

Licensing Committee - 08 November 2010

6. Statement of Licensing Policy under the Licensing Act 2003

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Purpose of the Report

To inform the Licensing Committee of the new draft Statement of Licensing Policy and the revised contents therein.

Recommendation

To recommend that Full Council agree:

- (1) that the Statement of Licensing Policy be revised in accordance with Edition 4 and;
- (2) that Edition 4 is approved for publication by the statutory deadline of January 2011

Background

Under section 5 of the Licensing Act 2003, the Council must, every 3 years, determine its policy with respect to the exercise of its licensing function, and publish a statement of that policy.

During the three-year period, the policy must be kept under review and the Council may make such revisions to it, as it considers appropriate.

Exceptionally, Full Council, as opposed to the Licensing Committee, must approve the revised Statement of Licensing Policy. Members are therefore asked to recommend this policy to Full Council.

The first Statement of Licensing Policy was approved in December 2004, which was re-published with minor amendments in January 2005. The first statutory review took place in December 2007. The current version of the policy is known as Edition 3; therefore this edition will therefore be known as Edition 4 and is attached at Appendix A.

The policy is subject to tri-annual overhaul to reflect changes in the legislation and the Guidance issued under s182 of Licensing Act 2003 and must be published as per statutory requirement in January 2011.

Consultation

Before determining its policy for the next three year period, the following must be consulted:-

The chief officer of police;

- The fire authority;
- Persons/bodies representative of local holders of premises licences;
- Persons/bodies representative of local holders of club premises certificates;

- Persons/bodies representative of local holders of personal licences;
- Persons/bodies representative of businesses and residents.

The views of all these bodies listed should be given appropriate weight before the policy is determined.

Members should also note that the terms of the Act do not prevent them consulting other bodies or persons before determining the policy, the Licensing Service have therefore also consulted with recognised trade bodies.

The consultation period was for a six-week period, which commenced on Thursday 9 September and closed on Thursday 21 October 2010. The method of consultation was by letter with a link to the draft Statement of Licensing Policy which was published on the SSDC website.

Despite over 550 letters being sent out, only eight responses were received which are summarised in Appendix C; the low number of responses to draft Statements of Licensing Policy is replicated across the country.

Fundamental Principles of the Statement of Licensing Policy

In determining the policy, the Council must have regard to the Guidance issued under Section 182 of the Act by the Secretary of State for Culture, Media and Sport, as well as to the views of those it has consulted.

The draft policy does not depart from the Guidance from the Government. If, however, following the consideration of representations, it is decided that a departure from the guidance is necessary to ensure the licensing objectives are met locally, then the reasons for that departure must be recorded. This is particularly important in view of the increased likelihood of legal challenge if making policies not in accordance with the Section 182 Guidance.

Whilst the Statement of Licensing Policy should set out the approach that the Licensing Committee and Sub Committee will adopt when considering different kinds of applications and representations, it should not ignore or be inconsistent with provisions within the Act. For example, an individual's right to apply for a variety of permissions and to have any application considered on its own merits should not be undermined.

There must also be a direct link with one of the Licensing Objectives with any of the clauses in the Statement, and should be specific to licensing issues

Details of Amendments from the Previous Policy

The major change is the addition of a Cumulative Impact Policy. We have also updated the links and contact details. Maps of the proposed areas for the implementation of the Cumulative Impact Policy are attached at Appendix B.

Other changes include additional or re-written paragraphs for the following headings:

Heading	Paragraph Added	Paragraph Removed	Paragraph Amended
Background	1.1.2, 1.1.3, 1.1.4	1.1.2	
Aim NO CHANGE			
Purpose NO CHANGE			
Consultation NO CHANGE			
Fundamental Principles	1.5.2, 1.5.3, 1.5.4, 1.5.10, 1.5.11		
General Principles NO CHANGE			
Revisions to Policy	2.2 has a new heading		2.1.1
Children and Cinemas NO CHANGE			
Licensing Hours		2.3.3 removed as merged with proceeding paragraph 2.3.6	2.3.4, 2.3.7 shortened
Maximum Capacities		2.4.1	
Late Night Refreshment	2.6.2, 2.6.3, 2.6.4		
Partnership Working	3.1.3, 3.1.4		
Cumulative Impact Policy	New Heading All Paragraphs 3.2.1 –3.2.5 added		
Local Strategies and Policies	New Heading 3.3.1		
Integrating Strategies	3.4.4	3.2.4	
Avoiding Duplication	3.5.2, 3.5.3, 3.5.5, 3.5.6		
Vicinity			3.4.2
Conditions	3.7.2, 3.7.4		3.5.1, 3.5.2
Enforcement	3.8.1, 3.8.3, 3.8.4, 3.8.5, 3.8.6, 3.8.7, 3.8.8		
Live Music and Dancing NO CHANGE			
Complaints Against licensed Premises	Paragraphs 3.9.1 – 3.9.6 all added		
Administrative Issues			

4.0 – 4.6.3 WHOLE SECTION HAS BEEN REWORDED/ADD ED TO OR REMOVED/ORDE R CHANGED			
Reviews of Licence or Club Premises Certificate	4.7.2		
Administration, Exercise and Delegation of Functions NO CHANGE			

In the table, the column ‘paragraphs added’ relate to the new numbering in the new policy - edition 4, however the other two columns relate to the numbering in the 2007 Edition 3 policy.

Financial Implications

The government has indicated that they expect the centrally set fees of the Licensing Act 2003 to cover the cost to the council of administering the licensing regime, which would include the preparation of the revised policy, and the mailshot.

There would be risk to the Council of a judicial review if a Statement of Licensing Policy were not published in accordance with the requirements of section 5 of the Act.

Implications for Corporate Priorities

None

Other Implications

None – A member of the Legal team has reviewed the content of policy and a few changes have already been made as a result.

Background Papers: *Licensing Act 2003*
Guidance issued under section 182 of the Licensing Act 2003