



Report No: **130/2010**

Public Agenda Item: **Yes**

Title: **Amendments to the Licensing Act 2003**

Wards  
Affected: **All**

To: **Licensing Committee**

On: **20 May 2010**

Key Decision: **No**

Change to  
Budget: **No**

Change to  
Policy  
Framework: **No**

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## **1. What we are trying to achieve**

- 1.1 To advise members on recent changes to the Licensing Act 2003 and how that affects Licensed Premises in Torbay.

## **2. Recommendation(s) for decision**

- 2.1 That the report be noted.

## **3. Key points**

- 3.1 The Licensing Act 2003 has been amended by Parliament in the last 6 months resulting in two key changes.
- 3.2 The first is that Elected Members have been defined as Interested Party's under Section 13(3) Licensing Act 2003. Elected Members of the Local Authority can now make representations on an Application or seek a Review of a Premises Licence 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.
- 3.3 In the same way that local residents are restricted with the type of representation, Elected Members can also only make "relevant representations"

relating to the four licensing objectives. An email has been previously circulated to all Elected Members of Torbay Council giving advice on this matter.

- 3.4 The second change is that The Policing and Crime Act 2009 has added five new mandatory conditions to all Premises that sell or supply alcohol. Condition 4 is also added to all 'Off Licences' as well. Conditions 1, 2 and 3 came into force from the 6<sup>th</sup> April 2010 and conditions 4 and 5 will come into force from 1<sup>st</sup> October 2010. These mandatory conditions apply to all Premises Licences and are applied retrospectively for existing Premises Licence holders. Full details are shown in Appendix 3.

**For more detailed information on this proposal please refer to the supporting information.**

**Frances Hughes**  
**Executive Head Community Safety**

## **Supporting information to Report 130/2010**

### **A1. Introduction and history**

- A1.1 The Licensing Act 2003 has been amended by Parliament in the last 6 months resulting in two key changes. Elected Members have been defined as Interested Party's, under the Licensing Act 2003 and new mandatory conditions have been added to Premises Licences that sell or supply alcohol.
- A1.2 Section 33 of the Policing and Crime Act 2009 became law on the 29 January 2010. This section has the effect of changing the definition of "Interested Parties" under Section 13(3) Licensing Act 2003 by adding a new category:
- (e) "a Member of the relevant Local Authority"
- A1.3 The effect of the previous paragraph is that the definition of "Interested Parties" has been expanded to include all Elected Members.
- A1.4 Elected Members 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.
- A1.5 The term "Member of the Local Authority" refers only to Elected Members, and not Officers or other employees of the Authority.
- A1.6 Elected Members who make representations on an Application or seek a Review of a Premises Licence carry the same weight as those submitted by local residents or businesses. In the same way that local residents are restricted with the type of representation they can make, Members can also only make "relevant representations" relating to the following four licensing objectives:
- The Prevention of Crime and Disorder;
  - Public Safety;
  - The Prevention of Public Nuisance; and
  - The Protection of Children from Harm
- A1.7 LACORS have provided a frequently asked questions fact sheet relating to Elected Members as Interested Parties. A copy of this fact sheet is at Appendix 1 to this report. Also attached is additional guidance, 'Councillor briefing sheet' provided by LACORS on this subject. See Appendix 2.
- A1.8 An email was sent dated 10<sup>th</sup> March 2010 to all Elected Members giving advice on this matter.
- A1.9 On the 6<sup>th</sup> April 2010, the Policing and Crime Act 2009 added three new mandatory conditions to all Premises Licences and Club Premises Certificates where alcohol is sold or supplied on the Premises. These are numbers 1, 2 and 3 on Appendix 3.
- A1.10 On the 1<sup>st</sup> October 2010, the Policing and Crime Act 2009 will add two further mandatory conditions to all Premises Licences and Club Premises Certificates where alcohol is sold or supplied on the Premises. These are numbers 4 and 5 on Appendix 3. Additionally condition 4 will also be added to all Premises

Licences that sell alcohol off the Premises, known as Off Licences.

A1.11 Torbay Council's Licensing Team has sent out a letter to all relevant Premises, using its database of Licensed Premises, bringing these new mandatory conditions to the attention of each Premises Licence and Club Certificate holder. The matter has also been raised at each of the Licensing Forums for the three towns.

A1.12 The conditions are not required to be physically added to each Premises Licence due to the resource implications of printing 750 plus new Premises Licences. However as Premises Licences and Club Premises Certificates are varied or reviewed then these conditions will subsequently be added to them. However, in all cases the new mandatory conditions are applied retrospectively and not just when a Premises chooses to vary their Premise Licence.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

There are no risks associated with this report.

## **A3. Options**

A3.1 There are no options as these are statutory changes.

## **A4. Summary of resource implications**

A4.1 There are no significant resource implications.

## **A5. What impact will there be on equalities, environmental sustainability and crime and disorder?**

A5.1 There are no equalities or environmental sustainability implications, however all five of the new mandatory conditions are aimed at reducing crime and disorder.

## **A6. Consultation and Customer Focus**

A6.1 There has been no public consultation on this matter.

## **A7. Are there any implications for other Business Units?**

A7.1 Where other Business Units in the council hold Premise Licences under the Licensing Act 2003 there will be implications for them in complying with the new mandatory conditions, in the same way as for any other business in Torbay.

## **Appendices**

Appendix 1            Lacors - Elected members as Interested Parties: FAQ

Appendix 2            Lacors - Councillor briefing: Licensing Act 2003: Councillors as Interested Parties

Appendix 3            New Mandatory conditions

**Documents available in members' rooms**

None

**Background Papers:**

The following documents/files were used to compile this report:

None