

Decision Maker: General Purposes and Licensing Committee

Date: 30 June 2010

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) ORDER 2010**

Contact Officer: Paul Lehane, Head of Food Safety, Occupational Safety & Licensing
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Chief Officer: Nigel Davies - Director of Environmental Services

Ward: All

1. Reason for report

This report sets out the new mandatory conditions applicable to all premises licences and club premises certificates issued by the Council.

2. **RECOMMENDATION(S)**

Members are asked to note

1. **The new mandatory licence conditions**
2. **The proposals for the Licensing Team to implement the order and update / reissue current licences and certificates.**

Corporate Policy

1. Policy Status: Existing policy. Licensing Policy 2008 to 2011
 2. BBB Priority: Vibrant Thriving Town Centres. Children and Young People. Safer Bromley. Excellent council
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Financial

1. Cost of proposal: Estimated cost Mail Merging and postage of a letter to 850 Premises within the Borough. Re issue licences/certificates contained within existing budgets
 2. Ongoing costs: Non-recurring cost. Once Re issued there will be no further cost
 3. Budget head/performance centre: Public Protection
 4. Total current budget for this head: £3.5m
 5. Source of funding: Existing Revenue Budget
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Staff

1. Number of staff (current and additional): 62 (Licensing Service 8)
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Statutory requirement. The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010
 2. Call-in: Call-in is not applicable.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Businesses - 850 currently licenced under the Licensing Act 2003
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1 The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 was made on 16th March 2010. The order established a 2 phase implementation of 5 new mandatory conditions. The first 3 conditions came into force on the 6th April 2010 and the 4th and 5th conditions become live on 1st October 2010.

3.2 The Order identifies 5 mandatory conditions which will apply to all premises licences and club certificates where alcohol is sold for consumption ON the premises.

Condition 4 also applies to premises where alcohol is sold for consumption OFF the premises

A copy of the Home Office Guidance is contained at Appendix 1

The 5 new conditions are :-

3.3 Condition 1.

(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

3.4 (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

3.5 (a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) Drink as much alcohol as possible (whether within a time limit or otherwise);

3.6 (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

3.7 (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

3.8 (d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) The outcome of a race, competition or other event or process, or

(ii) The likelihood of anything occurring or not occurring;

3.9 (e) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner

3.10 Condition 2 .

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3.11 Condition 3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

Effective from 1st October 2010

3.12 Condition 4. (Additionally applicable to OFF Sale Premises)

(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

3.13 Condition 5.

The responsible person shall ensure that—

(a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) Beer or cider: ½ pint;
- (ii) Gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) Still wine in a glass: 125 ml; and

(b) Customers are made aware of the availability of these measures.

3.14 All premise licence and club certificate holders within the L B Bromley will receive a “mail merged” letter informing them of the new conditions and how they apply to them, additionally an article will be appear in the next edition of “Business Matters” the Environmental Services business news letter which is sent to all businesses within the borough.

3.15 Each licence/certificate holder will be given the option of returning their current licence/certificate to have the mandatory conditions added immediately, free of charge, or they can wait until a further change/alteration of the licence/certificate is required at which time they will be added then.

3.16 All holders of licence/certificate holders will be clearly informed that irrespective of whether they choose to have their licence/certificates amended now all the conditions still apply ie condition 1, 2 and 3 now and conditions 4 and 5 from 1st October 2010.

4. POLICY IMPLICATIONS

The new conditions are mandatory licensing conditions, any breaches will be treated in the same way as breaches of existing conditions according to the Licensing Policy .

5 FINANCIAL IMPLICATIONS

Costs will be contained within existing revenue budgets

6 LEGAL IMPLICATIONS

The Council is the Licensing Authority under the Licensing Act 2003 and has the duty to promote the Licensing Objectives. Ensuring that businesses have the correct licence conditions and comply with them is one way that this duty can be discharged.

Non-Applicable Sections:	PERSONNEL IMPLICATIONS
Background Documents: (Access via Contact Officer)	The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 Home Office Guide SELLING ALCOHOL RESPONSIBLY: The New Mandatory Licensing Conditions The Mandatory Code for Alcohol Retailers England and Wales April 2010