



Report of the Assistant Chief Executive (Corporate Governance)

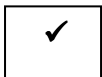
Executive Board

Date: 14 November 2007

Subject: THE STATEMENT OF LICENSING POLICY FOR LEEDS 2007-2010

Electoral Wards Affected:

ALL



Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)



EXECUTIVE SUMMARY

The Licensing Act 2003 (the 2003 Act) requires the Council to publish a Statement of Licensing Policy. That policy must be reviewed every three years. The original policy for Leeds was approved by Council on 12 January 2005, and was subsequently amended in January 2006 to add a cumulative impact policy for Chapel Allerton. The policy must now be reviewed in full, and a new policy must be approved before 5 January 2008. The report details the consultation undertaken and the revised policy developed as a result. It proposes that the policy be recommended to full Council for approval in December 2007.

1.0 Purpose Of This Report

1.1 The purpose of this report is to inform Members of the Executive Board of a consultation that has been undertaken under the Licensing Act 2003 and the resulting draft Statement of Licensing Policy for Leeds 2007-2010. The Licensing Act 2003 (the 2003 Act) requires the Council to publish a Statement of Licensing Policy. That policy must be reviewed every three years. The original policy for Leeds was approved by Council on 12 January 2005, and was subsequently amended in January 2006 to add a cumulative impact policy for Chapel Allerton. The policy must now be reviewed in full, and a new policy must be approved by full Council before 5 January 2008. The report advises Executive Board of the consultation and revised policy and recommends that the Executive board recommend the revised policy for approval by full Council.

2.0 Background Information

2.1 Under the provisions of the Licensing Act, the approval of the Council's Statement of Licensing Policy is a function of the full Council, and not a function of the Executive. The function may not be delegated to officers or to the Licensing Committee established under the 2003 Act. As this is a full Council function this report is not eligible for call in. The policy must be reviewed every 3 years and a revised policy must therefore be approved and published by 5 January 2008.

2.2 Officers delayed the preparation of a revised draft Licensing Policy for consultation until the Secretary of State had published revised guidance under the 2003 Act. This guidance was published on 28 June 2007 allowing officers to complete a revised draft for public consultation.

2.3 Public consultation (as required by the 2003 Act) commenced on 13 August 2007 and closed on 7 October 2007. This allowed approximately 8 weeks of consultation which was as close as could be achieved towards the Cabinet Office recommended guidelines of 12 weeks consultation. A questionnaire was available on the Council website throughout this period. Copies of the draft policy and questionnaires were available in all Council libraries. An article in the YEP highlighted the consultation process.

2.4 All Ward Members were sent a copy of the draft for consultation and invited to comment and to circulate it within their wards.

2.5 Although the Licensing Committee have commented on the draft and the proposed response to the consultation, it is not technically a function of Licensing Committee, and therefore it is not appropriate for the Licensing Committee to send the recommendation direct to full Council.

2.6 Late replies to the consultation (up to 14 October) were accepted due to the postal strike which was ongoing at the time consultation was due to end and some problems with the submission of on-line responses.

3.0 Main Issues

3.1 The Council (as licensing authority) must carry out it's functions with a view to promoting 4 licensing objectives. These are

- Prevention of crime and disorder
- Public safety

- Prevention of public nuisance
- The protection of children from harm

and the licensing policy itself must ensure that these functions are promoted.

- 3.2 As a result of the revised Guidance from the Secretary of State, changes to legislation such as the Regulatory Reform (Fire Safety) Order 2005 and the benefit of 3 years of experience of operating the regime, a number of substantial changes were proposed to the policy including a complete re-draft of the section on promotion of the licensing objectives.

168 responses were received to the consultation. These are summarised in the attached report at appendix 2. In summary there was broad support for the draft policy with some minor redrafts required as a result of legitimate trade concern regarding the section on alcohol sales promotions.

- 3.3 A table showing the responses made to the consultation and the action proposed in respect of policy revision is attached at **Appendix 1**
- 3.4 One important feature of the original licensing policy was the development of cumulative impact policies. This was a new ability brought about when the Licensing Act 2003 moved the powers to licence alcohol from the Magistrates to local Councils. A cumulative impact policy can be imposed where the cumulative impact of licensed premises in an area impacts adversely on the licensing objectives and creates a rebuttable presumption that no new licences of the type covered in the policy will be granted. A key feature of the current consultation has been around the existing cumulative impact policy areas (city centre, Headingley, Hyde Park and Woodhouse corridor and Chapel Allerton) and the proposed inclusion of a similar policy for Horsforth promoted by the Area Committee.
- 3.5 Attached to this report at **Appendix 2** is a report on the consultation responses and the evidence submitted in respect of the existing and proposed cumulative impact areas. In order to approve a cumulative impact policy Members must be satisfied that it is appropriate and necessary to do so in order to promote the licensing objectives. That is to say Members must be satisfied that the evidence report shows good evidence of crime and disorder or nuisance in the area caused by the customers of the licensed premises or that the risk of cumulative impact in the identified area is imminent.

- 3.6 Officers have considered the responses to the consultation and the evidence available in respect of cumulative impact. A revised draft Statement of Licensing Policy 2008-2011 is attached as **Appendix 3**.

4.0 Implications For Council Policy And Governance

- 4.1 The Council is required to have a licensing policy under the provisions of the 2003 Act and to review it at least every 3 years. Under regulations issued by the Secretary of State, the revised policy must be approved no later than 5 January 2008.
- 4.2 It is a requirement that Members of the Licensing Committee making licensing decisions have regard to the Council's policy.
- 4.3 Failure to approve a revised policy will therefore put Leeds City Council in breach of the legislation and the absence of such a policy will mean that Members of the

Licensing Committee may not take important local considerations into account when making decisions.

5.0 Legal And Resource Implications

- 5.1 As identified in the report there is a requirement under the 2003 Act to revise and approve a policy on or before 5 January 2008. Failure to do so has the consequences set out in paragraph 4 above.
- 5.2 Approving a policy which is not consistent with the promotion of the licensing objectives and the evidence gathered or which fails to take into account the views of the residents and businesses of Leeds (including the licensed trade) may result in a challenge to the policy and/or licensing decisions on grounds that the policy is unlawful.
- 5.3 The costs of revising the policy are covered within the budget of the Public Entertainment Licensing Section.

6.0 Conclusions

- 6.1 That Members should consider the proposed responses to the consultation at Appendix 1 and the evidence gathered at Appendix 2. Members should then consider whether to recommend the revised policy at Appendix 3 for approval.

7.0 Recommendations

- 7.1 Members are requested to
 - 7.1.1 Consider the proposed responses to matters raised in consultation as set out in Appendix 1 and consider whether to recommend to full Council that it be approved as the response of Leeds City Council to the matters raised in consultation
 - 7.1.2 Consider the evidence set out in Appendix 2 and the consultation responses on the proposals on cumulative impact and consider whether to recommend to full Council that the Statement of Licensing Policy includes cumulative impact policies in respect of the city centre, Headingley, Hyde Park and Woodhouse, Chapel Allerton and Horsforth.
 - 7.1.3 Note the contents of the revised draft Statement of Licensing Policy at Appendix 3 and consider whether to recommend to full Council that this policy be adopted as the Statement of Licensing Policy for Leeds 2007-2010. The policy at Appendix 3 does include cumulative impact policies and is therefore subject to the outcome of the resolution at 7.1.2