



GENERAL LICENSING COMMITTEE
14 March 2012

ITEM 5

Report of the Strategic Director of
Neighbourhoods

BRIEFING FOLLOWING ATTENDANCE AT LICENSING SEMINAR

SUMMARY

- 1.1 The report sets out information that was provided at a recent licensing conference attended by Councillor Barker that discussed details about Early Morning Restriction Orders and the Late Night Levy.

RECOMMENDATION

- 2.1 To note the report.

REASONS FOR RECOMMENDATION

- 3.1 The purpose of the report is for information only.

SUPPORTING INFORMATION

- 4.1 Following the review of licensing legislation carried out previously under the 'Rebalancing the Licensing Act' consultation process, the Government enacted the Police Reform and Social Responsibility Act 2011.
- 4.2 Contained within this new Act of Parliament are two measures that will be implemented through regulations: Early Morning Restriction Orders (EMRO's) and the Late Night Levy (LNL).
- 4.3 On 26 January 2012, Councillor Barker attended an LGA Licensing Conference. Councillor Barker's findings from attending the conference are set out at Appendix 2.

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| OTHER OPTIONS CONSIDERED |
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5.1 Not applicable.

This report has been approved by the following officers:

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|--------------------------------|-----------|
| Legal officer | Olu Idowu |
| Financial officer | - |
| Human Resources officer | - |
| Service Director(s) | - |
| Other(s) | - |

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| For more information contact: | Michael Kay 01332 641940 e-mail michael.kay@derby.gov.uk |
| Background papers: | None |
| List of appendices: | Appendix 1 – Implications Appendix 2 – Councillor Barker’s findings from attending the conference |

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| IMPLICATIONS |
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Financial

1.1 None.

Legal

2.1 None.

Personnel

3.1 None.

Equalities Impact

4.1 None.

Health and Safety

5.1 None.

Carbon commitment

6.1 None.

Value for money

7.1 None.

Corporate objectives and priorities for change

8.1 The recommendation supports the corporate priorities to ensure the people in Derby will enjoy **good quality services that meet local needs** and **being safe and feeling safe**.

Appendix 2

Councillor Barker's findings from attending the conference

I would share with you notes as to the content of the above conference. The speakers presentations are available for download from the LGA web-site www.local.gov.uk.

The first session was from the Key Note Speaker: Rt. Hon Don Foster (Liberal Democrat Spokesman for Culture Media and Sport). He had recently brought a Private Member's Bill to Parliament relating to Live Music. This is a bill expected to receive assent in 2-3 weeks giving pubs/clubs etc. the right to stage live music WITHIN the premises without necessity of obtaining a Live Music Licence. There are restrictions however as to electronic amplification etc. that will curtail a full blooded RAVE! (Also max. 200 persons and shut down at 11.00pm). This received approval by the 60 plus audience of Councillors and Licensing Officers present.

The next presentation was given by Stuart Roberts, Head of Gambling and Entertainment Licensing, DCMS. He provided an update in relation to proposals to de-regulate entertainment and the consultation process that had taken place. I asked what the DCMS were doing getting involved in a licensing issue closely related to liquor licensing when the Home Office were now taking the lead – that went down well with the audience and prompted several other comments as to why major Government Departments don't talk to each other etc. (I recollect debating this issue in Committee when the figure of 5000 was mentioned before an event became licensable by the local licensing authority.) I think it's fair to say that this official went away with plenty to think about. Without exception, the informed audience stated the proposals were ridiculous and if a figure of 250 - 500 was substituted it would be a better proposal to consider - but overall the duty of care to citizens won the day and it should be left alone. It was suggested as an alternative that Authorities should be notified in every event and that they had the discretion to inform the applicant that a licence would be or would not be required. That was again shot down in flames in that to notify the authority gives some consolation to the applicant and give some form of shared responsibility and redress against the authority should their be problems and a serious issue occur. We await to see what the final outcome on this will be. The feeling I got was that DCMS and the Government are firmly in favour of continued de-regulation. **I however feel that we must however continue to oppose taking responsibility without having any control via the formality of licensing.** Minister in charge is John Penrose.

Next up was the spokesperson for the LGA, Alan Tolley. He was very much the voice of reason and **I suggest we should look at his contribution before starting to formulate our response to the consultation as this was accepted by the popular majority as a Local Government response.**

Next came Ann Holroyd from the Home Office talking on the Late Night Levy and Early Morning Restriction Orders (EMRO's). The LGA champion is Nilgun Canver who opened the session by stating the LGA had canvassed that licensing reform had not gone far enough (music to my ears!) but stated that only 2% of GDP was from the licensed trade which was an excuse for saying the Government did not give priority to the trade against advice from other organisations. I personally believe this to be false as I have expressed verbally in the past. There was a show of hands within the conference room with a 70-30 per cent split against introduction of the Late Night Levy. I again expressed my concerns as to the financial benefits against the expectation of businesses contributing to the levy, also in legislation it is necessary to apply to ALL businesses in the Licensing area not just those creating the extra Police and authority attention post-midnight. It must be pointed out that there are a host of exemptions (decided on to adopt or otherwise by the authority) which can reduce the income considerably received by the authority, but still be questioned as to 'value for money' by businesses contributing to the Levy through business rates. Also there is nothing in the legislation which states the Police in particular have to spend monies from the LNL on policing the late night economy. **I would personally suggest we do not adopt the application of a late night levy in that my view seems to coincide with the majority of delegates at the meeting who expressed considerable concerns as to the liability that came with introduction.**

In respect of EMRO's, there was CONSIDERABLE SUPPORT for introduction, albeit concerns were expressed as to the format of the legislation, costs to authorities and potential legal challenge as to reduction in hours for existing business when extra hours are already granted. It all depends on the guidance yet to be circulated by the Home Office (the spokeswomen said they would get it right!?) and we already know existing guidance is a litigators dream in relation to interpretation by the courts. **I have to say a less than overall convincing reply on the day. We await to see the outcome of the 'Guidance'.**

It was reported that the first tranche of legislation under the Act was to be implemented in April (6th) 2012 (inc: Responsible authority extensions - TENS – Under age sales penalties etc.) The second phase of implementation was expected to be in October 2012, which included consultation proposals presently underway (inc: Late Night Levy's – New Statutory 182 Guidance inc updated Cumulative Impact – Vicinity Tests (also queried by delegates as to relevance in districts surrounding a Licensed premises) - ALCOHOL Disorder Zones (to be abolished) – and change of the evidential hurdle from **NECESSARY** to **APPROPRIATE** in Licence Hearings (again causing considerable debate after I asked what was the point in legislating yet another obscure word which the legal profession could 'challenge' at appeal against the deciding authorities refusal to grant using this inconclusive test. The response given was that 'sufficient guidance' would be published – (no change there then!)

The remainder of the day consisted of workshops relating to Late Night Levy, Minimum Pricing for Alcohol, Application and administration of TENS, Deregulation of entertainment at premises and the Regulatory landscape in 2012.

I attended the LNL and Minimum Pricing workshops. The first took the form of the main debate in the morning with a substantive majority of delegates being opposed

to LNL implementation. The second, I am pleased to say, agreed with my personal my stance of being against implementation of a minimum price intervention due to the complexities of enforcement, the fact that drinkers will drink whatever the price and the effect on regular to moderate drinkers who are being penalised for the minority few.

The presentations should be on the LGA web site in the next couple of days – and I would hope our response to consultation on these matters follows that expressed by the majority from within this conference which also gave me confidence as to the fact that my personal view as to the law and its application at Local Authority Level is not that far removed from the views of other Local Authorities in attendance.

Overall a worthwhile day which gave allowance to express concerns as to ‘over-enthusiastic’ legislation (my words) in the Licensing Arena taking into consideration exiting legislation and impending implementation (which is still open to interpretation and practical improvement).

I have sought a further conference prior to implementation of the 2nd phase of the Licensing Act review in the spring/summer based on the outcome of formal consultation and before expected implementation on October 6th 2012.

I await LGA notification of this should other Authorities make similar representation.