

CYNGOR SIR POWYS COUNTY COUNCIL

LICENSING COMMITTEE

9th May 2013

REPORT AUTHOR: Senior Licensing Officer

SUBJECT: Licensing Act 2003

REPORT FOR: INFORMATION

1. LICENSING ACTIVITY 2012/13

1.1 The Licensing Act 2003 has been in force since 2005. The Act brought alcohol, entertainment & late night refreshment all under one licence.

1.2 As of 31st March 2013, there were:-

Licensed Premises	1022
Licensed clubs	51
Personal Licence holders	1809

1.3 During to the 12 months ending 31st March 2013, the Licensing section received the following applications:-

TENS	807
Late Tens	13
Minor Variation	21
New Application	28
Transfer	42
Variation	16
Personal Licence Applications	113
Variation of DPS	106
Review	1
Change of details	22
Copy of Licence	12
Disapply DPS	1
Total	1182

1.4 The figures highlight the fact that even though the Act is now been in force for 8years, we are still receiving a large amount of applications.

1.5 The Licensing section visits the premises on a routine basis, depending on the risk assessment scoring. The premises are inspected to ensure compliance with the premises licence & the Act. In the last year, 310 visits were made by licensing staff.

1.6 Licensing has also taken one prosecution this year for failing to comply with licence conditions. This resulted in a fine of £100, plus £86 costs & £100 for legal fees.

2. LEGISTALTION CHANGES

2.1 Following a series of consultations with the licensed trade, public & Licensing Authorities, the Government brought in a number of changes to the Act in April 2012. Below is a brief summary of the major changes to the Act

2.2 TEMPORARY EVENT NOTICES

There are now 2 types of TEN 'applications':-

- Standard TEN: the same as at present (i.e. must be received minimum of 10 clear working days prior to event)
- Late TEN: These must be received no earlier than 9 working days and no later than 5 working days prior to the day of the event.

2.3 Previously a TEN had a statutory limit of 96 hours (4 days), this has been extended to 168 hours (7 days), with the total number of days available to a single premises being extended from 15 to 21.

2.4 Environmental Health Officers have become a 'relevant person' empowered to object to TENs. The same rules of procedure etc shall apply to them as to the Police.

2.5 The grounds for objection to a TEN are extended from just the crime objective to all 4 licensing objectives.

2.6 Police and Environmental Health Officers have 3 working days to make an objection to a TEN (presently 2 working days)

2.7 At present the Licensing Sub-Committee can not impose any conditions on an opposed TEN, it may only grant the TEN (in its entirety without conditions) or refuse the TEN (in its entirety). The Licensing Sub-Committee will now, be able to impose conditions on some TENs. However this change is very restrictive and will only apply to premises that have a premises licence. If a premise that is the subject of a TEN has a premises licence and objections are received against the TEN, the Licensing Sub-Committee will be able to impose any of the premises licence conditions on the TEN as it considers 'appropriate', provided such conditions are not inconsistent with the licensable activities to be carried out under the TENs.

SUSPENSION OF LICENCES FOR FAILURE TO PAY ANNUAL FEE

2.8 If an annual fee is not paid within 21 days following its due date, the Licensing Authority is able to suspend the licence upon giving at least 2 days written notice of the date that the suspension will come into effect. The suspension remains until such time as the fee is paid and the LA issues a receipt to the licence holder. If the premises provides licensable activities whilst the licence is suspended this will be an offence (i.e. the provision of licensable activities without authorisation).

Since April 2012, 96 suspension notices have been issued. There are only 9 which are still effective. These premises are all closed at the present time.

This has proved to be a useful "tool" for us, as we are now finding that the annual fees are being paid in amore timely manner, & our outstanding debt has diminished.

NEW RESPONSIBLE AUTHORITIES

2.9 The Licensing Authority, along with the Local Health Board, have now become Responsible Authorities. We are now able to make relevant representations relating to new licence applications, variations to licences & we can also request a Review of a licence.

LICENSING STATEMENTS

- 2.10 Review period increased from 3 to 5 years. Our last policy was issued in 2011. If we carry out a review and replace the Policy, the Licensing Authority can determine that the next 5 year period starts with the date of the replacement policy.

PERSISTENTLY SELLING ALCOHOL TO CHILDREN

- 2.11 Where trading standards have evidence of persistent sales of alcohol to children they may accept a voluntary closure of the alcohol sales part of the premises for up to two weeks in lieu of prosecution.

Additionally, the maximum fine for such is increased from £10K to £20k or 6 months imprisonment.

Home Office guidance directs that reviews of licences in such circumstances should become routine.

3. LIVE MUSIC ACT 2012

- 3.1 The Live Music Act took effect in October 2012. It was brought in following lobbying by the Live Music Forum. The Act disapplies live music related conditions on a premises licence as long as the following criteria are satisfied:-

- There is a premise or club certificate in place permitting on sales
- The premises are open for the sale of alcohol for consumption on the premises
- Live music is taking place between 8am & 11pm
- If live music is amplified, the audience consists of no more than 200 people.

- 3.2 The Act also creates a general exemption that live unamplified music provided anywhere shall not be regarded as the provision of regulated entertainment if it takes place between 8am & 11pm, regardless of the number of people in the audience.

4. FUTURE LEGISLATION

- 4.1 The Government are consulting on the further deregulation of entertainment within the Act, which will make some premises fall outside of the Act.

The Government are also proposing to allow Licensing Authorities to set their own fees for licences issued under the Act. Further information will be given to members, when the legislation has been given a commencement date.

5. MEMBER TRAINING

- 5.1 Following the County Council elections in May 2012, a new Regulatory committee was formed, which included Licensing. Due to there being some members to whom licensing was new, a full days training was arranged on various licensing issues. The training was given by Jane Foxley.

Members were also given a presentation in on the Gambling Act by two compliance managers from the Gambling Commission.

6. HEARINGS

- 6.1 During the last year there have been 6 hearings in relation to Licensing Act 2003. None of the decisions made by members have been appealed to the Magistrates Court.

Below is a summary of attendance by members.

Member	Attendance
D.R. Price	1
Kelvyn Curry	0
S. Davies	1
Miss V. Evans	0
W.J. Evans	1
P. Harris	3
G. Jones	2
Mrs. F.H. Jump	2
D. Mayor trained 11/1/13	0
P. Medicott	2
K. Tampin	1
Mrs. D.G. Thomas	0
D. Thomas	1
T. Thomas	2
J.M. Williams	2

Recommendation:	Reason for Recommendation:
To receive the report for information.	To inform the Licensing Committee of activity carried out by the Licensing Section & the recent changes to the Licensing Act 2003

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Relevant Portfolio Member(s):		Councillor W B Thomas	
Relevant Local Member(s):		N/A	

Background Papers used to prepare report:

Guidance issued by Home Office.
Powys County Council Committee Reports
M3 Computer records