



AGENDA

NOTE: In the case of non-members, this agenda is for information only

- Committee** - **LICENSING COMMITTEE**
- Date & Time** - WEDNESDAY 23RD JANUARY 2013 AT 10.00AM
- Venue** - NORFOLK ROOMS, THE CONFERENCE SUITE,
ELIZABETH HOUSE, DEREHAM

Members of the Committee requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting. If the information requested is available, this will be provided, and reported to Committee.

Persons attending the meeting are requested to turn off mobile telephones

Members:

Mr S.G. Bambridge (Chairman)
Mrs E. M. Jolly (Vice-Chairman)
Mrs S Armes
Mr P R W Darby
Mr T.J. Lamb
Mr K. Martin

Mrs K. Millbank
Mr T F C Monument
Mrs K. Pettitt
Mr J.D. Rogers
Mr F.J. Sharpe
Mrs P.A. Spencer

Member Services
Elizabeth House, Walpole Loke,
Dereham Norfolk, NR19 1EE

Date: Monday, 14 January 2013

PART A- ITEMS OPEN TO THE PUBLIC

	<u>Page(s)</u> <u>herewith</u>
1. <u>MINUTES</u> To confirm the Minutes of the meetings held on 24 October 2012.	1 - 3
2. <u>APOLOGIES</u> To receive apologies for absence.	
3. <u>URGENT BUSINESS</u> To note whether the Chairman proposes to accept any item as urgent business, pursuant to Section 100(B)(4)(b) of the Local Government Act, 1972.	
4. <u>DECLARATION OF INTERESTS</u> Members are no longer required to declare personal of prejudicial interests but are to declare any new Disclosable Pecuniary Interests that are not currently included in the Register of Interests. Members are reminded that under the Code of Conduct they are not to participate and must leave the room, for the whole of an agenda item to which they have a Disclosable Pecuniary Interest. In the interests of transparency, Members may also wish to declare any other interests they have in relation to an agenda item, that support the Nolan principles detailed within the Code of Conduct.	
5. <u>NON-MEMBERS WISHING TO ADDRESS THE MEETING</u> To note the names of any non-members who wish to address the meeting.	
6. <u>NORFOLK CONSTABULARY'S WORK WITH LICENSED PREMISES</u> Briefing by Tony Grover, Norfolk Constabulary Licensing Team.	
7. <u>THE ROLE OF THE RESPONSIBLE AUTHORITY</u> Briefing by David Spencer, Joint Deputy Planning Manager.	
8. <u>GUIDANCE WITH REGARD TO LIVE MUSIC ACT 2012</u> Verbal Update by the Licensing and Business Support Manager.	

	<u>Page(s)</u> <u>herewith</u>
9. <u>LATE NIGHT LEVY</u> Report of the Assistant Director of Commissioning.	4 - 7
10. <u>EARLY MORNING ALCOHOL RESTRICTION ORDERS</u> Report of the Assistant Director of Commissioning.	8 - 11
11. <u>SEX ESTABLISHMENTS AND SEXUAL ENTERTAINMENT VENUES POLICY</u> Report of the Assistant Director of Commissioning.	12 - 16
12. <u>NEXT MEETING</u> To note the arrangements for the next meeting on Tuesday 16 April 2013 at 10.00am in the Norfolk Room, Conference Suite, Elizabeth House, Dereham.	

BRECKLAND COUNCIL

At a Meeting of the

LICENSING COMMITTEE

**Held on Wednesday, 24 October 2012 at 10.00 am in
Norfolk Rooms, The Conference Suite, Elizabeth House, Dereham**

PRESENT

Mr S.G. Bambridge
(Chairman)
Mrs E. M. Jolly (Vice-
Chairman)
Councillor C Bowes
(Substitute Member)
Mr T.J. Lamb
Mr K. Martin

Mrs K. Millbank
Mr J.D. Rogers
Mr F.J. Sharpe
Mrs P.A. Spencer

Also Present

Mrs J A North

In Attendance

Jane Osborne
Fiona Inston
Stuart Kearns

- Committee Officer
- Licensing & Business Support Manager
- Trading Standards Officer, NCC

Action By

14/12MINUTES

The Minutes of the meeting held on 18 July 2012 were confirmed as a correct record and signed by the Chairman.

15/12APOLOGIES

Apologies for absence had been received from Cllrs Pettitt, Darby, Monument and Armes. Cllr Bowes was in attendance as a substitute for Cllr Armes.

16/12URGENT BUSINESS

None.

17/12DECLARATION OF INTERESTS

No declarations made.

Action By

18/12NON-MEMBERS WISHING TO ADDRESS THE MEETING

Whilst Cllr J North was in attendance for training purposes with regard to Items 8 and 9 of the Agenda, she would not vote on Agenda items.

19/12REVISED STATEMENT OF PRINCIPLES - GAMBLING ACT 2005

Fiona Inston, Licensing & Business Support Manager presented the report which was to consider the draft revised Statement of Principles and refer it to full Council for approval in order for Breckland Council to act as the Licensing Authority to discharge its statutory duties under the Gambling Act 2005. No responses to the draft had been received which was very similar to the previous Statement as only minimal changes had been made.

The Chairman went through the document page by page for the benefit of new Members on the Committee. With regard to page 14 of the Agenda, point No. 6 Exchange of Information, the Chairman stated that good exchanges of information need to be encouraged.

A personal observation was made by the Chairman that there was a proliferation of betting shops in Dereham. It was felt beneficial that an Officer from the Planning Team be invited to attend a meeting of the Licensing Committee in Spring 2013 to give an overview of Planning's involvement with regard to betting shops and other licensed premises.

Fiona Inston

The Licensing & Business Support Manager would forward information to a Councillor who asked for clarification on raffles, and it was suggested that a small briefing document could be produced which would be helpful for Councillors to refer to.

Fiona Inston

RESOLVED that :

The revised Statement of Principles be recommended for approval to Council in order for Breckland Council to act as the licensing authority to discharge its statutory duties under the Gambling Act 2005.

20/12LIVE MUSIC ACT 2012

The report was presented by Fiona Inston, Licensing & Business Support Manager, the purpose of which was to note the amendments to the Licensing Act 2003 via the Live Music Act 2012 in respect of live music entertainment and the provision of entertainment facilities. A brief overview was given of the amendments which were detailed in the report.

Action By

Updated Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 was expected on 31 October 2012, when the Live Music and other amendments would be incorporated, and the Licensing & Business Support Manager would circulate it to Members once it had been published.

The Chairman stated that it was unsatisfactory that the Licensing Team and Committee would not have the Guidance to read until the end of October 2012, and therefore requested that the item be placed on the next Licensing Committee's Agenda, scheduled to take place on 23 January 2013.

Fiona Inston

RESOLVED that :

The Licensing Committee discharges its functions under the Licensing Act 2003 as amended by the Live Music Act 2012.

21/12 NORFOLK CONSTABULARY'S WORK WITH LICENSED PREMISES

Since the publication of the Agenda, the briefing scheduled to take place by the Norfolk Constabulary's Licensing Team had been postponed and would take place instead on 23 January 2013.

Instead, Stuart Kearns, Trading Standards Officer, Norfolk County Council was present and he talked about counterfeit and bogus/illicit alcohol of which the Committee were shown various examples. Underage sales in relation to alcohol was also discussed by him.

The Chairman stated that he wanted good working relationships with Trading Standards, and he thanked Mr Kearns for the briefing, which the Committee found very helpful.

22/12 LICENSING ACT TRAINING

The item was postponed until the next Committee meeting to be held on Wednesday 23 January 2013.

The meeting closed at 11.45 am

CHAIRMAN

BRECKLAND DISTRICT COUNCIL

Report of: Rob Walker - Assistant Director of Commissioning

To: Licensing Committee

Author: Fiona Inston – Licensing and Business Support Manager

Subject: Late Night Levy

Purpose: To advise the Committee on the power to introduce The Late Night Levy

Recommendation(s):

This report is for information only.

1.0 BACKGROUND

- 1.1 The Late Night Levy (the levy) is a power conferred on Licensing Authorities by provision of Chapter 2 Part 2 of the Police Reform and Social Responsibility Act 2011 and came into effect on 31 October 2012.
- 1.2 The change enables Licensing Authorities if they choose to exercise this power to charge a levy to persons who are licensed to sell alcohol (on and off trade) late at night in the authorities area as a means of raising a contribution towards the costs of policing the late-night economy.
- 1.3 The levy will be payable by the holders of any premises licence or club premises certificate in relation to premises in the whole district, which authorise the sale or supply of alcohol on any days during a period (the late night supply period) beginning at or after midnight and ending at or before 6am. The Licensing Authority can decide the times within the late-night supply period at which the levy will apply (which must be the same every day). The late night supply period cannot apply on different days or times.
- 1.4 The levy does not apply to Temporary Event Notices.
- 1.5 The Regulations prescribe category exemptions from the levy and it is for the Licensing Authorities to decide based on its knowledge of the night time economy which categories should be exempt from contributing towards the levy. The categories specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 include; Premises with overnight accommodation, Bona-fide theatres and cinemas, Bingo halls, Community Amateur Sports Clubs, Community Premises, Country Village pubs (within a designated rural settlement with a population of less than 3,000), premises which have a relevant late night authorisation for New Years Eve and Business Improvement Districts.
- 1.6 Money collected from the revenue must be split between the Licensing Authority and the Police Crime Commissioner. The Licensing Authority must pay at least 70 per cent of the net levy revenue to the police. There are no

restrictions on what the police's portion of the levy revenue can be spent on, however this should be made transparent and it is recommended that discussions should take place between both authorities to discuss the police intentions for their share of the levy revenue.

- 1.7 The Licensing Authority will retain up to 30 per cent of the revenue to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the late night economy. Costs incurred in connection with the introduction, administration and enforcement of the levy may be deducted prior to the levy revenue being apportioned between the police and the Licensing Authority.

2.0 ISSUES

- 2.1 The Licensing Authority if they are to consider introducing a levy should discuss the need for a levy with the Chief Officer of Police and the Police and Crime Commissioner.
- 2.2 Local residents can put forward their view and call for the implementation or not of the levy in their area.
- 2.3 The Licensing Authority should consider whether the levy would generate enough revenue to make it a viable option based on the number of premises licensed to sell alcohol during the late night supply period.

3.0 OPTIONS

- 3.1 The Licensing Committee is requested to consider the contents of this report and be fully aware of the decision making process and criteria as necessary when looking at the option of whether to introduce a levy across the district.
- 3.2 A decision to introduce the levy should be referred to Full Council for approval.

4.0 REASONS FOR RECOMMENDATION

- 4.1 It is essential that members of the Licensing Committee are aware of the new powers for Licensing Authorities formed through the Police Reform and Social Responsibility Act 2011 to decide whether to consider introducing the Late Night Levy.

5.0 EXPECTED BENEFITS

The benefit is to provide members of the Committee of the Licensing Authority an update on significant legislative changes and the powers conferred to the Licensing Authority which may be relevant in further policy work or committee hearings associated with the Licensing Act 2003.

6.0 IMPLICATIONS

6.1 Legal

- 6.1.1 A decision to introduce a Late Night Levy made by the Licensing Authority may be subject to legal challenge.

6.2 Risks

6.2.1 Licensing Authorities should be aware that any financial risk for example lower than expected revenue, rests at a local level and should be fully considered prior to implementation.

6.3 **Financial**

6.3.1 The Licensing Authority will need to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs associated with the formal consultation process.

6.4 **Timescales**

6.5 The Late Night Levy power came into effect on 31 October 2012

6.6 **Equality and Diversity**

6.6.1 None

6.7 **Stakeholders/Consultation**

6.7.1 None

6.8 **Contracts**

6.8.1 None

6.8.1 **Section 17, Crime & Disorder Act 1998**

6.9.1 None

6.9 **Other**

6.10.1 An amendment to Breckland District Council's Statement of Licensing Policy to reflect these changes will be necessary.

7.0 **Wards/Communities Affected**

7.0.1 All

Background papers:-

Licensing Act 2003: www.legislation.gov.uk/ukpga/2003/17/introduction

The Police Reform and Social Responsibility Act 2011 – Part 2 Licensing:
www.legislation.gov.uk/ukpga/2011/13/part/2/enacted

The Late Night Levy (Application and Administration) Regulations 2012:
www.legislation.gov.uk/uksi/2012/2730/contents/made

Lead Contact Officer

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Director/Officer who will be attending the Meeting

Name/Post: Fiona Inston – Licensing and Business Support Manager

Appendices attached to this report:

None

BRECKLAND DISTRICT COUNCIL

Report of: Rob Walker - Assistant Director of Commissioning

To: Licensing Committee

Author: Fiona Inston – Licensing and Business Support Manager

Subject: Early Morning Alcohol Restriction Orders

Purpose: To advise the Committee on the power to introduce an Early Morning Alcohol Restriction Order

Recommendation(s):

This report is for information only.

1.0 BACKGROUND

1.1 An Early Morning Alcohol Restriction Order (EMRO) is a power conferred on Licensing Authorities by the Licensing Act 2003 and came into effect on 31 October 2012.

1.2 The change enables Licensing Authorities if they choose to exercise this power to introduce an EMRO to restrict sales of alcohol in the whole or a part of the district for any specified period between 12 midnight and 6am, if considered appropriate for the promotion of the licensing objectives.

1.3 EMRO's provide a control to address recurring problems in an area such as high levels of alcohol-related crime and disorder in specific areas at specific times, serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

1.4 An EMRO:

- Applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
- Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different time periods on different days of the week;
- Applies for a limited or unlimited period (for example an EMRO could be introduced for a few weeks to apply to a specific event);
- Applies to the whole or any part of the Licensing Authority's area;
- Will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January every year);
- Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold through mini-bars and /or room service ; and
- Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

- 1.5 An EMRO is a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. Guidance issued under Section 182 by the Home Office however states that the Licensing Authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO, such as introducing a Cumulative Impact Area, reviewing licences of specific problem premises and/or encouraging the creation of business led best practice schemes in the area.
- 1.6 The Licensing Authority is required to consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives.

2.0 ISSUES

- 2.1 The introduction of an EMRO could be requested by the public or the Police and Crime Commissioner , but it is for the Licensing Authority to decide whether or not to introduce an EMRO.
- 2.2 The Licensing Authority must be satisfied that there is sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. Evidence should be sort from partners, including responsible authorities and local Community Safety Partnerships, along with its own evidence to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

3.0 OPTIONS

- 3.1 The Licensing Committee is requested to consider the contents of this report and be fully aware of the decision making process and criteria as necessary when looking at the option of whether to introduce an Early Morning Alcohol Restriction Order.

4.0 REASONS FOR RECOMMENDATION

- 4.1 It is essential that members of the Licensing Committee are aware of the new powers for Licensing Authorities within the Licensing Act 2003 extended by the Police Reform and Social Responsibility Act 2011 to decide whether to consider introducing an Early Morning Alcohol Restriction Order.

5.0 EXPECTED BENEFITS

The benefit is to provide members of the Committee of the Licensing Authority an update on significant legislative changes and the powers conferred to the Licensing Authority which may be relevant in further policy work or committee hearings associated with the Licensing Act 2003.

6.0 IMPLICATIONS

6.1 Legal

- 6.1.1 A decision to introduce an Early Morning Alcohol Restriction Order made by the Licensing Authority may be subject to legal challenge.

6.2 Risks

6.2.1 None

6.3 **Financial**

6.3.1 The Licensing Authority will need to decide whether or not it believes it has a viable proposal to introduce an EMRO before incurring the costs associated with the formal consultation process. Costs will be incurred through consultation, advertising, administration, monitoring and enforcement.

6.4 **Timescales**

6.4.1 Early Morning Alcohol Restriction Orders came into effect on 31 October 2012.

6.4.2 A proposal for an EMRO must be advertised for at least 42 days.

6.5 **Equality and Diversity**

6.6.1 None

6.6 **Stakeholders/Consultation**

6.6.1 None

6.7 **Contracts**

6.7.1 None

6.8 **Section 17, Crime & Disorder Act 1998**

6.8.1 None

6.9 **Other**

6.9.1 An amendment to Breckland District Council's Statement of Licensing Policy to reflect these changes will be necessary.

7.0 **Wards/Communities Affected**

7.0.1 All

Background papers:-

Licensing Act 2003: www.legislation.gov.uk/ukpga/2003/17/introduction

The Police Reform and Social Responsibility Act 2011 – Part 2 Licensing:
www.legislation.gov.uk/ukpga/2011/13/part/2/enacted

The Licensing Act 2003 (Early Morning Alcohol Restriction Orders) Regulations
2012: <http://www.legislation.gov.uk/uksi/2012/2551/made>

Chapter 16 - Section 182 Guidance issued under the Licensing Act 2003:
<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing/guidance-s182?view=Binary>

Lead Contact Officer

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Director/Officer who will be attending the Meeting

Name/Post: Fiona Inston – Licensing and Business Support Manager

Appendices attached to this report:

[list]

REPORT AUTHORISATION FORM

COMMITTEE:	LICENSING COMMITTEE
DATE OF MEETING:	23 rd January 2013
DATE OF AGENDA ISSUE:	16 th January 2013
REPORT TITLE:	Sex establishments and sexual entertainment venues policy

REPORT IMPLICATIONS CHECKLIST		
	NONE	INCLUDED
Carbon Footprint & Environmental Issues	x	
Constitution & Legal		X
Contracts	x	
Corporate Plan	x	
Crime & Disorder	x	
Equality & Diversity & Human Rights	x	
Financial	x	
Risk Management	x	
Staffing	x	
Stakeholders/Consultation		X

	YES / NO	INITIALS
Approved by Initiating Officer	YES	
Approved by Monitoring Officer	N/A	
Approved by Section 151 Officer	N/A	
Approved by CMT / Director	N/A	
Exempt Information	NO	
Category Number of Exemption (see attached)		

CABINET REPORT		
	INCLUDED	
	YES / NO	INITIALS
Options		
Reasons for Recommendation		
Portfolio Holder Consulted		

Schedule 12A Part 1: Descriptions of exempt information

Para No.	Description of Exempt Information
1	Information relating to any individual.
2	Information which is likely to reveal the identity of an individual.
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6	Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Amendment re: Standards Committee (England) Regulations 2008 (SI 2008 No.1085)

Para No.	Description of Exempt Information
7a	Information which is subject to any obligation of confidentiality.
7b	Information which relates in any way to matters concerning national security.
7c	Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.

Schedule 12A, Part 2: Qualifications

Para No.	Description of Qualification
8	Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under – (a) the Companies Act 1985(a); (b) the Friendly Societies Act 1974(b); (c) the Friendly Societies Act 1992(c); (d) the Industrial and Provident Societies Acts 1965 to 1978(d); (e) the Building Societies Act 1986(e); or (f) the Charities Act 1993(f).
9	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992(a).
10	Information which – (a) falls within any of paragraphs 1 to 7 above, and (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

For further information and advice, contact any of the Committee Officers.

BRECKLAND COUNCIL

Report of: Rob Walker – Assistant Director of Commissioning

To: Licensing Committee

(Author: Fiona Inston – Licensing and Business Support Manager)

Subject: Sex establishments and sexual entertainment venues policy

Purpose: To provide the committee information about the current consultation for sex establishments and sexual entertainment venues policy

Recommendation(s):

Not relevant to this report – for information only

1. BACKGROUND

- 1.1 On 27 January 2011 Breckland Council adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) so that it can licence “Sex Establishments”.
- 1.2 Sex Establishments fall into one of the following three categories:
 - sex shops
 - sex cinemas
 - sexual entertainment venues
- 1.3 Subsequent to adoption, a Policy is required to be formulated and consulted upon specifying how the Council will implement the requirements of the legislation and process applications received for Sex Establishments and Sexual Entertainment Venues.
- 1.4 The new powers which have been introduced nationally give the Authority greater scope and discretion as to how such venues are controlled. This Policy Statement sets out how this will be done and is a proactive way to deal with such premises and the proposals details matters such as relevant locations and allows for local conditions to be set.
- 1.5 A twelve week consultation is currently under way due to end 18th March 2013. 3.10 below details who has been consulted.
- 1.6 The Policy and all relevant comments will then go the General Purpose Committee and later Full Council for ratification.

1 OPTIONS

- 2.1 This report is for information only. Anyone can make comments, which can be made either by letter to the Licensing Team, Elizabeth House, Walpole Loke, Dereham, Norfolk NR19 1EE or by email to licensingteam@breckland.gov.uk.

2. REASONS FOR RECOMMENDATION(S)

- 2.1. Not relevant to this report

3. IMPLICATIONS

3.1. Carbon Footprint & Environmental Issues

None

3.2. Constitution & Legal

None

3.3. Contracts

None

3.4. Corporate Plan

None

3.5. Crime and Disorder

None

3.6. Equality and Diversity & Human Rights

None

3.7. Financial

None

3.8. Risk Management

None

3.9. Staffing

None

3.10. Stakeholders / Consultation

The following people have been consulted

- The Chief Officer of Norfolk Constabulary;

- One or more persons who appear to the Council to represent the interests of persons carrying on or proposing to carry on the business of a sex establishment in the district;
- One or more persons who appear to the Council to represent the interests of persons to be employed either as performers or otherwise in the business of a sex establishment in district;
- One or more persons who appear to the Council to represent the interests of persons likely to be affected by or otherwise have an interest in the policy, including the Planning Authority, Fire Authority, Environmental Protection and Child Protection;
- Interested parties such as citizen advice and sexual health clinics
- Ward Councillors;
- Town and Parish Councils.

The policy is also available on the Council's website

3.11. Other

4. WARDS/COMMUNITIES AFFECTED

All

Background papers:-

A copy of the policy and conditions being consulted on can be found at <http://www.breckland.gov.uk/content/sexual-entertainment-venues-policy-adoption>

Lead Contact Officer

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Appendices attached to this report:

None