

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

11 March 2010

Report of the Director of Central Services

Part 1- Public

Matters for Information

1 CHANGES TO THE LICENSING ACT 2003

1.1 Legal Implications

- 1.1.1 The Licensing Act 2003 limits the category of individuals and organisations that can make representations on applications and other matters which are determined under that Act. As Members are aware these individuals and organisations are divided into two main groups called “responsible authorities” and “interested parties”
- 1.1.2 By s.33 of the Policing and Crime Act 2009 the definition of an interested party was changed to include any member of the relevant licensing authority. This amendment came into force on 29 January 2010 with the effect that any Borough Councillor may now make representations on any licensing application.
- 1.1.3 Together with the change to the legislation the statutory guidance issued under s.182 of the Act was updated to reflect this change. Paragraph 8.9 of the revised guidance *states “Local councillors play an important role in their local communities. They can make representations in writing and at a hearing on behalf of an interested party such as a resident or local business if specifically requested to do so. They can also make representations as an interested party in their own right if they live, or are involved in a business, in the vicinity of the premises in question. Local councillors can also, as elected members of the licensing authority, make representations in their own right if they have concerns about any premises, regardless of whether they live or run a business in the vicinity of those premises. For example, councillors may apply for a review of a licence if problems at a specific premises which justify intervention are brought to their attention.”* This is a significant change and Members should particularly note the last sentence quoted.
- 1.1.4 In addition, the new guidance has clarified the way in which Members should be informed about licensing matters taking into account their new role. Paragraphs 8.13 and 8.14 are quite clear in advising that the Licensing Authority can keep Members informed of applications received as can be seen from the following quote “8.13 *In addition, councillors may wish to be kept informed of licensing related matters within the area, such as applications and reviews.* 8.14 *The Act*

does not prevent licensing authorities from providing this information to councillors, for instance by way of regular updates, as long as it is done in a neutral way that could not be seen as 'soliciting' representations. It should be remembered that the 'licensing authority' in most cases is the full council, including all ward councillors, and each is therefore entitled to information required to inform that role." Consequently, I will arrange for the Licensing Manager to provide a regular bulletin to all Members from now on listing all new applications which have been received.

1.2 Financial and Value for Money Considerations

1.2.1 None

1.3 Risk Assessment

1.3.1 The Licensing Authority will need to follow the new guidance to avoid a challenge that an application has not been processed correctly.

Background papers:

contact: Ian Henderson

Nil

Julie Beilby
Central Services Director