

Meeting: Executive
Portfolio Area: Health and E Government
Date: 24th November 2004

LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY
(Environmental Health, DES)

KEY DECISION

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1 PURPOSE

To consider the draft Statement of Licensing Policy referred from the Licensing and General Purposes Committee prior to adoption by Council.

2 RECOMMENDATIONS

That the Statement of Licensing Policy, as detailed in Appendix A of this report is referred to Council for approval.

3 BACKGROUND

- 3.1 The Licensing Act 2003 integrates six existing licensing regimes into one system of licensing. Under the provisions of the Act the Council becomes the Licensing Authority for the sale / supply of alcohol and it will also have an expanded role in the licensing of regulated entertainment and late night refreshment.
- 3.2 Under the Licensing Act 2003 each licensing authority is required to approve and publish its Statement of Licensing Policy. This Statement of Licensing Policy will be used to determine all future licensing decisions and must be taken into consideration by any court determining appeals.
- 3.3 This Statement must comply with the Licensing Act 2003 and the complementary Guidance issued by the Department of Culture Media and Sport (DCMS), it may also be subject to legal challenge. Further Guidance on formulating policy was issued by the Local Authority Co-Ordinating Body for Regulatory Services (LACORS). Each Statement is also required to be formulated having regard to consultation.
- 3.4 The draft Statement for Stevenage was previously considered by the Executive on 23rd July 2003 and was approved by the Licensing and General Purposes Committee for consultation in February 2004. This approval was subject to any changes made by statutory guidance. Guidance was finally issued in July 2004 and the draft policy

was made available for consultation from August 2004. The consultation period ended on 21st October 2004.

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

4.1 The responses received during the consultation process were considered by the Licensing and General Purposes Committee on 9th November 2004 and are shown in Appendix B.

4.2 The committee identified the key issues arising from the Statement of Licensing Policy and has made specific recommendations as follows:-

4.2.1 Control over closing times of neighbourhood pubs

Problem Under the new regime we cannot fix predetermined closing times for particular areas. There is a risk of legal challenge.

Recommendation **Do not set a guide-line closing time, consider each application on its merits (recommended by DCMS).**

Other options considered Identify an expected closing time of 23.00 hours or midnight in predominantly residential areas, subject to individual applications being considered on their merits.

Reason To follow the spirit of the legislation and ensure that individual circumstances can be taken into consideration.

4.2.2 Drinking up time

Problem Under the new regime there is no control over drinking up time, only sales of alcohol.

Recommendation **Take no action**

Other options considered Require a comprehensive response by licensee as to how such issues will be managed. Seek an undertaking from the licensee to comply with a voluntary code.

Reason Intervention was seen as too bureaucratic, as a Review can be undertaken should difficulties arise.

4.2.3 Dealing with the potential for noise nuisance from small premises (under 200 capacity)

Problem Exemption for small premises means that it is not possible to attach conditions relating to prevention of nuisance, except on review of the licence, after problems have occurred.

Recommendation **Aim to negotiate solution with licensee so that conditions can be voluntarily accepted e.g. such as control over patrons leaving the premises or turning off music 30 minutes before the stated closing time.**

Other options considered To take no action.

Reason This option was considered to be the status quo, adopted by the majority of responsible licensees.

4.2.4 Binge drinking

Problem It is not possible to ban cheap drink promotions (happy hours) as it may be seen as a restraint on competition.

Recommendation **Support industry in voluntary code to desist from low price drinks promotions, through Pub Watch scheme. Seek a ban on irresponsible drink promotions once evidence can link premises to disorder.**

Other options considered To take no action.

Reason This should build upon the successes already achieved in the short time that our local Pub Watch has been operating.

4.2.5 Membership of Pub Watch and other voluntary schemes

Problem It is not possible to require applicants to be members of Pub Watch or other voluntary scheme.

Recommendations **Make compliance with such schemes part of the assessment for priority planning of inspections. Refusal to participate will result in more frequent inspection.**

Other options considered To take no action.

Reason The Licensing Authority should be seen to be supporting responsible traders, encouraging self-regulation.

4.3 This policy must be published by January 7th 2005. This will allow prospective applicants at least one month to consider the Policy document before the "First Appointed Day", the date from which applications for licences under the Licensing Act 2003 can be made to the Council.

4.4 All licenses issued by the Council under the nine months of transitional arrangements commencing 7th February 2005 come into force on the "Second Appointed Day" anticipated to be 7th November 2005.

4.5 Even at this late stage, the Government has still not finalised all of the regulations required to implement the legislation. The most recent consultation relates to the level of proposed fees, for which responses are required by 23rd December. As had been predicted in the previous report to the Executive these fees are a fraction of the charges made under the current regime and inadequate to ensure full cost recovery. An appropriate response will be sent by officers to follow up the previous letter sent to the Secretary of State at the request of the Executive.

5 **IMPLICATIONS**

5.1 **Financial Implications**

There are no financial implications arising from this report.

5.2 Legal Implications

The Council is under a statutory duty to publish a statement of licensing policy and review it every three years. This policy is then used as a basis for considering licensing applications.

5.3 Policy Implications

The Statement of Licensing Policy makes reference to other strategies and policies of the Council, which will be taken into account when considering a licence application.

5.4 Community Safety Implications

The prevention of crime and disorder and the prevention of public nuisance are key licensing objectives addressed in the Statement. There are therefore many parallels with the Crime and Disorder Strategy.

5.5 Information Technology Implications

In view of our E-Government targets the Statement will encourage applications to be submitted on-line. Discussions are progressing with IT regarding the implementation of this software to meet the statutory timescales.

5.6 Other Implications

None apparent at this time.

BACKGROUND DOCUMENTS

- Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003

APPENDICES

Statement of Licensing Policy for Stevenage (as amended following consultation)
Consultation responses