

Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 25th May 2012

Subject: Licensing Act 2003 Statement of Licensing Policy Review

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Major changes to the Licensing Act 2003 came into effect on the 25th April. As a consequence the council's Statement of Licensing Policy requires review and amendment.
2. This report provides a summary of the work required to update the policy and provides options for member involvement.

Recommendations

3. That Licensing Committee considers the contents of the report and decides the way forward.

1.0 Purpose of this report

- 1.1 To advise Licensing Committee of the issues relating to the revision of the Statement of Licensing Policy and to present options for member involvement.

2.0 Background information

- 2.1 The Police Reform and Social Responsibility Act 2011 received Royal Assent in September 2011 and brought a number of changes to the Licensing Act 2003 which were designed to give power back to local communities and to make it easier for Licensing Authorities to deal with problem premises and the problems associated with late night drinking.
- 2.2 The majority of these changes came into effect on 25th April 2012. The remaining changes (late night levy, early morning restriction orders, locally set fees and the repeal of alcohol disorder zones) are likely to come into effect in October.
- 2.3 These changes make fundamental changes to the way licence applications are determined and therefore there is a need to review the Statement of Licensing Policy.
- 2.4 In the past, although Licensing Committee have been informed at all stages of the review, there has been no direct involvement on these matters of policy. The changes to the Licensing Act were designed to give greater control to the Licensing Committee in their determinations of licence applications and it is appropriate that members of the Licensing Committee are more involved in the policy setting process although final approval to any new policy must be given by full council..

3.0 Main issues

- 3.1 Changes brought about by the PRSR Act.
- 3.2 There are a number of changes to the Licensing Act that will necessitate amendments to the Policy. For example the removal of the vicinity test for representations and the removal of the definition of interested party will require minor rewriting of the policy. There are a number of other minor amendments, such as the addition of NHS Leeds as a responsible authority.
- 3.3 Review of the cumulative impact policies
- 3.4 The section S182 Guidance issued by the Home Office has been amended to lower the evidential requirement for cumulative impact policies.
- 3.5 In addition officers have received a request from the South Leeds Alcohol Group to investigate the possibility of a cumulative impact policy in south Leeds.
- 3.6 Experience of operating to the current policy in decision making and appeals should also feed into the review of the city centre cumulative impact policy wording.

- 3.7 As a consequence it may be appropriate to review all the current policies to ensure they are fit for purpose in light of the changes to the guidance and to decide if the current CIPs should remain or be amended, whether further CIPs are appropriate or if there are other ways of achieving the same result.
- 3.8 Late night levy/early morning restriction orders/locally set fees
- 3.9 In October 2012 it is expected that the Government will commence the powers to set a late night levy, early morning restriction orders and locally set fees. The governance arrangements for these vary but in all cases there will be a need to consult with partners and stakeholders, and then to do a wider public consultation.
- 3.10 Local information to assist applicants
- 3.11 As part of the amended guidance, applicants are expected to include positive proposals in their application on how they will manage any potential risks. It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. The guidance states that the majority of the information which applicants will require should be available in the licensing policy, but that they could also use other sources such as crime mapping websites, neighbourhood statistics websites; websites or publications by local responsible authorities etc.
- 3.12 There is an opportunity for the council to provide, in its licensing policy, specific information relating to localities in Leeds that could shape the way premises are licensed. This information will need to be gathered, in liaison with area committees, area community safety officers and local residents and business owners. In other areas partners such as NHS Leeds and West Yorkshire Police may also be able to provide useful information.
- 3.13 It appears from the guidance that the council has a choice over where to place this information - in the policy or on the website, but the impact of either choice will need careful consideration.
- 3.14 Zoning
- 3.15 In previous versions of the Guidance licensing authorities were clearly advised not to deliberately zone areas and to set standard opening times.
- 3.16 However the new guidance states:
“The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.”

3.17 Therefore it may be appropriate to make a statement in the policy regarding opening hours in certain parts of the city, once discussions with responsible authorities and other appropriate persons have taken place.

3.18 The way forward

3.19 The changes to the Licensing Act have already been commenced but the council was not given enough time to amend the policy before this happened. Therefore, although the policy is now out of date the council does have time to consider any amendments carefully. It is suggested that, especially with the licensing authority's current workload, to start discussions and local consultations on the policy over the summer. By the autumn further detail around late night levy and EMROs will be published and the consultation process could extend to these two new powers at that point. Officers would hope to be able to take the amended policy out to a public consultation over winter 2012/13 with possible adoption by Council in April 2013.

3.20 In order to progress these matters, members may be minded to assist officers with these decisions in a number of ways:

- Working group - members may decide to form a working group of 3 or 4 members of the Licensing Committee to work with officers, to hear from responsible authorities and to make recommendations as above.
- Representatives - members may decide to nominate one or two members to meet with officers on a regular basis to receive feedback on work carried out and be involved in the formulation of the new policy.
- Regular updates - members may decide to ask officers to report back regularly to Licensing Committee

4.0 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The changes to the Licensing Act were consulted upon by HM Government over the last two years. The licensing authority is required, by the legislation, to consult upon any amendments to the licensing policy. Normally the council follows the Government guidance on Consultations and undertakes a 12 week postal consultation. In addition officers and members may decide to undertake more directed consultation with area committees, local community safety officers, residents groups and local business owners. Responsible authorities, designated by the Licensing Act, will be involved from an early stage.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 All of Entertainment Licensing's work is assessed for the impact on equality, diversity, integration and cohesion every three years as per the Council policy.

4.3 Council Policies and City Priorities

4.3.1 This report discusses the impact on the Licensing Act 2003 Statement of Licensing Policy, and the options that are open to the council.

4.4 Resources and Value for Money

4.4.1 The review and consultation on the Statement of Licensing Policy will have an additional impact on resources, as this is an unplanned amendment on a policy that was only set last year. However we have taken advice from the Home Office and have been told that we will need to amend our Licensing Policy, but that the scale of the consultation should be commensurate with the changes.

4.5 Legal Implications, Access to Information and Call In

4.5.1 There are no legal implications for this report, as the decision to be made by the Licensing Committee relates to their involvement in the review of the licensing policy. The amended policy will be assured by Legal Services before approval.

4.6 Risk Management

4.6.1 Licensing Committee could decide not to be involved until such time that the draft policy is placed before Licensing Committee just before consultation and before starting the approval process but there is a risk that the process would be delayed should the Committee decide to make changes to the policy at such late stage.

5 Conclusions

5.1 The Police Reform and Social Responsibility Act 2011 and the resulting changes to the section 182 Guidance have meant that the council's Statement of Licensing Policy will require reviewing and amending. There is an opportunity for Licensing Committee to be more involved in the policy development. This is especially pertinent as the changes increase the scope for the licensing authority to modify or refuse licence applications and to modify or revoke licences on review.

6 Recommendations

6.1 That Licensing Committee considers the contents of the report.

6.2 That Licensing committee decides whether to:

- Form a working group to work with officers, partner agencies and stakeholders
- Provide a representative to work with officers, partner agencies and stakeholders
- Require officers to report to Licensing Committee regularly during the review process, and the frequency of those reports

or

- Require officers to report once the new policy is in draft form and prior to public consultation and approval, as previously.

Background Papers

Briefing Note - Police Reform and Social Responsibility Act 2011