

Report to Licensing Committee

Date of meeting: 30 August 2012

Subject: Annual Fees – Suspension of Premises Licence and Club Premises Certificate



**Epping Forest
District Council**

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Committee Secretary: Adrian Hendry

Recommendations/Decisions Required:

To note the procedures for collecting fees and suspension of Premises Licences and Club Premises Certificates introduced by the Police Reform & Social Responsibility Act 2011.

Report:

1. Prior to the 25th April 2012, the Licensing Act 2003 set down a statutory annual fee due by all Licence Holders. If the licence holder failed to pay the fee it became a debt due to the Council but the licence/certificate continued. The collection of this debt is through the County Court and recovery is time consuming and expensive.
2. The Police Reform & Social Responsibility Act 2011 ('the 2011 Act') introduced changes to the Licensing Act 2003, to make provision for licensing authorities to suspend licences due to non-payment of fees. The Government felt this amendment would provide a much stronger incentive for businesses to pay their fee in a timely manner and save licensing authorities the time and cost of pursuing non-payment. This provision came into effect on 25th April 2012.
3. The 2011 Act allows for a "grace period" period of 21 days for licence/club certificate holders to pay their fees. If the fee remains unpaid then the licensing authority must give the licence/club certificate holder a minimum of two days notification that the licence/club certificate will be suspended. If it is suspended the licence/club certificate must be reinstated as soon as the fee is paid and the authority must notify the licence/certificate holder when their licence/club certificate has been reinstated.
4. There is provision within the 2011 Act, that if an administrative error has occurred or there is a dispute about liability to pay a fee, the licence/club certificate cannot be suspended.
5. Under section 182 of the 2003 Act, a Local Authority in carrying out its functions must have regard to any guidance issued by the Secretary of State. The amended guidance relating to the new legislation in respect of the suspension of licences for non-payment of the annual fee is detailed in Section 14 which is attached to this report.
6. The annual fees for a number of club premises certificates and premises licences are now becoming due for payment. In June of this year, there were ten outstanding licence fees on the AIMS system and this represented a very small increase over the last years. This is a new procedure and members will be kept undated as to its effect.

Resource Implications:

- No financial risk identified in respect of staffing costs
- Payment received by cheque and subsequently returned by bankers. There is often a time delay when receiving notification of cheques being returned by banks, this will result in a delay with the suspension of the licence.

Legal and Governance Implications:

Licensing Act 2003
Police and Social Responsibility Act 2011

Safer, Cleaner and Greener Implications:

None

Consultation Undertaken:

None

Background Papers:

Guidance issued under S182 of the Licensing Act 2003

Impact Assessments:Risk Management

There is a requirement that all necessary procedures are followed..

Equality and Diversity

None

AMENDED GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT

2003

14. Suspension for non-payment of fees

14.1 The 2003 Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. However, this does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either of these cases, there is a grace period of 21 days. This period is intended to allow the licensing authority and the licence or certificate holder an opportunity to resolve the dispute or error. If the dispute or error is not resolved during this 21- day period, the licence will be suspended.

DISPUTE

14.2 The 2003 Act describes a dispute as one relating to liability to pay the fee at all or relating to its amount. In either case, the licence or certificate holder must notify the licensing authority of the dispute on or before the date on which the fee to which it relates becomes due.

ADMINISTRATIVE ERROR

14.3 There is no definition of “administrative error” in the 2003 Act, but it can include an error on the part of the licensing authority, the licence or certificate holder, or any other person. Therefore, “administrative error” will be given its plain, ordinary meaning. An example might be where post has been misdirected.

SUSPENSION

14.4 If a licensing authority suspends a licence or certificate, it must notify the holder in writing and specify the date on which the suspension takes effect; this date must be at least two working days after the day the authority gives the notice. It should be noted that this is the minimum period only, and licensing authorities should consider applying longer periods. The authority may wish to inform the police and other responsible authorities that the licence or certificate has been suspended.

14.5 A suspension ceases to have effect on the day on which the licensing authority receives payment of the outstanding fee from the licence or certificate holder. To enable the licence holder to demonstrate that the licence has been reinstated, the licensing authority is required to give the holder written acknowledgment of receipt as soon as practicable following receipt, and:

- a) If payment was received on a working day, no later than the end of the next working day, or;
- b) If payment was received on a day when the authority is not working, no later than the end of the second working day after the day on which the fee was received.

14.6 Licensing authorities may wish to consider requesting, in the notice of suspension mentioned above, that subsequent payment of the outstanding fee may be made in such manner as would most expeditiously bring it to the attention of the authority. The licensing authority may also wish to inform the police and other responsible authorities that the licence or certificate has been reinstated.

EFFECTS OF SUSPENSION

14.7 A premises licence or certificate that has been suspended does not have effect to authorise licensable activities. However, it can for example be subject to a hearing or, in the case of a premises licence, an application for transfer. The licence will nevertheless only be reinstated when the outstanding fee has been paid. Formally, the debt is owed by the holder who held the licence at the time it was suspended. However, it may be more likely in practice that the new holder will actually make the payment. In the case of a licence or certificate where more than one payment year has been missed (since the coming into force of sections 55A and 92A of the 2003 Act) payment of the outstanding fee in relation to each year will be required to reinstate the licence.