

Meeting:	<b>ENVIRONMENT AND ECONOMY SCRUTINY SUB-COMMITTEE</b>
Date:	<b>30 NOVEMBER 2004</b>
Subject:	<b>LICENSING ACT 2003, LICENSING POLICY AND CONSULTATION, UPDATE ON THE LICENSING POSITION</b>
Responsible Officer:	<b>CHIEF ENVIRONMENTAL HEALTH OFFICER</b>
Contact Officer:	<b>ANDY APPLEBY</b>
Portfolio Holder:	<b>ENVIRONMENT AND TRANSPORT PORTFOLIO HOLDER</b>
Key Decision:	<b>NO</b>
Status:	<b>PART I</b>

## **Section 1: Summary**

### **1. Summary**

- 1.1 The Licensing Act 2003 created a new statutory duty for local authorities to licence premises and persons for the sale of alcohol. This Report provides the sub committee with an update on the position with regard to the Licensing Policy and related issues. .
- 1.2 The Licensing and General Purposes committee considered reports on the 4<sup>th</sup> March 2003, 29<sup>th</sup> September 2003, 16<sup>th</sup> June 2004 and most recently on the 29<sup>th</sup> November 2004. These reports covered the provisions of the legislation in some detail. The licensing regulations that accompany the Act were issued for consultation in October with the draft fees regulations following in early November.
- 1.3 The Licensing Service Manager is now in post and has started the detailed planning and procedures for the new Team and the new duties.

## Decision Required

### 2. Recommendations (for decision by the Sub-Committee)

- 2.1 To request that the Chief Environmental Health Officer continue to review the legislation and guidance to authorities, and report to the Sub-Committee on the achievement of the new duties on the authority according to the published work programme.

## Reason for report

To report in accordance with the Sub-Committee's work programme.

## Section 2: Report

### 3. Consultation with Ward Councillors

- 3.1 The licensing changes affect the whole Borough. The latest briefings in the form of bespoke training sessions for elected members took place in October 2004 .

### 4. Policy Context

- 4.1 The report to the Licensing and General Purposes Committee on the 4th March 2003, agreed the initial approach to the then Licensing Bill 2002. The report to the committee on the 29th September 2003, considered the Act, agreed the consultees for the Draft Licensing Policy and arrangements for the approval of the Draft Licensing Policy.
- 4.2 At the September 2003 meeting it was expected that the final Statutory Guidance and the Regulations were imminent, based on information issued by DCMS. It is now apparent that the DCMS decided to wait for publication of the Alcohol Harm Reduction Strategy before proceeding with licensing implementation. The Alcohol Harm Reduction Strategy was published in March 2004 and the licensing Statutory Guidance was submitted for the approval of Parliament in April 2004.
- 4.3 At the meeting on the 16th June 2004, L and GP committee received an update on the Act and the work that had been achieved so far in meeting the requirements of the new statutory duties. The statutory guidance to local authorities on the content of Licensing Policies was finally issued on the 17th July 2004.

### 5. Relevance to Corporate Priorities

- 5.1 The prevention of crime and disorder, public safety, the prevention of public nuisances and the protection of children from harm are the stated

Licensing Objectives in the Act. Additionally the DCMS expects that the changes to opening hours and the availability of a wide range of customer-oriented premises with a greater flexibility in the sale of alcohol, will assist tourism and the local economy. All these issues are central to Corporate Priorities and have a particular relevance to a Safer Harrow.

## 6. **Licensing Policy**

6.1 The development of a Licensing Policy is the initial duty on the authority under the Licensing Act. It establishes the basis for applications under the Act, and the way these are determined. Hence the Policy must be complete and approved prior to the commencement of applications to the licensing authority. The Policy is for a three-year period and must be kept under review during this period. In drawing together its Licensing Policy the authority has to:

- Comply with the requirements of the Licensing Act.
- Have regard to the Statutory Guidance issued to authorities by the Secretary of State under Section 182 of the Act.
- Consider responses made to the Draft Policy as a part of the consultation.

6.2 The Statutory Guidance was issued in July 2004. Officers revised the draft Policy, which was then issued for consultation. Consultees included statutory organisations such as the Metropolitan Police, London Fire and Emergency Planning Authority, Area Child Protection Committee, Harrow Licensing Justices and Harrow Primary Care Trust.

6.3 Additional consultation was undertaken with the occupiers of all premises likely to require licensing, residents' representatives including Residents' Associations, Ward Councillors, those groups and persons who responded to the Council's initial awareness raising publicity in May 2003, business representatives, including the Chambers of Commerce, Harrow Town Centre Forum, Harrow in Business.

6.4 Internal consultation was undertaken with People First, Planning, Transportation, Crime and Disorder, Drug Action Team, Youth Offending Team. Copies of the Draft Policy were distributed through Libraries and the Council Website. The Website recorded xx 'page impressions' during this period.

6.5 In total 28 responses to the Draft Policy were received by the deadline of the 12 November 2004. Additional responses were received after the deadline which will be taken into account in due course and on review of the Policy. The following table gives an analysis of the responses:

Type of Consultees	Number of Responses	Percentage of Total
Individual resident	7	25%
Residents' Association	4	14%
Business	14	50%
Statutory Organisations	3	11%

- 6.6 To assist consultees with their comments on the Policy, a Reply Form was produced and distributed with the policy. While comments could be submitted in any format, all respondents used the Form. The form provided space for comments on each of the sections of the policy and highlighted a selection of key policies for particular comment or analysis.

## **7. Approval by Full Council**

- 7.1 On the 14th September LACORS published the DCMS Order that appointed the 7th February as the start of the transitional period for conversion of existing licences. Guidance issued with this notification stated that the Policy must now be published by the 7th January 2005, in accordance with the Order, contrary to earlier LACORS guidance .
- 7.2 To clarify the position Harrow has sought the advice of specialist Licensing Counsel as to whether the Policy can be published by 7<sup>th</sup> January 2005 as a draft, but subject to approval in accordance with the earlier guidance. Counsel has confirmed that in his opinion the Policy must be approved by Full Council prior to publication and that following the Order by DCMS there is no choice in this matter.
- 7.3 DCMS have stated that the approval of the Licensing Policy is to take place at full Council and further, "there should be no delegation of the function to the local authority's Executive." There is no discretion in this respect.
- 7.4 It will be necessary for the recommendation from Licensing and General Purposes Committee to be confirmed at a special meeting of Council to be held before the 7th January 2005. This is required by the Regulations. Discussions will take place as to how this can best be achieved.

## **8. Further Stages**

- 8.1 The following table gives an overview of the next key stages in the implementation of the Act.

Date	Action	Comment
7 <sup>th</sup> January 2005	Publishing of the Licensing Policy	Policy reported to L and GP, 29 <sup>th</sup> November 2004.
7 <sup>th</sup> February 2005	Commencement of the transitional period for the conversion of existing licences. Applicant	The Licensing Regulations have currently been issued in draft. These will determine the detailed procedures for the processing of licences.
Early February 2005	Additional training for members of the L and GP committee, and other interested members in the procedures for hearings under the Act.	Dates for the training will be finalised in the coming month.
Early April 2005	Likely commencement of hearings of the authority's licensing Panel to consider representations (objections) to licence applications.	
7 <sup>th</sup> August 2005	Completion of the initial applications phase of the transitional period. Following this, determination of the remaining applications.	
November 2005	End of the transitional period and expected commencement of the new licensing duties. Transitional licences become operative, applications from new operators start and the Licensing Justices cease liquor licensing activities. Temporary event notices commence.	This is the earliest likely date. No formal announcement has been made and may only be made next year.

## **9. Consultation**

- 9.1 The L and GP Committee considered the issue of consultation in detail at the meeting of the 29th September 2003 and agreed the approach to consultation on the Licensing Policy.

## **10. Finance Observations**

- 10.1 The funding for the initial three years (2003/4, 2004/5 and 2005/6) of the new statutory duty was approved by Cabinet on the 18th February 2003.

The ongoing revenue costs are intended in the legislation to be offset by income from licensing fees and charges. However, the Government will set these fees and charges centrally and final details are still awaited.

- 10.2 The expenditure plans and projected income have been reported through the Medium Term Revenue Budget Strategy planning process and will be considered by Cabinet as part of the review of the Council's Medium Term Revenue Budget Strategy.

## **11. Legal Observations**

- 11.1 Legal matters are covered in the body of the report.
- 11.2 It is advised that specialist Licensing Counsel reviews the Policy and the way it reflects the comments arising from the consultation. This review is to take place as soon as practicable.

## **12. Conclusion**

- 12.1 The Licensing Act creates a new system of personal and premises licensing out of existing systems of public entertainments, night café and liquor licensing. A part of these changes will be a liberalisation of licensing hours, whilst retaining safeguards for local residents and the community. Fundamental to the approach of licensing authorities will be the statement of Licensing Policy, which will also provide the baseline for decisions on individual applications.
- 12.2 Officers will continue to review the proposals regarding the extent of the new powers as they become clear and report these to the Committee for decision.

## **Section 3: Supporting Information/ Background Documents**

- 13.1 Licensing Act, available on the Stationery Office web site at:

<http://www.legislation.hmsso.gov.uk/acts/acts2003/20030017.htm>

- 13.2 Explanatory Notes to the Licensing Act, available at:

<http://www.legislation.hmsso.gov.uk/acts/en/2003en17.htm>

- 13.3 Statutory Guidance, available at:

[http://www.culture.gov.uk/alcohol\\_and\\_entertainment/default.htm](http://www.culture.gov.uk/alcohol_and_entertainment/default.htm)

- 13.4 Alcohol Harm Reduction Strategy for England

<http://www.strategy.gov.uk/su/alcohol/index.htm>