

Licensing Act Committee

3rd November 2009

LICENSING ACT 2003 YELLOW AND RED CARD APPROACH TO LICENSING REVIEWS

Report of the Director of Community Services

STRATEGIC AIM:	Increasing our culture, sport and recreational offer Maintaining high levels of employment and a thriving third sector Promoting Good Health and Wellbeing
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1. PURPOSE OF THE REPORT

- 1.1 To allow members of the Licensing Act Committee to consider using the Yellow and Red Card Approach to Licensing Hearings as outlined in the letter from the Department of Culture, Media and Sports (DCMS) dated 2 September 2009, attached at Appendix 1

2. RECOMMENDATIONS

- 2.1 **That the committee considers whether to introduce the yellow card and red card approach and, if minded to introduce this measure, to undertake consultation on its introduction, as set out in appendix 1, with the Police, Trading Standards and Environmental Health.**
- 2.2 **Following the consultation a further report is brought back to this Committee for consideration**

3. REASONS FOR THE RECOMMENDATIONS

- 3.1 The yellow card and red card approach is being promoted by the DCMS as a tough response by licensing committees in dealing with problem premises which are failing to promote the four licensing objectives. If the Council are minded to adopt the yellow card, red card approach the success of the initiative will require the involvement of the Police, Trading Standards, and Environmental Health in requesting reviews of premises licenses.

4. DCMS PROPOSALS

- 4.1 The letter from the DCMS is encouraging Local Authorities to think how the licensing review powers under the Licensing Act 2003 can be used to tackle problem premises. Earlier evaluations of the impact of the Licensing Act under taken in 2008 found that the extensive powers under the Act were not always being used. In some areas there was reluctance by the Responsible

Authorities to request reviews of licences and to seek revocation without very strong evidence.

- 4.2 Since then the DCMS have held a number of regional seminars to encourage the police and trading standards officers to be more pro-active in seeking early reviews on premises causing problems to local communities.
- 4.3 Where reviews have been sought the use of the yellow and red card approach represents a more robust response by licensing act committees, where it is found that premises are failing to promote one or more of the four licensing objectives. At the same time this approach provides an opportunity for the premises licence holder to reform.
- 4.4 Under this initiative a yellow card results in the imposition of tough new conditions on the licence (Appendix 1) which are appropriate to the problems that are subject of the review (e.g. underage sales of alcohol to persons under the age of 18). At the same time a warning is issued that if a further review is necessary and matters have not improved, the premises licence would be revoked.
- 4.5 The DCMS letter also highlights that any yellow card should be highly visible in the community and send a clear message to alcohol retailers and the public, that action will be taken where licensed premises act in a way that is contrary to the statutory licensing objectives.
- 4.6 The letter also states that the yellow and red card approach does not necessarily mean that the physical issue of cards is required but suggests that a condition be made requiring the premises to display a visible notice at the premises detailing the outcome of the review and that the warning that has been given.
- 4.7 Having a visible notice could discourage under 18's from attempting to purchase alcohol at premises being closely monitored for improvement.
- 4.8 The DCMS see this approach as helping Licensing Authorities to use their powers in a robust but proportionate manner.

5. LOCAL ISSUES

- 5.1 Since the Licensing Act came into force in 2005 there has only been one review of a premises licence which occurred in 2009. However the ongoing test purchases of alcohol which has resulted in a sale to a volunteer under the age of 18, has been dealt with by a combination of the use of fixed penalty notices, formal cautions, prosecutions and education.
- 5.2 Repeat alcohol test purchases are targeted at premises where sales have occurred. Whilst there has been a measure of success in terms of the number of refusals to sell, a recent alcohol test purchase exercise in a number of villages resulted in 6 premises selling to a young person under the age of 18, and one refusal. Test purchases in Oakham and Uppingham carried out as part of the same exercise resulted in 9 refusals from 9 attempted test purchases. Those making the sale of alcohol in this exercise have been dealt with through the service of fixed penalty notices by the Police and visits by trading standards to give advice and assistance to the business involved.

- 5.3 The Council's Strategic Aim "Promoting Good Health and Wellbeing has a strategic objective "to improve the health of our community by tackling obesity, smoking and alcohol. However the recent indicators for alcohol showed slow progress in this area. The introduction of a yellow and red card approach could result in an improvement in these indicators, particularly in relation to sales of alcohol to underage persons.
- 5.4 Additionally, using such an approach to deal with crime and disorder and public nuisance from licensed premises would send out a strong message that the Council as the Licensing authority will take robust action to address non compliance with the licensing objectives.
- 5.5 If the Committee is minded to adopt the yellow and red card approach it will be necessary to formally consult with the police, trading standards and environmental health to seek agreement on the circumstances when a review would be requested for failure to comply with the licensing conditions.

5. RISK MANAGEMENT

RISK	IMPACT	COMMENTS
Time	Medium	The Licensing Act and regulations under the act set out timescales for holding of review hearings
Viability	Medium	This approach would require agreement with relevant authorities
Finance	low	Any additional costs would be low and could be met from existing resources
Profile	High	Action against premises failing to comply with the licensing act objectives has a high profile
Equality and Diversity	Low	None identified.

6. CONCLUSIONS

- 6.1 The yellow card red card approach is a more robust approach to dealing with problem licensed premises. The fact that the Licensing Authority has only held one review hearing since the act commenced in 2005 does not indicate there have not been problems with licensed premises which have been dealt with by informal approaches. The yellow and red card approach would be useful in tackling underage sales of alcohol as it would send out a strong message that the council will take robust action against alcohol retailers.

Background Papers

Rutland County Council Statement of Licensing Policy
Letter from DCMS 2 September 2009

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A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.

(If requested Large Print Version should be printed in Arial 16 to 22 pt)

Letter from DCMS regarding the
Yellow Card Red Card Approach