

Appendix 1 – Legislative changes

Since 2012 a number of important changes were made to the Licensing Act 2003 and the regulations and statutory guidance made under the Act. The changes formed part of the ‘rebalancing’ agenda which aimed to do the following:

- strengthen the licensing regime by giving local authorities, the police and communities stronger powers;
- reduce red tape by de-regulating entertainment to an extent;
- clamping down on under-age selling by increasing penalties for offences;
- ensuring taxpayers should not have to foot the bill for late night drinking by allowing local authorities to set licensing fees and impose a levy;
- reduce alcohol related crime, deaths and hospital treatment; and
- reduce binge drinking.

Changes and their effect	What we are doing in Haringey
Licensing Authorities as responsible authorities	Licensing authorities are now responsible authorities. They can make representations on applications. They can instigate reviews and make representations on applications for review by others.
Primary Care Trusts as responsible authorities	Licensing authorities are now responsible authorities. They can make representations on applications. They can instigate reviews and make representations on applications for review by others.
Abolition of the vicinity test (and “interested parties”)	Previously a person living/working in the vicinity of the premises (and their representative bodies) and Members could make reps etc. Now, anyone will be able to object. But representations will still need to be relevant and relate to one or more of the licensing objectives and not be frivolous or vexatious (or repetitious in respect of review applications). The council is now required to publish information on licence applications on its website so that others know who has applied for what. We also place this information on the Haringey App.
“Appropriate” replaces “necessary”	Previously the council could impose conditions, exclude a licensable activity, reject an application etc. if it was “necessary” for the promotion of the licensing objectives. Now the council can act if it is “appropriate” to do

	<p>so. The Act calls this “reducing the evidential burden”. The theory is that the council will have the right to intervene at a lower threshold of need. Determinations will still have to be evidence based.</p>
<p>Temporary Event Notices (TENs)</p>	<p>Environmental health can now object, in addition to the police, to TENs. Objections can relate to any licensing objective and not just the prevention of crime and disorder. Conditions can be added too (in some cases) and late notices can be given.</p> <p>Conditions may be added if: the council considers it is “appropriate for the promotion of the licensing objectives”; and the conditions are on a premises licence or club premises certificate for all or part of the premises; and the conditions would not be inconsistent with the carrying out of the licensable activities under the TEN.</p> <p>Conditions can only be added after objection. They cannot simply be proffered to avoid an objection.</p> <p>Also, the requirement that there already be a licence with conditions means that unlicensed premises, and premises without suitable conditions, may be refused a TEN even though a condition could theoretically be added to overcome issues.</p> <p>There are now “standard TENs” and “late TENs”. Standard notices are given at least 10 working days before the event to the council and (if not electronic) to the police and environmental health. Late TENs are given 5-9 working days before the event to the authority and (if not electronic) to the police and environmental health.</p> <p>Where TENs are given electronically, the council must forward them to the police and environmental health by the next working day. Where there is an objection to a late TEN the council must serve a counter-notice at least 24 hours before the event. The applicant who serves a late TEN takes a risk, in that the police and environmental health may veto the event. There is no appeal against the veto. We do not encourage late TENs to become the norm, further information can be found in Appendix ?</p>

<p>Greater penalties for persistent sale of alcohol to children</p>	<p>Licence holders should be aware of the increased fine for the persistent sale of alcohol to children which has increased from £10,000 to £20,000.</p> <p>Closure notices for persistently selling alcohol to children has increased from up to 48 hours to 336 hours (i.e. 2 weeks).</p>
<p>Suspension for non-payment of fees</p>	<p>If the annual fee for premises licences and club premises certificates is not paid the council must suspend the licence or certificate unless:</p> <ul style="list-style-type: none"> i. Non-payment was due to an administrative error (on anyone's part) or ii. The holder has notified the council in writing that liability for the fee or the amount of the fee is disputed; and iii. The grace period of 21 days has not expired. <p>The effect of this is that suspension is mandatory after the expiry of the grace period whatever the reason for non-payment.</p> <p>Suspension is by notice operative at least 2 working days after the notice is given.</p> <p>The licence/certificate is re-activated on payment. These rules only apply to annual fees payable from 25 April 2012.</p>
<p>Licensing Policy: shelf life</p>	<p>Statement of Licensing Policies now have a shelf life of 5 years.</p>
<p>New relevant offences</p>	<p>For the purposes of applications for personal licences, the following have been added to the list of relevant offences. Failing to co-operate with preliminary breath test; attempting to commit a relevance offence; conspiracy to commit a relevant offence and conspiracy to defraud. Guidance documents now reflect this.</p>
<p>Licence applicants to give greater consideration to the local area when making their application</p>	<p>Applicants will be required to provide contextual information as part of the licence application form on issues such as the local area's social demographic characteristics, specific local crime and disorder issues and an awareness of the local environment.</p>
<p>Police representations to be given increased weight</p>	<p>The statutory guidance now states that: "The licensing authority should accept all reasonable</p>

	<p>and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.”.</p>
<p>Licensing authorities given more autonomy regarding closing times</p>	<p>In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.”</p> <ul style="list-style-type: none"> • Staggered closing times means imposing different closing times for different premises to spread the closing times in an area. • Zoning means preventing premises from opening beyond a fixed time within certain zones in their district. • Fixed closing times can be used in designated areas where there are issues with crime and disorder and noise disruption. <p>This power is about giving licensing authorities the right to decide to take control of closing times in their area based on local evidence.</p>
<p>The evidential hurdle for cumulative impact policies has been lowered</p>	<p>Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The government has reduced the evidential threshold for the application of cumulative impact policies and encouraging their application to the off- as well as the on-trade. We have no such policies in place currently.</p>
<p>Late night levy</p>	<p>The late night levy is a power for licensing authorities to introduce a charge for premises that have a late alcohol licence for the extra enforcement costs that the night-time economy generates. The introduction of it is entirely at the discretion of licensing authorities. If applied, it would affect all premises (both in the on-trade and the off-trade) anywhere in the borough that are licensed to sell alcohol during the hours to which the levy applies (restricted to midnight and 6am). Haringey has not imposed the levy at this time.</p>
<p>Extending Early Morning Restriction Orders (EMROs)</p>	<p>Licensing authorities are able to restrict sales of alcohol in the whole or a part of their area</p>

	<p>for any specified period between 12am and 6am if they consider this necessary for the promotion of the licensing objectives. This applies to premises licences, club premises certificates and TENs. Licensing authorities are able to make EMROs if they consider this to be appropriate (previously the test was necessity) for the promotion of the licensing objectives. Haringey has not declared an EMRO.</p>
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