

Bath & North East Somerset Council

MEETING:	Council	
MEETING DATE:	16 th November 2010	AGENDA ITEM NUMBER
TITLE:	Review of the Council's Statement of Licensing Policy	
WARD:	ALL	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Annex A: Summary of Consultation Responses Annex B: Revised Statement of Licensing Policy		

1 THE ISSUE

1.1 At the meeting on the 22nd November 2007, Full Council adopted a Statement of Licensing Policy, which is required by section 5 of the Licensing Act 2003 ("the Act"). In accordance with statutory requirements, the Policy has to be reviewed every three years. This report presents the proposed revised Policy following extensive consultation.

2 RECOMMENDATION

Council is asked to agree that:

2.1 The Council adopts the Policy provided in Annex B, having had regard to the responses received following the consultation exercise (set out in Annex A),

3 FINANCIAL IMPLICATIONS

- 3.1 It is anticipated that, for Licensing, Legal Services and Democratic Services, there will be some additional capacity issues as a result of the cumulative impact policy contained within the main Policy. Based on current experience each application, which is appealed, costs in the region of £5,000 - £10,000 and, it is predicted, that there will be an additional one to two appeals a year due to the cumulative impact policy. The additional cost relates to officer time and this extra demand on resources will be managed by diverting officers from carrying out licensing enforcement.
- 3.2 The Divisional Director, Environmental Services, will monitor the impact of the revised Policy and will report any increase in workload or expenditure, as a result to the Cabinet Member for Service Delivery.

4 CORPORATE PRIORITIES

- *Building communities where people feel safe and secure*
- *Improving life chances of disadvantaged teenagers and young people*
- *Sustainable growth*
- *Improving transport and the public realm*

5 THE REPORT

- 5.1 Section 5 of the Act requires a licensing authority to prepare and publish a statement of licensing policy every three years. Such a policy must be published before a licensing authority carries out any function in respect of individual applications made under the terms of the Act. During the three year period, the policy must be kept under review and a licensing authority may make any revisions to it, as it considers appropriate.
- 5.2 The first, three year period began on 7 January 2005, and at the meeting on the 22 November 2007, Council adopted the current Statement of Licensing Policy, which was then advertised and in place for the 7 January 2008. The current Policy now needs to be formally reviewed, adopted and published before the 7 January 2011. The current Policy will remain valid until that date.
- 5.3 Before determining its policy for any three year period the licensing authority must consult the persons listed in section 5(3) of the Act. These are:
- The chief officer of police for the area;
 - The fire and rescue authority for the area;
 - 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 in the area.

5.4 The Government has issued Guidance (“the Guidance”), under s. 182 of the Act, which states that the authority must have regard to it when making and publishing its policy.

5.5 The Guidance states fundamental principles which apply to statements of policy. These are:-

- All statements should begin by stating the four licensing objectives which the licensing policy should promote.
- While statements may set out a general approach to making licensing decisions they must not ignore, or be inconsistent with, provisions in the Act.
- No statement should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- Statements should make it clear that;
 - licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act; and
 - the conditions attached to various authorisations will be focused on matters which are within the control of individual licensees, and others with relevant authorisations, i.e. the premises and its vicinity. Whether or not incidents can be regarded as “being in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, this question will ultimately be decided by the courts.
 - when addressing this matter, the licensing authority should primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- The statement should also make it clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals, once they are away from the licensed premises, and therefore beyond the direct control of the premises licence holder.
- Statements should include a firm commitment to avoid attaching conditions that duplicate other regulatory regimes as far as possible.
- Where a special policy relating to cumulative impact has been adopted this must be reviewed regularly, and again at least every three years, to assess whether it is needed any longer or indeed needs expanding.

Further information of what should be contained in a Statement of Licensing Policy can be found in the Government’s “Guidance issued under section 182 of the Licensing Act 2003”. The guidance can be seen at the following website address:

[www.culture.gov.uk/what we do/alcohol and entertainment/default.aspx](http://www.culture.gov.uk/what_we_do/alcohol_and_entertainment/default.aspx)

- 5.6 At the meeting of Full Council on the 13th September 2007, it was resolved that the Policy should include a cumulative impact policy. The section of the proposed policy, relating to cumulative impact, (section 16 of the Policy) has been circulated for comment as part of the full draft Policy.
- 5.7 The proposed revised Policy was presented to the Council's Licensing Committee, on 5 October 2010; for comment and the Committee have recommended that the revised document is adopted by Council.
- 5.8 A copy of the proposed revision of the Statement of Licensing Policy is provided in Annex B, which contains the amendments from the draft sent out for consultation, having had regard to the responses received following the consultation exercise (Annex A).
- 5.9 Following the conclusion of the consultation exercise, the Equality Act 2010 came into force on 1 October 2010, which meant that paragraph 8 of the Policy needed to be amended.

6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue, and recommendations, has been undertaken in compliance with the Council's decision making risk management guidance.

7 EQUALITIES

- 7.1 A proportionate equalities impact assessment has been carried out using corporate guidelines and no equality issues have been raised.

8 CONSULTATION

- 8.1 In addition to the people/organisations, listed in paragraph 5.3, the following were also included in the consultation exercise: All Ward Councillors; Cabinet Members; Parish Councils; Town Councils; Development Control; Environmental Health; Trading Standards; Local Residents; Section 151 Finance Officer; Chief Executive; Monitoring Officer. The consultation documents were also made available on the Council's web site.
- 8.2 The consultation was carried out by writing, to all of the people listed in paragraphs 5.3 and 8.1, informing them of the review, and providing them with a link to the Council's web site, where the documents were available. Where people did not have access to a computer then paper copies of the documents were provided.
- 8.3 A copy of the Consultation Responses, and officer comments, are contained in Annex A.

9 ISSUES TO CONSIDER IN REACHING THE DECISION

- 9.1 In reaching its decision Council need to consider the issues of:- Social Inclusion; Customer Focus; Sustainability; Property; Young People; Human Rights; Corporate; Impact on Staff; Other Legal Considerations.

10 ADVICE SOUGHT

10.1 The Council's Monitoring Officer (Council Solicitor) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

Contact person	Andrew Jones, Environmental Monitoring and Licensing Manager, Tel: 01225 477557.
Background papers	Licensing Act 2003 Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
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