

Taunton Deane Borough Council

Licensing Committee – 1 June 2010

Licensing Act 2003 – Members as interested parties

Report of the Licensing Manager

(This matter is the responsibility of Executive Councillor Ken Hayward)

1. Executive Summary

A change have been made to the Licensing Act 2003 which means that elected members of licensing authorities may be interested parties in their own right within the area of the licensing authority.

2. Background

- 2.1 Currently elected members are only able to make representations on licence applications or request reviews if they live or have a business in the vicinity of the premises, or if they have been asked to represent a constituent who does live or have a business in the vicinity.
- 2.2 S.33 of the Policing and Crime Act 2009 has amended S.13(3) of the Licensing Act 2003 and changes the status of elected members of a licensing authority so that they are now 'interested parties'.

3. Report

- 3.1 Section 33 of the Policing and Crime Act 2009 came into force on the 29 January 2010. This section changed the definition of "Interested Parties" under the Licensing Act 2003 by adding a new category: "a member of the relevant licensing authority".
- 3.2 Taunton Deane Borough Council is a "relevant licensing authority".
- 3.3 The effect of the above is that all elected members of the licensing authority can now make representations or seek a review in their own right. They are not required to live in the vicinity or in the same ward as the licensed premises/club they are making a representation about, and are not required to have been requested to act by any other person or body.

- 3.4** The term "member of the licensing authority" refers only to elected councillors, and not officers or other employees of the authority.
- 3.5** This is a significant change from the previous situation but there are some limitations.
- 3.6** Firstly, representations or applications for review may only be made on the grounds of one or more of the four licensing objectives, which are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.
- There are no other grounds on which representations may be made.
- 3.7** Secondly, representations or applications for review should be accompanied by evidence, for example, a representation on the grounds that there is general noise and disorder in an area without a causal link to the premises in question may not carry any weight with the Sub Committee.
- 3.8** The Licensing Team would expect that if an elected member wanted to make a representation about a particular licensed premises or club or apply for a review of its licence then the representation or application must:
- be made in writing showing the name and address of the person making the representation/application (there is a form on our website for interested parties making representations as well as the prescribed form for a review);
 - clearly set out the likely effects either the grant of the licence or the existing licence is having on the promotion of at least one of the licensing objectives;
 - present evidence in support of the representation or review; and
 - clearly relate to the premises for which the representation/application is being made.
- 3.9** Representations that are made that are either vexatious or frivolous will not be considered relevant and the Licensing Manager has delegated authority to make that decision. Clear focus on the licensing objectives should eliminate any such representations.
- 3.10** The Local Authority Co-ordinators of Regulatory Services (LACORS) have produced a councillor briefing sheet on this topic and a copy is attached as Appendix 1.
- 3.11** Following this meeting I intend to circulate an email to all elected members of this Council to explain this new situation.

4. Finance Comments

None

5. Legal Comments

The legal implications are set out within the report.

6. Links to Corporate Aims

Although difficult to link to a specific corporate aim the ability of Members to act as interested parties may, through a greater involvement in the licensing process, assist in the delivery of the overall Corporate Strategy.

7. Environmental and Community Safety Implications

None

8. Equalities Impact

Not required

9. Risk Management

If members have the right information and training their decisions will be lawful and robust – if they do not there is the risk that decisions will be overturned on appeal

10. Partnership Implications (if any)

None

11. Recommendations

That members note the report.

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Councillor briefing: Licensing Act 2003: Councillors as Interested Parties

Note: this briefing applies to elected members in England and Wales

Summary

The Licensing Act 2003 has been amended to expand the definition of “interested party” to include councillors, as long as they are a member of a **council that is also a licensing authority** (i.e. nearly all councils in England and Wales).

This means that councillors can now make representations in respect of most types of licensing applications:

- New premises licence applications
- New club premises certificate applications
- Applications to vary existing premises licence applications
- Applications to vary existing club premises certificate applications
- Applications for a provisional statement
- Minor variation applications
- Applications for reviews of premises licences or club premises certificates

Legal basis for the change:

From 29th January 2010 the Licensing Act includes a fifth provision in section 13(3) to include councillors: ***“Interested party” means any of the following...(e) a member of the relevant licensing authority.*** The change was brought about by s33 of the Policing and Crime Act 2009.

Relevant Representations

Representations must address the likely effect of the proposed premises on one or more of the following licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance; or
- the protection of children from harm

Representations about “demand” or general problems are not relevant. In addition, representations **must not be frivolous or vexatious.**

Reviews

Reviews must be made on a ground (or grounds) relevant to the licensing objectives, and must not be frivolous or vexatious (as above),

Additionally, review applications must not be **repetitious**. If a review has been held recently and the circumstances at the premises remain the same, the licensing authority could reject the application for review.

Further information

- DCMS’ overview of the Act, [“Licensing Act 2003 Explained”](#)
- LACORS Licensing and Gambling Policy Officer: emily.scantlebury@lacors.gov.uk