

Meeting: LICENSING & REGULATORY COMMITTEE

Date of Meeting: 7th June 2010

Title of Report: DRAFT REVISED STATEMENT OF LICENSING POLICY – LICENSING ACT 2003

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This report contains	Yes	No
CONFIDENTIAL information		√
EXEMPT information by virtue of paragraph(s) ... of Part 1 Schedule 12A of the Local Government Act 1972		√
Is the decision of this report DELEGATED?	√	

Purpose of Report

To seek Members comments on the draft revised Statement of Licensing Policy, in connection with the Council's obligations under the Licensing Act 2003, and to advise Members of the proposals for consultation on the draft document.

Recommendation(s)

Members are asked to:

- i) Give consideration to and comment upon the draft revised Statement of Licensing Policy contained within the Annex; and,
- ii) Note and endorse the actions being taken to progress the development of the revised Statement of Licensing Policy.

Corporate Objective Monitoring

Corporate Objective		Positive Impact	Neutral Impact	Negative Impact
1	Creating a Learning Community		√	
2	Creating Safe Communities	√		
3	Jobs and Prosperity	√		
4	Improving Health and Well-Being	√		
5	Environmental Sustainability		√	
6	Creating Inclusive Communities		√	
7	Improving the Quality of Council Services and Strengthening Local Democracy	√		
8	Children and Young People	√		

Financial Implications

The cost of the consultation will be undertaken from existing budgets and reserves.

List of background papers relied upon in the preparation of this Report

- *Licensing Act 2003 – Statement of Licensing Policy 2011* - Report to Licensing and Regulatory Committee, 18th January 2010.
- Existing Statement of Licensing Policy.
- The Licensing Act 2003.
- Guidance issued under Section 182 of the Licensing Act 2003.

Background

1. Members will recall that Section 5 of the Licensing Act 2003 (“the LA03”) requires the Licensing Authority to prepare and publish a statement of its licensing policy (“the Policy”) every three years. During this three year period, the Policy must be kept under review and the Licensing Authority may make such revisions to it as it considers appropriate, for instance in the light of feedback from the chief officer of police, on whether the statutory four licensing objectives are being met.
2. The existing Policy has been kept under review since coming into force on 7th January 2008 and no revision has been deemed necessary to date. However, the Policy will require revision during 2010 in order for it to take effect from 7th January 2011 (when the new three year cycle will commence).
3. Before determining its Policy, for any three-year period, the Licensing Authority must consult the persons listed in Section 5(3) of the LA03. Those being:
 - a) the chief officer of police for the area;
 - b) the fire authority for the area;
 - c) persons/bodies representative of local holders of premises licences;
 - d) persons/bodies representative of local holders of club premises certificates;
 - e) persons/bodies representative of local holders of personal licences; and
 - f) persons/bodies representative of businesses and residents in its area.
4. Members will also recall that at their Meeting on 18th January 2010 they endorsed the timetable for the production of the revised Policy, the details of which can be summarised as follows:

May /June 2010

- First draft presented to Members for comment.
- Agree revised draft for outside consultation.

July / August 2010

- Outside consultations to take place.
- Revise Policy (as necessary) as a result of consultations.

September/November 2010

- Present updated Policy to Licensing & Registration Committee for comments and any final amendments.
- Submit to full Council for agreement.

December 2010

- Publish revised Policy (to come into effect from 7th January 2011).

The draft revised statement of Licensing Policy

5. The draft revised Policy is attached within the Annex to this Report. Paragraphs 6 to 22 below list the alterations that have been made to it.
6. Paragraph 2.2 of the Policy amended to include mention of minor variations, to now read: *In this regard the policy covers new applications, renewals, transfers, variations and minor variations of Licences and also includes the review of Licences and Certificates, which could lead to revocation.*
7. Paragraph 2.7 amended to remove specific page links, which may change between Policy reviews, to now read: *Further information on this type of Licence can be found on the Sefton Council website at www.sefton.gov.uk.*
8. Paragraph 2.12 amended to remove specific page links, which may change between Policy reviews, to now read: *Further information on this type of Licence / Certificate can be found on the Sefton Council website at www.sefton.gov.uk.*
9. Paragraph 2.13 amended to include mention of the Police for giving notice of an event, to now read: *Section 100 of the Act states that the organiser of a Temporary Event must give the Authority and the Police notice of the event.*
10. Paragraph 2.15 amended to remove specific page link, which may change between Policy reviews, to now read: *Further information on Temporary Event Notices can be found on the Sefton Council website at www.sefton.gov.uk.*
11. Paragraph 3.13 amended to remove the bullet point “*purchasing cigarettes from vending machines*”; changes in legislation have removed such machines from licensed premises.
12. Paragraph 4.6 amended to include details of new Home Office document on selling alcohol responsibly, to read:

The Authority recognises the impact of irresponsible consumption of alcohol on crime, disorder and health and will expect Licensees to ensure that alcoholic drinks are packaged, presented and sold in a socially responsible way. In this context the Authority commends the use of the Portman Group Code of Practice on Naming, Packaging and Promotion of Alcoholic Drinks and the Home Office Guide entitled “Selling Alcohol Responsibly: Good Practice Examples from the Alcohol Retail and Hospitality Industries”.
13. Table within Paragraph 5.8 amended to include details of: (i) DPS disapplication delegation, inserted between existing vary DPS and transfer delegations, and (ii) minor variation delegation inserted at the end of table.
14. New Paragraph 5.11 added, to read:

The Licensing Authority will notify those residential and business properties with curtilages abutting those premises applying for a Premises Licence or a Club Premises Certificate, the Variation of a Premises Licence or Club Premises Certificate, or any

premises subject to a review. Whilst this is not a statutory requirement, the Licensing Authority is of the belief that it is important to ensure that the community are fully aware of licensing applications made in their area and as such this will ensure that local people have a voice in licensing decisions. All Councillors will be notified of any such applications received.

15. New Paragraph 5.12 added, to read:

In respect of minor variations the overall test for Officers will be to decide whether or not the proposed minor variation would impact adversely on any of the four licensing objectives.

16. Existing Paragraphs 5.11 and 5.12, and all subsequent Paragraphs in Section 5, re-numbered accordingly.

17. Re-numbered Paragraph 5.14 amended to include the fact that Councillors can call for a review in their own right, to now read:

Following the grant of a Premises Licence or Club Premises Certificate a 'responsible authority' or 'interested party' may request the Authority to review the Licence/Certificate where problems associated with the four Licensing Objectives have occurred. As members of the Licensing Authority, and as 'interested parties', Councillors may apply for a review of a licence if problems at a specific premises, which justify intervention, are brought to their attention. Similarly Council Officers who are designated as 'responsible authorities' may request a review of the licence in a similar manner.

18. New opening sentence added to existing Paragraph 7.1, reading: *The Authority can only attach conditions where an objection is upheld following a hearing.*

19. Paragraph 8.1 re-drafted to now read:

As indicated in Paragraph 7.1 above, the Authority can only attach conditions where an objection is upheld following a hearing. In these instances only those conditions necessary to meet the Licensing Objectives will be imposed. The Authority will avoid the imposition of disproportionate and overburdensome conditions where there is no need for them.

20. Existing Paragraph 9.4 amended, to now read:

In the event that the Authority becomes satisfied, after considering available evidence, and following consultation in accordance with Section 5(3) of the Act, that it is appropriate and necessary to have a cumulative impact "special policy", it will indicate that it is adopting such a policy in this Statement. Any "special policy" will be kept under review to ensure that the evidence underpinning it is still current and relevant.

21. New Paragraphs 9.5 and 9.6 added to read:

The effect of adopting a policy of this kind is to create a rebuttable presumption that applications for new Premises Licences, Club Premises Certificates or variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Therefore such a policy would still allow

for the circumstances of each application to be considered properly and for licences that are unlikely to add significantly to saturation to be approved.

It should be noted that the absence of such a policy does not prevent any responsible authority or interested party making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

22. Paragraph 10.1 re-drafted, to recognize the Hampton principles for regulators, to now read:

Enforcement action will be taken in accordance with the Authority's Licensing Enforcement Policy, will follow the Hampton principles and will be targeted, proportionate and transparent. The inspection of premises will be undertaken, when necessary, on a risk assessment and targeted basis, ensuring that resources are concentrated on high risk and problem premises and activities and again these will recognize the Hampton principles.

Consultation process

23. There is a statutory requirement to consult those persons outlined within Paragraph 3 prior to producing any revised Policy.
24. Beyond these statutory requirements, it is for each licensing authority to decide the full extent of its consultations and whether any particular person or body is representative of the group described in the statute.
25. Paragraph 13.12 of the Guidance issued under Section 182 of the Act states that *when undertaking consultation exercises, licensing authorities should have regard to cost and time. The Secretary of State has established fee levels to provide full cost recovery of all licensing functions including the preparation and publication of a statement of licensing policy, but this will be based on the statutory requirements. Where licensing authorities exceed these requirements, they will have to absorb those costs themselves.*
26. As with the recent consultation exercise undertaken in association with the Gambling Act 2005 Statement of Gambling Licensing Policy, general awareness of the consultation process, and access to the draft revised Policy, will be increased by:
- i) publishing the draft revision, a list of the alterations made, a consultation response proforma and general information on the Sefton Council Website (www.sefton.gov.uk) and on the Consultation Finder Website (www.consultationfinder.com/sefton/);
 - ii) placing copies of the draft revision, and the list of the alterations made, in local libraries; and,
 - iii) through press releases to all local press agencies.
27. It is also proposed that 400 interviews be conducted across Sefton via door to door canvassing, with interviews taking place in respondents' homes. Interviewers will be issued a quota of interviews by age and by sex so as to ensure that the sample broadly represents the profile of Sefton residents.

28. The interviews will be conducted using a quantitative survey method. This will enable the reactions to the Policy to be quantified and it will identify those aspects which are supported by residents of Sefton and those, if any, which are opposed.
29. These interviews will also be used to gauge residents' views on the subject of Licensing Liaison Forums.
30. It is proposed that Mott MacDonald be commissioned to conduct these interviews and as such, should Members endorse this part of the consultation, the appointment would be subject to approval by the Establishment Control Panel.
31. In addition to the above, and in order to satisfy the consultation requirement, it is also proposed to undertake the following specific consultations:

Consultee

Nature / Method of Consultation

Police
Fire Authority

- Letter and face-to-face meetings, as required.
- Letter and face-to-face meetings, as required.

Other Responsible
Authorities

- Letter and face-to-face meetings, as required, to include: Sefton Council Planning Department; Sefton Council Environmental and Technical Services Department (Environment Section, Commercial Section and Trading Standards); and Acting Consultant in Child Protection.

Persons/bodies
representative of local
holders of premises
licences

- Letter to the following Organisations:
 - British Beer & Pub Association;
 - British Institute of Innkeepers;
 - Federation of Licensed Victuallers Association;
 - Association of Licensed Multiple Retailers;
 - Association of Convenience Stores; and,
 - The Wine and Spirit Trade Association.

Persons/bodies
representative of local
holders of club premises
certificates

- Letter to all Club Premises Certificate holders (70).

Persons/bodies
representative of local
holders of personal
licences

- Letter to 10% of current Personal Licence holders (190+).

Persons/bodies
representative of
businesses and
residents in its area.

- Letter to all Borough Councillors, Sefton Members of Parliament and Parish Council Clerks.
- Letter to each of the LSP thematic Group Lead Officers.
- Letter to Sefton Business Village Managers and Sefton Chamber of Commerce.

32. It is proposed that the consultation will run for 12 weeks from 28th June 2010 to 19th September 2010.
33. The above consultation process has been vetted by the Consultation and Public Engagement Manager, Sefton Equalities Partnership. The Manager has stated that this consultation is not required to go before the Public Engagement and Consultation Panel, although they will be informed that it is taking place. The Manager also commented that she was pleased to see that the consultation proposals go above and beyond the statutory requirements.