



---

<b>PART A:</b>	<b>MATTERS DEALT WITH UNDER DELEGATED POWERS</b>
<b>REPORT TO:</b>	<b>LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>7 JUNE 2012</b>
<b>REPORT OF THE:</b>	<b>HEAD OF ENVIRONMENT, STREETSCENE, FACILITIES PHIL LONG</b>
<b>TITLE OF REPORT:</b>	<b>CHANGES TO THE LICENSING ACT 2003</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>

---

## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

- 1.1 To advise Members of recent changes in legislation, including the Live Music Act and the passing of the Police Reform and Social Responsibility Act 2011 and the changes that this will bring in relation to the Licensing Act 2003.

### **2.0 RECOMMENDATIONS**

- 2.1 It is recommended that:
- (i) That Members note the contents of the report
  - (ii) The Health and Environment Manager and in his absence the Principal Environmental Health Officer be designated as the officer acting for the responsible authority.

### **3.0 REASON FOR RECOMMENDATION(S)**

- 3.1 To keep Members informed regarding the changes in legislation and the implications on the Licensing Act 2003

### **4.0 SIGNIFICANT RISKS**

- 4.1 There are no significant risks in receiving this report. Officers have ensured that arrangements are in place to administer the new requirements of the Police Reform and Social Responsibility Act 2011 and have updated local guidance material for applicants. Following publication of guidance relating to the Live Music Act similar arrangements will be undertaken.

## **5.0 POLICY CONTEXT AND CONSULTATION**

- 5.1 Ryedale District Council's Licensing Policy together with changes in national legislation has informed this report. In summer 2010 the Home office launched a public consultation entitled "Rebalancing the Licensing Act 2003". Following this consultation the Home Office included a number of their proposed reforms in the Police Reform and Social Responsibility Act. The Live Music Act is as a result of a Private Members Bill with Government support.

## **REPORT**

### **6.0 REPORT DETAILS**

- 6.1 The Department for Culture, Media and Sport (DCMS) have advised that the Live Music Act (the Act), which was a Private Members Bill with Government support received Royal assent on 23 March 2012. Once the Live Music Act comes into effect, it will remove the licensing requirements for:
- Amplified live music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises;
  - Amplified live music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment); and
  - Unamplified music between 8am and 11pm in all venues.
- 6.2 Where a premises continues to operate licensable activities (such as the sale of alcohol), any conditions relating to the activities above will be suspended unless they have been added following a licence review. It would also be possible to reinstate or impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises.
- 6.3 The Live Music Act will also remove licensing requirements for the provision of entertainment facilities. In addition, it will widen the licensing exemption for live music integral to a performance of morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.
- 6.4 The Minister advises that he intends to commence the Live Music Act in line with the usual requirements and conventions, which includes consulting on and issuing guidance under section 182 of the Licensing Act 2003 and adhering to the common commencement dates for new regulations. It is expected the changes will come into force on 1 October this year.
- 6.5 In recognition of the Queen's Diamond Jubilee as a time of national celebration, a licensing hours order came into force on 16 March. The Order allows licensed premises in England and Wales to stay open between 11pm on Friday 1 June and 1am on Saturday 2 June, and between 11pm on Saturday 2 June and 1am on Sunday 3 June for:
- the sale or supply of alcohol for consumption on the premises;
  - regulated entertainment; and
  - late night refreshment where alcohol is also sold or supplied for consumption on the premises.

The Order will not apply to businesses that do not have the relevant authorisation on their licence. Those businesses without the relevant authorisation will need to apply (if appropriate) for a temporary event notice.

- 6.6 The Minister has confirmed that there are no plans to introduce extensions to licensing hours for the Olympics and Paralympic Games. It is likely that there will be an increase in Temporary Event Notices and licence variations, which will be processed in the usual way.
- 6.7 A report was submitted to this Committee on 24 November 2011, outlining the proposed changes and implications of the Police Reform and Social Responsibility Act 2011. The report advised that the principal elements of the Act may be brought into force in October 2012 and in any event it was believed that changes would not be implemented until after the Olympic Games, however subsequently the majority of measures came into force on 25 April 2012, except those that require complex secondary legislation, including: early morning alcohol restriction orders (EMROs), the late night levy and locally set fees. It is anticipated these measures will be introduced in October 2012 or April 2013. The measures introduced on 25 April include:
- doubling the fine for persistent underage sales to £20,000
  - giving licensing authorities greater powers and flexibility by making them responsible authorities
  - making Primary Care Trusts (or their successors) responsible authorities
  - lowering the evidential threshold on licensing authorities
  - suspension of premises licences due to non-payment of annual fees
  - scrapping the “vicinity test”
  - reforming the system of Temporary Event Notices (TENs)
  - changing the frequency for publication of Licensing Policy Statements from 3 to 5 years
  - adding various offences to the list of relevant offences
  - a requirement for the Secretary of State to review the effect of the amendments five years after their commencement.
- 6.8 As a consequence to the changes in legislation new statutory guidance was issued in April 2012, under the provisions of section 182 of the Licensing Act 2003. One of the new provisions of the legislation is that Licensing authorities are included in the list of responsible authorities in their own right. Responsible authorities under the 2003 Act are automatically notified of all new applications and can make representations. Licensing authorities are not expected to act as responsible authorities on behalf of other parties, although there are occasions where the authority may decide to do so. It is reasonable to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. The 2003 act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other responsible authorities. In cases where a licensing authority is also acting as responsible authority in relation to the same process( as in the case of Ryedale District Council), it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different individual to the officer who is acting for the responsible

authority. The statutory guidance recognises for smaller licensing authorities, where such a separation of responsibilities is difficult, however it is proposed that in order to maintain such a separation of responsibilities that the Licensing Officer continues to represent the licensing authority and the new role of acting as a responsible officer be designated to the Health and Environment Manager or in his absence the Principal Environmental Health Officer.

## **7.0 IMPLICATIONS**

7.1 The following implications have been identified:

- a) Financial  
The issue of localised fees has not yet been introduced and will be subject to consultation at a later date.
- b) Legal  
The issue of division of responsibilities has been addressed within this report and its recommendations
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)  
Due to the exemptions introduced for live music, it is likely that noise complaints originating from licensed premises is likely to rise. The Licensing act 2003 will no longer be able to be used to control such activities and more work will fall on the environmental health officers who will have to rely on nuisance legislation.

**Phil Long**  
**Head of Environment, Streetscene and Facilities**

**Author:** Steven Richmond, Health and Environment Manager  
**Telephone No:** 01653 600666 ext: 247  
**E-Mail Address:** [steve.richmond@ryedale.gov.uk](mailto:steve.richmond@ryedale.gov.uk)

### **Background Papers:**

*Amended guidance issued under section 182 of the Licensing Act 2003.* Home Office. April 2012

### **Background Papers are available for inspection at:**

Ryedale House, Malton or  
<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing?view=Binary>