

Meeting: LICENSING COMMITTEE

AGENDA: 4

Date: Friday 23rd July 2010

LICENSING ACT 2003 – LICENSING POLICY REVIEW
(Environmental Health & Licensing)

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1 PURPOSE

To seek approval to the proposed changes to the current Licensing Policy that was last approved by Full Council in December 2007, for the Licensing Act 2003 (Appendix 1), and to agree that this can be put out for consultation.

The proposed changes to the policy include suggested wording amendments, and new inclusions for the areas of Reviews, Minor variations and the newly introduced Mandatory Conditions.

2 RECOMMENDATIONS

That, subject to any amendments recommended by the Committee, officers conduct a public consultation exercise on the Licensing Policy for the Licensing Act 2003 with a view to reporting back to the Licensing Committee in November 2010, and then to Full Council in December 2010.

3 BACKGROUND

- 3.1 The Council reviewed its policy during 2007 prior to the expiry of the previous policy.
- 3.2 It should also be noted that the Department for Culture, Media and Sport (DCMS) revised the Statutory Guidance issued under the Act and the latest Revised guidance was issued in March 2010.
- 3.3 It is proposed to carry out consultation between 2nd August and 25th October 2010, following which a further report will be submitted detailing any responses received and seeking the Licensing Committee's recommendation to Full Council to approve the revised policy, subject to any agreed revisions arising from the consultation responses.
- 3.4 A revised draft of the policy has been produced for the Committee's approval and is attached at Appendix 1. Once the consultation process has been completed, a further report will be submitted to the Committee.

4 DISCUSSION

GENERAL

- 4.1 The Licensing Act 2003 first came into affect on the 22nd November 2005. This saw the ability to apply for, and be granted, licenses in relation to alcohol transferred from the Magistrates' Courts to local authorities.

- 4.2 Officers have reviewed the existing Licensing Policy in line with the amended Guidance issued under section 182 of the Licensing Act 2003 (March 2010), and notes supplied from LACORS.
- 4.3 A full copy of the LACORS best practice framework for the review of Licensing policy (Statements) April 2010) is attached as appendix 2 to this report.
- 4.5 The scheme of delegations previously approved by Stevenage Borough Council is included in the attached draft as appendix 1 therein.
- 4.6 The Licensing Act 2003 requires that the following parties are consulted by Licensing Authorities:
- The chief officer of police for the borough;
 - The fire authority for the borough;
 - 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 personal licences;
 - Persons/bodies representative of business and residents in the borough.

As stated in s 5(3) of the Act.

- 4.7 All of the consultees will be notified in writing of our consultation period. Copies of the draft Licensing Policy will be made available to any of the consultees upon request. This will also be placed on the Stevenage Borough Council website. In line with recommendations from the Cabinet Office, the consultation period will run for twelve weeks. The Licensing Authority must publish their Licensing Policy by the 7th January 2011.

OTHER AMENDMENTS

- 4.8 The draft policy includes:
- 4.8.1 A reordering of some sections
- 4.8.2 An edit of the first paragraph in section 1 (purpose and scope of the licensing policy)
- 4.8.3 **Mandatory Conditions**
The policy now includes reference from paragraph 7.14, page 10, to the additional mandatory conditions that came into effect on the 6th April 2010, and 1st October 2010 respectively for licensed premises.

These are as follows:

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.
2. 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-

- 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 authorized to sell or supply alcohol), or
 - ii. Drink as much alcohol as possible (whether within a time limit or otherwise);
- 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);
- c. provision of free or discounted alcohol or any other thing as a prize to encounter or reward the purchase and consumption of alcohol over a period of 24 hours or less;
- 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;
- 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 glamorize anti-social behavior or to refer to the effect of drunkenness in any favorable manner.

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).

Condition 3:

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

Condition 4:

1. The premises licenses holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the 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.

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 the 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.

The above conditions apply to all relevant premises licenses and all relevant club premises certificates authorising the consumption of alcohol on the premises, with the exception of the condition requiring an age verification policy to be adopted, which applies in addition to licenses and certificates which permit the supply of alcohol only for consumption off the premises.

Conditions 1-3 came into force on the 6th April 2010. Conditions 4-5 will take effect from the 1st October 2010.

- 4.8.3.1 Our policy continued to reflect that conditions will only be added where they are considered necessary and proportionate following receipt of valid representations, and that they will not duplicate other processes.

4.8.4 Minor Variations

The policy now includes reference from paragraph 7.18, page 11, to the minor variations process that came into force on the 29th July 2009.

Our policy reflects the view of recognising that variations can be both an administratively and costly burden on the applicant, and where applicable, applications will be processed under this remit.

4.8.5 Reviews

The policy now includes reference from paragraph 10.1, page 19, to the review process available under the Licensing Act 2003.

This section also includes reference as to how we as a Licensing Authority will work with the nominated responsible authorities, interested parties and license holders to address issues at an early stage.

5 IMPLICATIONS

5.1 Financial Implications

As most of the applications are dealt with administratively, there is not expected to be a large increase in workload.

5.2 Legal Implications

The Licensing Authority has a statutory obligation to produce a Licensing Policy under the Licensing Act 2003. This must be reviewed at a minimum every three years, and has to be published by 7th January 2011.

The Licensing Authority is bound by the provisions of the Act, the statutory guidance issued by the Secretary of State and its own Statement of Licensing Policy in administration of the licensing regime and in determining licensing issues. The integrity of the policy therefore has the potential to directly impact upon the Authority's determination of applications under the Act.

Unsuccessful implementation of the Act would cause considerable difficulty to businesses and residents alike. The production of this Licensing Policy must therefore be undertaken effectively to ensure that it is re-published no later than the 7th January 2011, as it is to take effect from this date.

BACKGROUND DOCUMENTS

Licensing Act 2003

DCMS s182 Guidance

LACORS Best Practice Framework for the Review of Licensing Policy Statements (April 2010)

APPENDICES

- Appendix 1 - Stevenage Borough Council Draft Statement of Principles
- Appendix 2 - LACORS Best Practice Framework for the Review of Licensing Policy Statements (April 2010).