

**Meeting: LICENSING COMMITTEE**

Date: Thursday 11<sup>th</sup> November 2010

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

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**1 PURPOSE**

- 1.1 To seek the Licensing Committee's approval to the proposed changes to the current Licensing Policy that was agreed by the Licensing Committee on the 23<sup>rd</sup> July 2010 as being acceptable to go out for consultation for the period 2<sup>nd</sup> August 2010 – 25<sup>th</sup> October 2010. The current Licensing Act 2003 policy was last approved by Full Council in December 2007, for the period 7<sup>th</sup> January 2008 – 6<sup>th</sup> January 2011.
- 1.2 The proposed changes to the policy included suggested wording amendments, and new inclusions for the areas of Reviews, Minor variations and the newly introduced Mandatory Conditions.

**2 RECOMMENDATIONS**

- 2.1 That, subject to any amendments recommended by the Committee post consultation, that the Licensing Policy for 2011-2014 be approved, and put forward to Full Council on the 8<sup>th</sup> December 2010 for their approval, so that the revised policy can take effect on the 7<sup>th</sup> January 2011.

**3 BACKGROUND**

- 3.1 The Council last reviewed its current policy during the autumn of 2007, prior to the expiry of the previous Licensing policy.
- 3.2 As approved by the Licensing Committee on the 23<sup>rd</sup> July 2010, the Licensing Department commenced their consultation of the Licensing Policy between 2<sup>nd</sup> August and 25<sup>th</sup> October 2010.
- 3.3 Following the consultation, the Licensing Authority received no comments from those with whom they consulted with. Therefore, no further amendments have been made to the proposed policy. The revised draft of the policy therefore remains as that presented to the Licensing Committee in July 2010, and is attached at Appendix 1 to this report.
- 3.5 It should be noted that previously, 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. With the introduction of the coalition government, the licensing function has now been split between the Home Office and the DCMS. As a result, a further revision to the s.182 guidance was issued on the 7<sup>th</sup> October 2010 by the Home Office. This guidance, along with other anticipated

changes to the Licensing legislation will continue to be monitored along side our Policy to ensure that this remains current.

## 4 DISCUSSION

### GENERAL

- 4.1 The Licensing Act 2003 first came into affect on the 22<sup>nd</sup> 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. 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.
- 4.3 The scheme of delegations previously approved by Stevenage Borough Council is included in the attached draft as appendix 1 therein.
- 4.4 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. A list of those persons with whom we consulted with can be found at appendix 3 to this report.

- 4.5 All of the consultees were notified in writing of our consultation period. Copies of the draft Licensing Policy were made available to the consultees where requested. This will also placed on the Stevenage Borough Council website. In line with recommendations from the Cabinet Office, the consultation period ran for twelve weeks. The Licensing Authority must publish their revised Licensing Policy by the 7<sup>th</sup> January 2011.

### OTHER AMENDMENTS

- 4.6 The revisions to the current policy also included:
- 4.6.1 A reordering of some sections
- 4.6.2 An edit of the first paragraph in section 1 (purpose and scope of the licensing policy)
- 4.6.3 **Mandatory Conditions**  
The policy now includes reference from paragraph 7.14, page 10, to the additional mandatory conditions that came into effect on the 6<sup>th</sup> April 2010, and 1<sup>st</sup> October 2010 respectfully for licensed premises.

4.6.3.1 The additional mandatory 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.

4.6.3.2 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.

#### **4.7 Minor Variations**

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

4.7.2 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 Reviews**

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

4.8.2 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**

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

#### **5.2 Legal Implications**

5.2.1 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 7<sup>th</sup> January 2011.

5.2.2 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.

5.2.3 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 7<sup>th</sup> January 2011, as it is to take effect from this date.

## **BACKGROUND DOCUMENTS**

Licensing Act 2003

DCMS s182 Guidance (March 2010)

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

## **APPENDICES**

- Appendix 1 - Stevenage Borough Council proposed Statement of Principles (with effect from 7<sup>th</sup> January 2011)
- Appendix 2 - LACORS Best Practice Framework for the Review of Licensing Policy Statements (April 2010).
- Appendix 3 - Details of consultees for Licensing Policy review