

REPORT FOR: LICENSING AND GENERAL PURPOSES COMMITTEE

Date of Meeting: 15th June 2010

Subject: Revised Licensing Policy – for approval

Responsible Officer: Brendon Hills – Corporate Director,
Community & Environment

Exempt: No

Enclosures: Draft revised Licensing Policy and Responses to consultation

Section 1 – Summary and Recommendations

This report provides the draft revised Licensing Policy for this Authority and the responses received to the consultation exercise in respect of it.

Recommendations:

The Committee is requested to:

1. Consider the responses received following the consultation exercise on the draft revised Licensing Policy.
2. Consider the draft revised Licensing Policy
3. Refer the Policy to Full Council for approval.

Section 2 – Report

2.1 Background & Current Situation

Under Section 5 of the Licensing Act 2003, a licensing authority must prepare a statement of the principles that they propose to apply in exercising their functions under this Act. It is a requirement that the Authority reviews its Licensing Policy at least every three years. The current Licensing Policy was published on 18th October 2007.

The draft revised Policy was under consultation from 15th March – 21st May 2010, and the responses received are attached to this report.

2.2 Main Options

The options are limited as the process is legislative and is dictated by the Act itself. We have no discretion as to the making of a statement of policy, although there is some discretion as to the content of the statement.

There is one area of change to the revised Policy. This area is to reflect the legislative change appointing an elected member as an interested party for the purpose of the Licensing Act 2003.

Thus, the options available are as follows:

1. Recommend that the original changes to the policy should be made;
2. Propose modifications to the policy to take account of the consultation responses and any views of the Committee;
3. Recommend that the policy is left as currently written. As the change to the policy is to reflect a change in legislation, this option is not recommended.

2.3 Consultation

The Licensing Policy consultation took place from 15th March 2010 and ended on 21st May 2010.

The consultation was carried out in accordance with section 5 of the Licensing Act 2003, which requires the licensing authority to consult the following on the policy statement or any subsequent revision to it:

- (a) the chief officer of police for the licensing authority's area,
- (b) the fire authority for that area,
- (c) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- (d) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,

(e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and

(f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

This authority consulted with the (Chief Officer of) Police for the Harrow area, all premises and clubs licensed in Harrow under the Licensing Act 2003 and known local residents' associations. The draft policy was published on the Council's website for the duration of the consultation period.

By the end of the consultation period the Authority had received only two responses regarding the policy statement. Both responses are attached to this report.

The response contributed by the Pinner Association requests that persons making applications under the Licensing Act 2003, be required to produce a copy of the relevant planning permission with associated conditions. As stated in the policy, planning and licensing are separate regimes and whilst the licensing policy can encourage an applicant to seek planning permission first, it cannot compel an applicant to do so. In addition, conditions can only be imposed following receipt of a representation and if it is necessary for the promotion of the licensing objectives. There may be a situation whereby the hours restriction imposed for planning is different from the hours restriction imposed for licensing. If the planning hours restriction is more onerous, the applicant will be expected to comply with this and if he or she fails, the Council in its capacity as local planning authority can take enforcement action. The Council as licensing authority can inform an applicant about planning restrictions, however these restrictions cannot simply be added as conditions to the licence.

The second response received makes various comments regarding the cost and availability of alcohol. The policy reflects the position as laid out in the Licensing Act 2003, that the Council, in its licensing role is not empowered to determine the need or commercial demand for another pub, restaurant or hotel. These are issues for relevant planning controls and the market to determine. Under the Licensing Act 2003, it is an existing offence to sell alcohol to a person who is drunk. The Government is considering whether to impose statutory restrictions on price promotions and selling alcohol below price.

2.4 Legal Implications

As noted above, it is a statutory requirement that the Authority produces a statement of licensing policy setting out its approach with regard to exercising its functions, and that it reviews it at least every three years.

2.5 Equalities Impact

The consultation on this policy was carried out in accordance with section 5 Licensing Act 2003 and was advertised on the Council's website for the

duration of the consultation period which took place over twelve (12) weeks. Having carried out an Equalities Impact Assessment in line with the Corporate Equalities Policy, it has been established that there is no adverse effect on any group on the grounds of age, disability, gender, race, religion, belief, sexual orientation or socio economics circumstances.

2.6 Community Safety - Section 17 Crime and Disorder Act

The key remit of the Licensing Policy will be the manner in which it and the decisions based on the policy address the need for partner agencies to work together to develop and implement strategies to tackle crime and disorder which may be related to the implementation of the Licensing Act and related controls and enforcement. Implementation of the Policy will serve to underpin the delivery of crime reduction strategy priorities and as such directly support section 17 key objectives and the Crime and Disorder Reduction Strategy.

2.7 Financial Implications

None

2.8 Risk Management Implications

If the authority does not review its policy within the 3 year period it will be in breach of s.5 of the Act, leaving the Authority open to challenge by persons dissatisfied with decisions made in accordance with the existing policy.

Section 3 - Statutory Officer Clearance

Name: Kanta Hirani	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 02 June 2010		
Name: Sarah Wilson	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 04 June 2010		

Section 4 - Contact Details and Background Papers

Contact: P Sivashankar, Licensing Services Manager x 6237

Background Papers:

- 1.) Draft revised Licensing Policy
- 2.) Responses to consultation