

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 17th December 2013

Subject: Licensing Act 2003 Statement of Licensing Policy 2014-2018

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s): City and Hunslet		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" 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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

1. The Council adopted the first Licensing Act 2003 Statement of Licensing Policy in 2005 and this policy has been reviewed on a three yearly basis in line with the requirements of the legislation.
2. In April 2012 the Police Reform and Social Responsibility Act 2011 made substantial changes to the Licensing Act 2003 which prompted an early review of the policy.
3. Licensing Committee formed a working group to look at the issues in June 2012 and Licensing Committee approved a draft report for public consultation from June to August this year. This report presents the findings of the consultation, the working group's comments and a final version of the policy for referral to Council for approval.

Recommendations

4. That Licensing Committee review the responses to the consultation, the proposed consultation report and the amended Statement of Licensing Policy.
5. That Licensing Committee refer the LA03 Statement of Licensing Policy 2014-18 and the Consultation Report to Council for approval.

1 Purpose of this report

- 1.1 To present to Licensing Committee the Consultation Report and final Statement of Licensing Policy 2014-2018 for consideration and referral to full Council.

2 Background information

- 2.1 Section 5 of the Licensing Act 2003 requires licensing authorities to prepare and publish a statement of licensing policy every three years. The council's first Statement of Licensing Policy was adopted by Council on 12th January 2005 and was reviewed in 2007 for adoption in December 2007. A reviewed and amended policy was adopted by Council in January 2011.
- 2.2 In April 2012 the Police Reform and Social Responsibility Act made wide ranging changes to the Licensing Act 2003. These changes necessitated a review of the current Statement of Licensing Policy. One of those changes was to change the length of the lifetime of a policy from three to five years.

3 Main issues

- 3.1 In July 2012 Licensing Committee formed a working group of 5 elected members, supported by officers from Entertainment Licensing and Legal Services to look at the changes in the Police Reform and Social Responsibility Act and to propose changes to the current Policy.
- 3.2 The working group met on a monthly basis speaking to a range of experts on the relevant matters and a range of changes were proposed in a consultation document and draft Statement of Licensing Policy 2014-2018.
- 3.3 In May 2013 Licensing Committee approved a public consultation to obtain the views of those affected and the people of Leeds.
- 3.4 The council received 10 responses, which are detailed in the Consultation Report (attached at appendix 1). The responses were very useful and changes have been made to the Policy (attached at appendix 2) in response to those comments.

Working Group Comments

- 3.5 The Working Group met in October to discuss the consultation responses. The group noted that the response from Wetherby Town Council raised concerns about alcohol deliveries by fast food outlets and specifically about the protection of children. The policy was amended to suggest applicants should have robust policies to ensure that no deliveries of alcohol are made to children.
- 3.6 A number of respondents had concerns about the statutory process relating to Temporary Event Notices. Specific concerns were:
 - that only the Police and Environmental Health can object;
 - that residents aren't consulted with,
 - that the council should automatically block unsuitable TEN applications.

- 3.7 As these matters are controlled by the statutory process, it is not within the scope of the policy or within the ability of the licensing authority to amend the process to suit local concerns. An explanation of this is included in the consultation report.
- 3.8 In addition the Licensing Committee, through the Chair, has had correspondence with the Home Office about the unsuitability of the TENs process, However the Home Office response (appendix 3) refers to the TENs process as a light touch approach and indicates there is little likelihood of changes to the system.
- 3.9 A number of respondents talked about cumulative impact policies. There was support for the retention of the Woodhouse CIP, and so the working group recommends that this is retained.
- 3.10 Another concern about CIPs was that in order to get an application made for premises in a CIP area heard before a licensing subcommittee, there needs to be a representation made. In the past the licensing authority has relied upon residents and responsible authorities to make the representations. The working group discussed the new power given as part of the changes to the Licensing Act in April 2012, for the licensing authority to make representations.
- 3.11 The working group agreed that the licensing authority should make a representation based on cumulative impact against any application made within a CIP area, in consultation with local ward members. Should the local residents subsequently express their support for the application, through the ward members, consideration can be given to withdrawing the licensing authority representation. This will ensure that all applications made in a CIP area will be heard by a licensing subcommittee, unless local support is expressed. If the licensing authority receives other representations which describe the negative effects of cumulative impact this will strengthen the licensing authority case, and can be taken into account when the licensing subcommittee makes their decision.
- 3.12 In order to establish if this would significantly increase the number of hearings the licensing committee currently hear, the statistics for the last two years were obtained:

	City		Headingley		Chapel Allerton		Horsforth	
	11/12	12/13	11/12	12/13	11/12	12/13	11/12	12/13
Received	41	62	8	6	3	5	4	2
Hearing	22	11	3	1	2	0	0	0

- 3.13 The numbers which relate to Headingley, Chapel Allerton and Horsforth are small, and would not impact on the current number of hearings. The licensing authority does receive a high number of applications for the city centre. However the scope of the CIP in the city centre is changing with a much reduced “red zone” proposed. Last year five premises applied in the red zone. In conclusion the evidence suggests that ensuring all CIP applications came to hearing would not increase the number of applications being heard significantly.

- 3.14 During the application process, agreements are often reached between the responsible authorities and the applicants. Providing these agreements are reached in time to do so, the responsible authorities would normally withdraw their representation to save a matter coming to hearing which has already been resolved. As the licensing authority representation would be on the basis of cumulative impact, it is unlikely that any measure offered by the applicant would entirely resolve that concern, however it is proposed that where agreements have been reached with the Police in the city centre, and an application is no longer of concern to them, the licensing authority would withdraw the CIP representation to save unnecessary hearings.
- 3.15 Health and Environmental Action Service made a detailed response to the consultation and a number of minor changes to the policy have been made as a result of this response.

Approval Process

- 3.16 Taking into consideration all the comments made, the working group has made a number of changes to the draft policy, and now present it to Licensing Committee along with the consultation response. The adoption of the new policy is a matter for Council; however it is for Licensing Committee to review the proposed policy and to refer the matter to Council.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The draft Statement of Licensing Policy 2014-2018 was subject to a public consultation between 3rd June and 28th August 2013. The consultation received ten responses from responsible authorities, community groups and individuals. The response to the consultation is provided at appendix 1.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Equality and diversity, cohesion and integration have been considered each time the policy is reviewed. At this time there are no implications for equality and diversity/cohesion and integration.

4.3 Council policies and City Priorities

- 4.3.1 The licensing regime contributes to the following Best Council Plan 2013-17 outcomes:

- Improve the quality of life for our residents, particularly for those who are vulnerable or in poverty;
- Make it easier for people to do business with us.

- 4.3.2 The licensing regime contributes to our best council objective:

- Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city.

4.4 Resources and value for money

- 4.4.1 The review of the policy is a mandatory requirement. This time the review of the policy was required due to sweeping changes to the Licensing Act 2003. Although reviewing a policy and the subsequent consultation does have a cost associated with it, it is considered good value for money as a robust policy supports the decisions of the Licensing subcommittees and therefore reduces the risk of legal challenge.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 As already stated in 4.4.1 the review of this policy is a mandatory requirement. It is also good practice, especially where there have been such major changes to the Licensing Act. The review of the policy will reduce the risk of a successful legal challenge.

4.6 Risk Management

- 4.6.1 As previously stated the review of the policy reduces the risk of legal challenge to the licensing subcommittee decisions.

5 Conclusions

- 5.1 The public consultation brought forth the public concern about the sale of alcohol to children via delivery services, the cumulative impact policies and their effectiveness and concerns about the temporary event notice system. The working group has suggested a number of changes to the draft policy in line with these comments which are detailed in the consultation report and present the two documents to Licensing Committee for approval and further referral to Council for adoption.

6 Recommendations

- 6.1 That Licensing Committee review the responses to the consultation, the proposed consultation report and the amended Statement of Licensing Policy.
- 6.2 That Licensing Committee refer the Licensing Act 2003 Statement of Licensing Policy 2014 - 2018 and the Consultation Report to Council for approval.

7 Background documents¹

- 7.1 There are no unpublished background documents that relate to this matter.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.