing is the most suitable methodology for assessing and managing risk linked to promotion of the licensing objectives and it clearly encourages partnership working.

Q21: How do you think the timing / duration of events might change as a result of these proposals? Please provide reasoning and evidence for any your view.

We believe that de-regulation will lead to more uncontrolled events, later into the night or at other sensitive times (or even continuous over days at some festivals), more complaints and the very real risk of some major consequences and incidents in relation to public safety, prevention of public nuisance, protection of children from harm and crime and disorder. You could have an outdoor event taking place, with no prior notice to relevant authorities, in an area unsuitable or dangerous where there is no sale of alcohol (e.g. people bringing their own alcohol), with camping, staging, amplification, parking etc for 4999 people totally uncontrolled and without any time limit, identifiable or contactable organiser, without risk assessments or any consideration of promotion of licensing objectives. This type of scenario is of major concern.

Q22: Are there any other aspects that need to be taken into account when considering the deregulation of Schedule One in respect of the four licensing objectives of the Licensing Act 2003?

See response to Q20 re powers available to police and local authorities to control noise, where premises are not licensed (severely limited). Para 3.4 of the consultation assumes that all crime and disorder problems result from alcohol, but experience of police and licensing authorities indicates, that, certain types of music (particularly DJ's and MC's associated with particular groups) can result in crime and disorder issues. If entertainment is de-regulated, there may be little or no control over temporary music events where no alcohol is sold (raves).

Performance of Live Music: Questions

Q23: Are there any public protection issues specific to the deregulation of the performance of live music that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

The consultation assumes, that health and safety and the fire service would be aware of unregulated events. If events are only regulated where there is a sale of alcohol, a range of events which could have an impact on public protection could take place without any controls or guidance. No opportunity will exist to send out guidance information to event organisers as at present.

Q24: Do you think that unamplified music should be fully deregulated with no limits on numbers and time of day/night? If not, please explain why and any evidence of harm.

Un-amplified music and un-amplified singing are the only activities which would be likely to pose minimal risk to public protection, irrespective of numbers or times. Un-amplified music (with the exception of drums) is less likely to pose a noise nuisance risk when compared to amplified music.

Q25: Any there any other benefits or problems associated specifically with the proposal to deregulate live music?

The majority of music events taking place, particularly outdoors, combine a mix of live, recorded music and provision of facilities for dancing. For this reason, it would be impractical to treat them as separate issues. As identified in our comments throughout our response, we believe the current licensing system, assessing each on merit including community engagement, is the best mechanism. Our view is based on the evidence of our contested licensing hearings, several of which have included petitions in relation to concerns over music events in premises within residential areas.

Performance of Plays: Questions

Q26: Are there any public protection issues specific to the deregulation of the performance of plays that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

There is already an inherent prohibition in the Act (section 22) on LAs imposing conditions relating to the nature and manner of plays, but this section also explicitly preserves the right to condition relating to public safety. Therefore this assessment should be maintained whether plays are indoors or outdoors. Clearer s182 guidance would assist with approaching this in a consistent and targeted way. Annex D of the s182 guidance offers possible controls measures for theatres in relation to public safety, although some of these may be duplication of other provisions so this needs revising or updating.

Outdoor theatre, which in certain circumstances can include battle re-enactments with higher risk activities (for example, explosives, use of domesticated animals, temporary structures, electrics, etc), or which may take place in the hours of darkness poses a much higher risk to public safety

Q27: Are there any health and safety considerations that are unique to outdoor or site specific theatre that are different to indoor theatre that need to be taken into account?

See Q26.

Q28: Licensing authorities often include conditions regarding pyrotechnics and similar HAZMAT handling conditions in their licences. Can this type of restriction only be handled through the licensing regime?

Our Licensing Authority does not knowingly duplicate any provision/regulatory control elsewhere as a licence condition. However, the risk is that were plays to be entirely deregulated, groups putting on such events may not have access to such guidance, and statutory authorities may be entirely unaware of the events taking place.

Q29: Any there any other benefits or problems associated specifically with the proposal to deregulate theatre?

Members of the public would expect that such premises, as any premises where public entertainment takes place are safe regarding occupancy, structure and fire safety.

Plays generally attract little specific comment from interested parties. Some clearer definitions relating to what regulated plays are (especially things like historical re-enactments, costumed town and historic building guides etc) would help achieve greater consistency across Licensing Authorities. The Police and County Council may also have a view on protecting children from harm for this activity – for example a CRB check on a licence applicant for a children’s performance may possibly reveal child protection concerns.

Without knowledge of events taking place, additional provisions for the protection of children which are implemented by County Council’s (chaperoning, restrictions on hours etc) may have limited effect.

Performance of Dance: Questions

Q30: Are there any public protection issues specific to the deregulation of the performance of dance that are not covered in chapter 3 of this consultation? If so, how could they be addressed in a proportionate and targeted way?

No.

Q31: Any there any other benefits or problems associated the proposal to deregulate the performance of dance?

Dance activity generally attracts little specific comment from interested parties but the amplified music accompanying it does.

Exhibition of Film: Questions

Q32: Do you agree with the Government’s position that it should only remove film exhibition from the list of regulated activities if an appropriate age classification system remains in place?

Yes.

Q33: Do you have any views on how a classification system might work in the absence of a mandatory licence condition?

By the use of National Legislation, requiring the showing of only age classification films.

Q34: If the Government were unable to create the situation outlined in the proposal and above (for example, due to the availability of Parliamentary time) are there any changes to the definition of film that could be helpful to remove unintended consequences, as outlined earlier in this document - such as showing children’s DVDs to pre-school nurseries, or to ensure more parity with live broadcasts?

The Secretary of State could produce a list of exempted activities.

Q35: Are there any other issues that should be considered in relation to deregulating the exhibition of film from licensing requirements?

No.

Indoor Sport: Questions

Q36: Are there any public protection issues specific to the deregulation of the indoor sport that are not covered in chapter 3 of this consultation? If yes, please outline the specific nature of the sport and the risk involved and the extent to which other interventions can address those risks.

Capacity issues/crowd control linked to large or popular indoor sporting events – for example competition finals. This can impact on promotion of the licensing objectives. If this activity is in a licensed venue such as a pub then assessment of the indoor sporting aspects of the licence application help towards the holistic approach to management of operation of the venue.

Q37: Are there any other issues that should be considered in relation to deregulating the indoor sport from licensing requirements?

Some specific exemptions for certain types of low/no risk indoor sporting activity, or in certain types of venue such as schools or sports centres, could be considered rather than complete deregulation.

Boxing and Wrestling, and Events of a Similar Nature: Questions

Q38: Do you agree with our proposal that boxing and wrestling should continue to be regarded as “regulated entertainment”, requiring a licence from a local licensing authority, as now?

Since the introduction of the Licensing Act 2003, Ryedale District Council has never had either a boxing or wrestling event so is not in a position to comment. However, we are aware that boxing/wrestling outdoors is regulated by the LA2003 and would respond along similar lines as for ‘indoor sports’. The choice of exemption to boxing and wrestling appears arbitrary and has less potential to impact on the licensing objectives than live or recorded amplified music. Capacity issues/crowd control linked to boxing or wrestling events may impact on promotion of the licensing objectives.

Q39: Do you think there is a case for deregulating boxing matches or wrestling entertainments that are governed by a recognised sport governing body? If so please list the instances that you suggest should be considered.

See above

Q40. Do you think that licensing requirements should be specifically extended to ensure that it covers public performance or exhibition of any other events of a similar nature, such as martial arts and cage fighting? If so, please outline the risks that are associated with these events, and explain why these cannot be dealt with via other interventions.

See above

Recorded Music and Entertainment Facilities: Questions

Q41: Do you think that, using the protections outlined in Chapter 3, recorded music should be deregulated for audiences of fewer than 5,000 people? If not, please state reasons and evidence of harm.

No, recorded music is often provided in combination with other currently regulated entertainment, for example, provision of facilities for dancing, and can be a substantial

source of noise nuisance. Karaoke has also been a source of nuisance complaints for Ryedale Council.

Q42: If you feel that a different audience limit should apply, please state the limit that you think suitable and the reasons why this limit is the right one.

Audience limits are to a large extent arbitrary as it is the music, and, with particular genres of music the volume of music, which is likely to undermine the licensing objectives.

Q43: Are there circumstances where you think recorded music should continue to require a licence? If so, please could you give specific details and the harm that could be caused by removing the requirement?

See answers to questions 41 and 42.

Q44: Any there any other benefits or problems associated specifically with the proposal to deregulate recorded music?

Low key events which pose little risk would be better dealt with by means of additional clarification of the exemptions (for example, street entertainers who play live instruments accompanied by recorded music could be considered for an exemption).

Q45: Are there any specific instances where Entertainment Facilities need to be regulated by the Licensing Act, as in the current licensing regime? If so, please provide details.

Clarification of those circumstances where the provision of facilities is licensable would be beneficial. Currently, there is an exemption from licensing where the provider of the facilities is not involved in the management or organisation of the event, however, the activity itself may still have an adverse effect on the licensing objectives. For example, a public house which regularly lets out its function room for private parties, but plays no part in the organisation of the event (p3.16-p3.18 Section 182 Guidance).

Unintended consequences: Questions

Q46: Are there any definitions within Schedule One to the Act that are particularly difficult to interpret, or that are otherwise unclear, that you would like to see changed or clarified?

See response to Q45 above.

Q47: Paragraph 1.5 outlines some of the representations that DCMS has received over problems with the regulated entertainment aspects of the Licensing Act 2003. Are you aware of any other issues that we need to take into account?

No, but it may be a more rational response to simply confirm this list as exempted entertainment and remove the need for this review exercise and provide additional guidance.

Adult Entertainment: Question

Q48: Do you agree with our proposal that deregulation of dance should not extend to sex entertainment? Please provide details.

Yes, as it covers the gap between dance that may be classed as sexual entertainment, but is exempt from separate sexual entertainment venue regulations.



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	LICENSING COMMITTEE
DATE:	24 NOVEMBER 2011
REPORT OF THE:	HEAD OF ENVIRONMENT PHIL LONG
TITLE OF REPORT:	THE POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

1.1 This report is to update Members on the progress of The Police Reform and Social Responsibility Bill which has now become an Act.

2.0 RECOMMENDATION

2.1 That members note the content of the report.

3.0 REASON FOR RECOMMENDATION

3.1 To keep Members informed regarding the passage of this Act and the potential changes and implications of it on the Licensing Act 2003.

4.0 SIGNIFICANT RISKS

4.1 There are no significant risks in receiving this report.

REPORT

5.0 BACKGROUND AND INTRODUCTION

5.1 The Police Reform and Social Responsibility Bill completed its Parliamentary passage on the 4 September 2011 and received Royal Assent on the 15 September 2011 making the Bill now an Act. This will bring significant changes to the Licensing Act 2003.

6.0 POLICY CONTEXT

6.1 The following Policies have informed this report:

- Ryedale District Council's Licensing Policy

7.0 CONSULTATION

7.1 Not applicable.

8.0 REPORT DETAILS

- 8.1 The Police and Social Responsibility Bill completed its Parliamentary passage on the 4 September 2011 and received Royal Assent on the 15 September 2011 making the Bill now an Act. This will bring significant changes to the Licensing Act 2003.
- 8.2 The House of Commons consideration of the House of Lords amendments seems to have been limited to those aspects of the Bill which did not affect licensing and on that basis, the original proposals within the Bill in respect of licensing have survived substantially.
- 8.3 The matters that will change as a result of the Act are detailed in Annex 1 to this report.
- 8.4 There will be a raft of "follow up" secondary legislation and revised Guidance which should be the subject of further consultation in due course. These will be reported to the Licensing Committee as necessary.
- 8.5 The principal elements of the Act may be brought into force in October 2012. In any event it is believed that changes will not be implemented until after the Olympic Games in 2012.

9.0 IMPLICATIONS

- 9.1 The following implications have been identified:
- a) Financial
Until regulations and guidance have been finalised it is not possible to assess the financial implications of the proposed changes to the Licensing Act 2003.
 - b) Legal
There are no significant legal issues arising from this report.
 - c) Other
There are no significant other issues arising from this report.

Phil Long
Head of Environment

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Background Papers:
None.

**SUMMARY OF PRINCIPAL AMENDMENTS CONTAINED IN THE POLICING REFORM
AND SOCIAL RESPONSIBILITY ACT 2011**

NB: No commencement date has yet been announced for the 2011 Act

	Amendment	Comment
1	The Licensing Authority itself becomes a responsible authority, able to make representations and apply for reviews in its own right	The right will be delegated to officers to exercise in the Councils constitution. It is suggested that when officers consider representations are appropriate and when officers consider it is appropriate to withdraw those representations, the chair is notified on an advisory basis.
2	Individual members of licensing authority to no longer be interested parties.	Councillors will no longer be able to make representations unless they are likely to be effected by the application, unless they have been, as currently, been asked to make representations on a residents behalf
3	The Primary Care Trust or Local Health Board becomes a responsible authority, able to make representations and apply for reviews	Website pages will need to be amended accordingly; need to identify who in the PCT or Local Health Board should receive copies of applications; need to check that PCT or LHB receive copies of applications
4	Definition of "interested party" deleted	Now "any other person"
5	Notices of new or varied applications are to be advertised in a prescribed manner to bring it to the attention of "any other persons" who are likely to be affected by the application	This potentially increases the number of people who may make representations about licence applications, with the possibility of more representations leading to more contested applications. The current test of whether someone does or does not live or works in the vicinity of the premises can usually be determined by officers, but whether someone under the new test is likely to be affected by the application may be better resolved at the LSC hearing.
6	Regulations must require the licensing authority to advertise applications including reviews in a prescribed form to bring it to the attention of persons who are likely to be affected by the application.	This will increase officer costs and times in advertising the applications
7	The test for whether a decision is needed will be that it is "appropriate" for the promotion of the licensing objectives, and not "necessary" as now.	"Necessity" suggests that there is a pressing requirement for a decision to be taken that furthers the objectives. "Appropriate" applies a lower threshold which may be harder to challenge on appeal. Will need to amend web information.
8	EHOs will be able to object to Temporary Event Notices	Officers will have to ensure EHOs are notified of (or have received copies of) TENs. Will have to amend website

9	Objection to TENs may be made if they would undermine a licensing objective	This is an extension from the current position where the police can only object if they feel the TEN would undermine the crime prevention objective. It may potentially increase EHO workload and the number of LSC hearing. Will have to amend website
10	Counter Notices where permitted levels exceeded for the number of TENs allowed in calendar year must also be sent to EHOs	Increase in licensing officer work
11	The Licensing Authority may impose conditions on a TEN where (a) It is appropriate to do so and (b) that those conditions are already included on a premises licence/club premises certificate for those premises and (c) it would be inconsistent with carrying out the licensable activities under the TEN e.g a licence condition to use door supervisors can be extended to include period covered by the TEN.	May require more compliance checks to ensure conditions on TENs have been met. Will require more time in preparing reports for LSC as the relationship between the TEN and the premises licence/club premises certificate will have to be included as well.
12	A separate statement of conditions applicable to the TEN must be given to the premises user, police and EHOs	There will be an increase in officer time to produce these.
13	There will be different routes to give a TEN (a) Electronically or in writing no later than 10 working days before the event or (b) Electronically to the licensing authority no earlier than 9 working days before the event and no later than 5 working days before the event begins(a "LATE TEN") OR (c) In writing to the licensing authority, police, and EHO no later than 5 working days before the event begins and at least one of those no earlier than 9 working days before the event begins (a "LATE TEN")	Late TENs are probably going to become the norm, which makes it easier for premises users but puts significantly more pressure on officers and staffing resources. This will be complicated and we will have to ensure systems are set up both by ourselves and consultees for prompt swapping of information.
14	Officers must give a counter notice where an objection notice has been received from the police or EHO in respect of a TEN	This will increase the workload on officers and their ability to react quickly.
15	In addition to the current 50 standard TENs that a personal licence holder	This will lead to an increase in the number of TENs received.

	can give a year, and the 5 standard TENS a non-personal licence holder can give a year, they will also be able to give a further TEN and 2 Late TENS respectively	
16	TENS will be able to last for a maximum of 168 hours(1 week), rather than the existing 96 hours(4 days), and premises can be used for up to 21 days a year(rather than the existing 15 days)	Most TENS currently only apply for a few hours, so extending them to 168 hours will be of assistance at Christmas when premises may want to have a whole week of extended time, however it opens the possibility of events that could go on for one week uninterrupted
17	The police and EHOs will have 3 working days in which to object to a TEN as opposed to the current 2 working days for the police	
18	Fines for persistently selling alcohol to children will increase from £10,000 to £20,000 The period that offenders can be ordered to cease selling alcohol by a constable or trading standards officers in those circumstances is varied from a minimum of 48 hours to a maximum of 330 hours	It is well documented nationally that courts do not give out anywhere near the current maximum penalties, and the closure notices are seldom used.
19	Where it is appropriate for the promotion of the licensing objective, a licensing authority may make an early morning alcohol restriction order to prohibit the sale or supply of alcohol between midnight and 6 am as specified in the order. The order can specify the days, times, or parts of the authorities area to which it applies, and may be on a temporary basis. They may be varied or revoked, and may contain exemptions in prescribed cases or circumstances	An order may not be made unless the proposal has first been duly advertised and representations considered in accordance with statutory regulations. There is a need for considerable public consultation before an order can be made.
20	Premises licences and club premises certificates must be suspended no less than 2 working days after the annual fee not being paid within 21 days of it being due. Receipts must be issued within 2 working days	There will need to be new procedures and compliance checks where the fee remains unpaid. Need to ensure the invoicing and income process and procedures provide for adequate warning
21	Subject to ministerial approval, the licensing authority will have the power to set certain fees on a cost-recovery basis. The cost may also include the costs of acting as a responsible authority under the Act, e.g. planning authority	
22	Licensing Policy Statements can now be reviewed every 5 years instead of	This may represent a saving in not having to review policies as frequently, providing the

	every 3 years, such period starting from the date of the licensing authority's choosing which must be stated within the policy statement. A 5 year period means subsequent periods ending 6 January 2016	risk of ensuring policies are relevant and up – to-date is managed. The Act allows existing policies determined and published for the 3 year period starting 7 January 2011 to last for 5 years.
23	<p>Further relevant offences have been added to those that may potentially disqualify from holding personal licences</p> <p>-failing to co-operate with preliminary breath tests for drink-driving -attempting to commit any relevant offence -conspiracy to commit any relevant offence -common law offences of conspiracy to defraud</p> <p>Once this section is commenced, this applies to personal licences granted or renewed before, on or after that date, and to offences committed before, on or after the commencement date.</p>	
24	The Secretary of State must carry out a review of the amending provisions contained in the Act, and set out the conclusions in a report to Parliament, as soon as reasonably practicable 5 years after all the amendments have been brought into force.	

NEW PROVISIONS INTRODUCED IN THE POLICING REFORM AND SOCIAL RESPONSIBILITY ACT 2011

1	<p>Licensing Authorities may decide that a late night levy is to apply in its area, after considering:</p> <p>(a) Policing and other costs for reducing or preventing alcohol-related crime and disorder between midnight and 6 am</p> <p>(b) And the desirability of raising revenue in accordance with regulation, of which not less than 70% must be applied to the local policing body.</p>	
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2	The late night levy must apply to the whole of the licensing area, subject to any time restrictions of premises liable to pay for it, any “permitted exemption categories” (if any), and “permitted reduction categories” (if any)	
3	The licensing authority may determine the time of day between midnight and 6 am during which the late night levy may apply, which must be the same throughout a “payment year”	“Payment years” in relation to premises licences and club premises certificates are to be determined in regulations. This may either be linked to the annual fee under ss55(2) and 92(2) LA03 or may be potentially be determined at the same time as the authority decides a levy is to apply within its area.
4	The licensing authority may decide upon “applicable exemption categories” that apply in its area from the levy for the levy year.	This suggests licensing authorities can change the premises exempt from the levy from year to year. The applicable exemption categories will be set out in regulations for the licensing authority to decide whether any particular category applies in its area.
5	The licensing authority may decide upon “applicable reduction categories” that apply in its area from the levy for the levy year.	The levy is the amount prescribed by, or the amount calculated in accordance with regulations to be made. The applicable reduction categories will be set out in regulations for the licensing authority to decide whether any particular category applies in its area.
6	Regulations will specify how payments are collected, administered and enforced, including times for payment. They may also set out how to deal with cases where relevant late-night premises cease or become liable to pay the levy during the payment year, including where an early morning alcohol restriction order has been implemented during that year.	This may inhibit licensing authority flexibility to organise its own affairs in the collection of the levy payments.
7	Failure to pay the levy may be recovered as a civil debt and lead to suspension of the premises licence/club premises certificate under the new provisions dealing with non-payment of the annual fee.	
8	Regulations will specify the relevant expenses that may be deducted in calculating the “net amount” of levy payments, may determine the amounts to be taken into account in calculating the net amount and may determine the periods to which payments or deductions should be attributable. Not less than 70 per cent of the “net amount” must be paid to the local policing body and the remainder applied in accordance with regulations. (Other regulations may amend the specified 70 per cent).	

9	“Relevant expenses” to calculate the “net amount” means licensing authority administration expenses, particularly the costs of deciding whether to implement, end or amend the levy, and in collecting and enforcing levy payments.	Regulations will also specify the times at which payments are to be made by the licensing authority to the local policing body.
10	Licensing authorities must publish before the beginning of the levy year a statement of its estimated permitted deductions, and after the end of the levy year a statement of the net amount.	Licensing authorities can decide how to publish those statements.
11	The licensing authority may decide the date on which the levy is to start; the time period to which it applies; any permitted exemption or reduction categories; and the proportion of the net amount of levy payments to be paid to the relevant local policing body.	
12	Decisions on the introduction, variation or revocation of a levy will be subject to regulations that in particular must require consultation with the local policing body and chief officer of police; holders of relevant late night authorisations; and other prescribed persons. Notices of such decisions must be published.	
13	Regulations may also set out the matters of which the licensing authority must be satisfied before deciding that a levy is to apply in its area.	This suggests the link between alcohol and crime and disorder may not be the only consideration, or that crime and disorder has to trigger specific levels before a levy could be introduced.
14	Late night authorisations may be varied before the start of the levy year without any fee, so as to exempt them from having to pay the levy.	Premises subject to a levy may amend their licence/certificate for free prior to the levy year coming into force. There is no guidance at this stage as to how far in advance such applications may be made, the cost to the licensing authority in the (unlikely) event of a contested application and if the application seeks to take advantage of amending the licence (such as adding licensable activities to it) at the same time as reducing the hours to avoid the levy.
15	The regulations listing “permitted exemption” and “permitted reduction” categories may relate to taking part in particular arrangements such as taking part in Pubwatch or Best Bar None Schemes, or particular descriptions of premises, such as hotels or casinos.	There may be complexities around any individual premises that for example fall within the permitted reduction category.

16	Regulations must specify what the amount of reduction to be enjoyed by those in the permitted reduction categories, or how the reduced amount is to be calculated, which must be the same for all holders of late night authorisations in that category for a levy year.	
17	The arrangements relating to levies apply to licensed premises on Crown land and that owned by the Duchies of Cornwall and Lancaster.	

OTHER AMENDMENTS

1	The power to designate an alcohol disorder zone under the Violent Crime Reduction Act 2006 is repealed.	
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