

Police Reform and Social Responsibility Bill - March 2011

Making relevant licensing authorities responsible authorities

What is the policy aim?

The Coalition Agreement included a commitment to overhaul the Licensing Act to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems in the local area.

What is a responsible authority?

Responsible authorities are public bodies that must be notified of new licence applications, reviews and other licensing functions. They are entitled to make relevant representations to the licensing authority in relation to the application for the grant, variation or review of such a licence.

Current responsible authorities in the Licensing Act 2003 are:

- The chief officer of police
- The fire authority
- The health and safety authority
- The local planning authority
- The environmental health authority
- Bodies recognised as being responsible for protection of children from harm
- Trading standards officers

What is a relevant representation?

These are written representations, about the likely effect of the grant of an application for, or variation to a premises licence or club premises certificate, on the promotion of the licensing objectives. Responsible authorities and interested parties, such as local residents, make representations regarding licensing functions. To be considered relevant, representations must have regard to the potential impact of the licensing determination on the promotion of the licensing objectives.

What is the proposed change to be made through the Bill?

We will make licensing authorities responsible authorities under the Licensing Act. This will empower them to refuse, remove or review licences themselves without first having had to have received a representation from one of the other responsible authorities listed above.

What are the advantages of giving licensing authorities this additional power?

This proposal will ensure that licensing authorities are better able to respond to the concerns of local residents and businesses by taking the necessary actions to tackle irresponsible premises without having to wait for representations from other responsible authorities.

What is the rationale behind this proposal and what evidence base was used?

This proposal will enable licensing authorities to take the necessary actions to tackle irresponsible premises without having to wait for representations from other responsible authorities. The Home Office conducted a 6 week public consultation exercise with a wide range of sectors including representatives from the on trade, off trade, police, health bodies and interested organisations.

Won't it mean that licensing authorities will be able to make a relevant representation regarding an application and determine the same application?

Yes. However, there is a precedent for this in the Gambling Act 2005 whereby different members of the licensing committee are required to fulfil different functions when determining an application. The Government has decided to follow this approach, and will specify in guidance that licensing committee members shall be allocated responsibility for different roles when determining a licence application. This will ensure that the same licensing officer is not responsible for acting as a responsible authority and making a determination on an application. Any actions taken will need to be justified on the basis of the promotion of the licensing objectives.

Main views of consultation respondents

A large number of consultation respondents supported this proposal, with some raising concerns this could lead to procedural unfairness. However, we are confident that this will not be the case since there will be a separation of responsibilities within the licensing authority to ensure the functions of acting as a responsible authority and determining the application cannot be exercised by the same individual. This regime is similar to that which operates effectively under the Gambling Act 2005.