

Forest Heath District Council

(This report is a key decision. This report has been subject to appropriate notice of publication under the Council's Access to Information Rules)

Report of the Cabinet Member for Environment and Waste

CABINET

31 JULY 2012

CAB12/020

STATEMENT OF LICENSING POLICY (Forward Plan Reference JUL12(B)/08)

Summary and reasons for recommendation(s)

The Council can only undertake its statutory function under the Licensing Act 2003 (the Act) if it has an adopted Statement of Licensing Policy (the Policy). The current Policy is in need of review due to recent changes to the Act, as a result of the Police Reform and Social Responsibility Act 2011. Therefore a revised Policy, which although separate to, has been developed with St Edmundsbury Council. The proposed Policy will allow the Council to operate legally and effectively under the Act, including determination of applications and enforcement of legal requirements and conditions.

The purpose of this Policy is to inform the Licensing Committee, residents and business of the parameters in which licensing decisions can be made, how they are made, and provide a sound basis for such decisions in case of challenge. The Policy is also expected to link into the wider context of services and strategies which provide support for residents and the community, encourage a safer experience, reduce anti-social crime and aim for a stronger local economy.

There is also an opportunity to develop a far wider and more integrated strategy, which would inform relevant policies including the licensing policy, and shape the future night time and leisure economy of West Suffolk. It would involve strategic and partnership working, seeking to achieve the right balance between promoting business and protecting residents. The strategy would clearly require effective management, co-ordination and a realistic timetable, and would therefore need to be allocated to an appropriate lead service.

Recommendation(s)

Cabinet are requested to:

- 1. Review and approve the revised Statement of Licensing Policy for public consultation, and**
- 2. Authorise the Head of Service in consultation with the Cabinet Member for Environment and Waste to make any necessary amendments to the Policy, as a result of the public consultation, before submission to Council for approval.**

<u>Contact Details</u>	<u>Portfolio Holder</u>	<u>Lead Officer</u>
Name:	Nigel Roman	Keith Marley
Title:	Cabinet Member for Environment and Waste	Head of Environmental Services
Telephone:	01638 712679	01638 719233
E mail:	nigel.roman@forest-heath.gov.uk	keith.marley@forest-heath.gov.uk

How will the recommendations help us meet our strategic priorities?

1. The changes to the Act, enshrined within the Policy, can have a positive impact on the priority of a stronger local economy and a more active community. The re-balancing of the Act seeks to promote good business, whilst protecting the public and empowering the local community to better influence licensing decisions.

Wards affected

2. The Policy covers the entire district; however, clearly the town centres and vicinity, where the majority of the licensed premises are located, will be more affected by any decisions and actions.

Key issues

3. In 2010 the Home Office launched a public consultation entitled "Rebalancing the Licensing Act 2003." This consultation sought views on a number of proposed changes to the Licensing Act 2003 with the overall aim of achieving a "fundamental shift in the licensing regime in this country, with more emphasis on local accountability and less emphasis on central interference."
4. The Police Reform and Social Responsibility Act 2011 provides some of the legislative changes as a result of the consultation and is being implemented in stages.
5. A report went to Licensing Committee (LIC12/345) on 16 April outlining the expected legislative changes and many of these came into force on the 25 April 2012.
6. Some of the main reforms to the Licensing Act 2003, which the Police Reform and Social Responsibility Act 2011 will eventually bring about, will require decisions at a local level regarding implementation, whilst others will apply in all areas once commenced. Some of the reforms will be subject to further details being provided by regulation made at a later date.
7. All Councils are required by the Act to have a Policy in order to administer and enforce, including the processing and determination of licence applications. The Suffolk Licensing Authorities, therefore, have produced a common policy template, and in so doing have taken consideration of all relevant requirements and guidance relating to the Act.
8. The current Policy was reviewed and adopted in January 2011, and includes a Cumulative Impact Policy (CIP) for Newmarket. The Council is obliged to review its Policy every three years, or at such time when significant changes are required. One of the consequences of the Police Reform and Social Responsibility Act 2011 is a

number of changes to the Act, including the review period for the policy increasing from three to five years, which justifies a review.

9. The key changes to the Act are:

- The Licensing Authority is now a 'Responsible Authority'; this means that officers will have much greater powers, influence and control in terms of compliance and enforcement, and should be able to persuade licensees to accept different conditions and meet standards without the need for a formal review. It does, however, allow a review to be requested where there are offences and serious concerns that the licensing objectives are not being complied with. A similar dialogue is expected with licensees to that undertaken by the Police, whereas officers in the past have been limited to a mainly co-ordination role. It will require a clear distinction between the administrative and responsible authority roles;
- Removal of Vicinity, The term "interested party" and its definitions has been deleted throughout the Act and replaced by either, "other person" or "any other person". This means that any person (resident, business Councillor, MP, etc.) can make representations or apply for a review, regardless of where they reside. There is no longer a requirement for them to be living or have a business in the vicinity of the premises;
- Currently, the Licensing Sub-Committee, in consideration of an application, must take such steps that it considers "necessary" for the promotion of the licensing objectives (e.g. imposing conditions or refusing applications). The amendments to the Licensing Act require that steps should instead be "appropriate". The purpose of this is to lower the evidential burden placed on Licensing Committees. An example of this may be that the Committee determines it is appropriate for the licence holder to provide plastic drinking receptacles at an outdoor event, instead of glass. It would no longer be necessary for there to be evidence of a previous problem in order to justify this condition; the Committee may simply determine that it is an appropriate condition for this type of event.
- Environmental Health to be able to object to Temporary Event Notices (TEN's), The grounds for objection to a TEN are extended from just the prevention of crime licensing objective to all four licensing objectives, and a provision for late TEN's;
- Suspension of licences for non payment of fees, which is welcomed by the Council on the grounds of consistency and fairness, as well as the obvious deterrent; also a provision for the Council to set its own fees to cover all reasonable costs associated with the licence;
- A provision for a Late Night Levy (still to be made law and subject to future consideration); an additional fee that can be levied, if costs covered by licence fees are considered disproportionate given the activity of the licensable operation. The Police would receive the majority being levied but would incur administrative costs to the authority.
- Early Morning Restriction Orders (EMRO's) (still to be made law and subject to future consideration); periods of time that can be stipulated by the Council where alcohol is not permitted to be supplied. As with the Late Night Levy, these should

be considered in the round. They could have the effect of stifling trade, in which case they may be strenuously challenged.

10. In addition to the above, the opportunity has been taken to make some further changes to the Policy, to improve the clarity and wording.
11. As the changes to the Act, and Policy, are significant the Council is required to consult with interested parties, including representatives from the trade, other responsible authorities, local authorities and the Public. The intention is to consult over a 12 week period.

Other options considered

12. There are no other viable options.

Community impact

13. The ongoing development of the Policy will mean that when determining applications and any future reviews of licences, the Council can ensure that the interests of the community are balanced with those of the applicants and licensees through the promotion of the licensing objectives.

What consultation has been undertaken and what were the outcomes?

14. The Policy will be consulted on following the approval process of Cabinet. The Licensing Committee received a report on the changes to the Act, and the Chair and Vice Chair have been consulted on the Policy.

Financial and resource implications

15. Realistically, implementation of the various reforms will require significant officer time, the costs of which will need to be met from existing resources. Some of the reforms may present opportunities for the Council to increase its revenue from fees and charges to help cover the costs incurred in providing the licensing functions.
16. With the addition of the Licensing Authority to the list of Responsible Authorities careful consideration of the alignment of resources to give adequate attention to applications received and to determine whether further action is appropriate in respect of both new applications and current licences will need monitoring.
17. There may be more substantial resource implications in respect of the late night levy due to the significant administrative work which is likely to be required following the introduction of a late night levy.

Risk management implications

18. The Council would be at risk, legally, financially and reputationally, if it did not have an adopted Licensing Policy on which to base its administration, enforcement and decision making, and which is required by law under the Act.

Legal/Policy implications

19. It is a legal requirement under the Act to have an adopted, fully consulted upon, Licensing Statement of Policy.

Documents attached

Appendix 1: Draft Statement of Licensing Policy 2012

Appendix 2: Summary of main changes to policy

Background papers

None