

Item No.

Report to: Executive
Date: 26 February 2008
Report of: Executive Member for Health
Subject: Review of Licensing Policy under the Licensing Act 2003
Ward: All

1. Purpose of Report

- 1.1 Approval and adoption of the revised Licensing Policy under the Licensing Act 2003.

2. Consultation

- 2.1 Consultation was undertaken with the bodies and organisations detailed in Appendix 1.
- 2.2 Responses were received from The Association of Convenience Stores, Durham and Darlington Fire and Rescue Authority, Community Safety and the British Beer and Pub Association (BBPA).
- 2.3 Durham and Darlington Fire Authority submitted comments reflecting the change in fire safety legislation.
- 2.4 The Association of Convenience Stores was a standard reply to all local authorities and the point detailed re the use of identity cards as proof of age had already been addressed.
- 2.5 The British Beer and Pub Association's main concern in its response was to reaffirm its opposition to blanket conditions on licenses. As we do not have blanket conditions this did not affect the policy.
- 2.6 The Neighbourhood Initiatives section of the Council's Community Safety Section highlighted some parts of the policy they considered could be made more easily understood. That which could be amended was but some were unable to altered due to legal definitions. There was no affect on the overall policy due to these amendments.

3. Background

Licensing Act 2003

- 3.1 The Licensing Act 2003 requires every Licensing Authority to have in place a Licensing Policy. The Policy is drawn up having regard to the Act and any guidance from The Secretary of State for Culture, Media and Sport in place at the time.
- 3.2 The Policy has 4 main purposes;
- To reinforce to elected members on the Licensing Committee the boundaries and powers of the Local Authority

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- To inform the licence applicants of the parameter under which the authority will make licence decisions
 - To inform residents and businesses of the parameters under which the authority will make licensing decisions
 - To support decisions made by the Licensing Authority when these decisions are challenged in a court of law
- 3.3 This authority adopted the previous Licensing Policy under the Licensing Act 2003 in January 2005. The Act requires the authority to review this Policy every 3 years or earlier if it deems necessary.
- 3.4 Revisions to the Policy must take into account the latest guidance by the Secretary of State. Revised guidance was issued in June 2007 after the relevant consultation, which included local authorities. The subsequent revision took into consideration concerns raised by local authorities and other groups of matters identified as requiring clarification or amendment in the original guidance.
- 3.5 Some of the main revisions to the guidance were;
- The addition of parish or town councils as interested parties who may represent persons living in the vicinity of a premises
 - If premises have a terminal hour set by planning condition and this differs from the licensing hours then the applicant must observe the earlier closing time.

4. Position Statement and Option Appraisal

- 4.1 As with the original Policy revisions must also be consulted upon with bodies and persons likely to be affected by the policy and any subsequent changes. Accordingly the bodies and organisations in Appendix 1 were consulted with.
- 4.2 One of the revisions required to the Policy was the relevant amendment to the legislation and Strategies detailed in the document, which have taken place since the initial policy was adopted. For instance, the inclusion of the Regulatory Reform (Fire Safety) Order 2005, which has come into force since the initial policy was adopted.
- 4.3 An amendment was made to the section of the Policy regarding notification of the Licensing Committee's decision to applicants. This clarifies that where a decision is not made at the time of the meeting then a written decision will be given within the relevant timescales laid down in the legislation. (Page 11 of policy)
- 4.4 The section of the Policy relating to the use of outside areas, for smoking as well as consumption of alcohol (page 13) was amended. It now identifies the need for the applicant to consider the adverse effect of such areas on residents and offer measures to minimise their impact.
- 4.5 Amendments to the section dealing with crime and disorder (Page 15) were made to include the need for consideration by applicants of a proof of age scheme where alcohol is to be sold. A list of the current approved schemes for such proof of age is also included.

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- 4.6 There is a significant amendment on page 19 of the Policy. This states that whereby if as a planning condition a terminal hour has been set for the use of a premises and these hours are different to the licensing hours the applicant must observe the earlier closing time.
- 4.7 The pool of conditions on page 59, regarding noise and vibration, has been amended to include new conditions which are taken from the amended guidance.
- 4.8 The responses from those identified in item 2 Consultation were considered and no additional amendments to the policy were needed beyond those above in items 4.2 to 4.7.

LGR Implications

Each of the local authorities within the Durham County has their own Licensing Policy.

Licensing policies must be reviewed every three years but may be reviewed at any time within those three years if deemed necessary.

If a single Licensing Policy is to be adopted for the new authority then full consultation with all responsible authorities and affected parties will have to be undertaken.

5. Implications

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None

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The Authority has legal duties under the Licensing Act including producing and reviewing the Policy.

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No risks have been identified outside of the Corporate Appetite.

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No issues.

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Accords with the objective of making the district safe.

6. Recommendations

- 6.1 That the report be agreed and forwarded to the next meeting of the District of Easington for formal adoption.

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Background Papers/Documents referred to :-

Licensing Act 2003

Guidance of the Secretary of State under section 182 of the Licensing Act 2003

Replies to consultation from

Durham and Darlington Fire and Rescue Authority

Association of Convenience Stores

Community Safety

British Beer and Pub Association

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APPENDIX 1

LICENSING ACT 2003 CONSULTATION

List of Consultee's in respect of revision of Licensing policy.

BII – British Institute of Inn Keeping

British Beer and Pub Association

CIU – Club Institute and Union

PCT – Primary Care Trust

Planning – Easington District Council

Durham Area Child Protection Committee

Environmental Health – Easington District Council

The Association of Town and Parish Councils

Tenants Federation

Community Safety – Easington District Council

Easington Chamber of Trade

Durham Constabulary

Durham and Darlington Fire and Rescue Authority

Peterlee Pub Watch

Seaham Pub Watch

7th Street Residential Association, Horden

Association of Convenience Stores