



Chester-le-Street District Council

Report to:	Executive
Date of Meeting:	3 December 2007
Report from:	Acting Environmental Health Team Leader
Title of Report:	The Licensing Act 2003 – Review of Statement of Licensing Policy
Agenda Item Number:	

1. PURPOSE, SUMMARY AND RECOMMENDATIONS

- 1.1 The purpose of the report is to ask Members to consider a review of the Council's Statement of Licensing Policy made under the Licensing Act 2003 and to recommend to Council a version of the policy suitable for adoption.
- 1.2 The Licensing Act 2003 (the Act) requires the Council to publish a Statement of Licensing Policy and review it every three years. The first review date is 7 January 2008. A draft revised policy has been produced by Officers. This revised policy has incorporated new guidance and best practice and has been the subject of broad consultation. The consultation raised few points that required significant alteration to the policy. A copy of the revised policy is attached as Appendix A.
- 1.3 Executive are recommended to:
 - (i) Consider the summary of consultation comments and responses to them and agree amendments to the policy if required
 - (ii) Agree a final version of the revised policy and recommend its adoption to Council

2. CONSULTATION

- 2.1 The Act outlines a minimum consultation framework consisting of a number of statutory bodies and representatives of the main stakeholders. The Council's consultation exercise far exceeds this requirement. A list of the consultees is provided at page seven of the policy, in total over 200

individual consultations were issued. The consultation was in the form of a questionnaire. A summary of the replies and responses to them is attached as Appendix B. Public consultation was strengthened via the use of a focus group consisting of representatives from local residents groups. To maximise the length of the consultation period, the closing date was extended to 30 November 2007. As this date is after the deadline for this report Members are advised further consultation responses may be presented at the meeting.

3. CORPORATE PLAN AND PRIORITIES

- 3.1 The Licensing Policy contributes directly to priority five and eight of the Sustainable Community Strategy for Chester-le-Street and therefore, contributes to priority two of the Corporate Plan.
- 3.2 Priority five, to make the District a safer place to live, work and visit; to further reduce crime and disorder and increase public reassurance.
- 3.3 Priority eight, to champion the development and promotion of culture, leisure, sport and the arts in contributing to the well being of residents and local communities.

4. IMPLICATIONS

4.1 Financial Implications and Value for Money Statement

- 4.1.1 The costs of consultation and publication of the revised policy will be met from existing budgets.
- 4.1.2 The report has few value for money implications. The use of a focus group to improve public consultation has significantly reduced the cost of the overall consultation process. Previous consultation exercises had used multiple public meeting and newspaper adverts with little significant return.

4.2 Legal

- 4.2.1 The Licensing Act 2003 s.(5) and Licensing Act 2003 (First Appointed Day and Personal Licences Transition Period) Order 2004 No 1739 create a regime whereby the Council was required to publish its Licensing Policy 7 January 2005 and review it every three years.

4.3 Personnel

- 4.3.1 There are no immediate personnel implications arising from this report.

4.4 Other Services

4.4.1 There are no significant implications on other services arising from this report.

4.5 Diversity

4.5.1 A Diversity Impact Assessment (DIA) is scheduled to be carried out as part of a programme of Environmental Health DIA's in early 2008. Any significant findings will be reported back to Executive.

4.6 Risk

4.6.1 The policy fulfils two principal purposes; firstly it provides advice to businesses and the public on the Council's overall position. Secondly, it provides a decision making framework for the Council via its Licensing Committee to exercise its quasi judicial functions under the Act.

4.6.2 As such, the Policy must balance the legitimate needs of businesses and demand for leisure and cultural activities alongside the need to protect those adversely affected by activities. A failure to achieve the correct balance could lead to a policy, which was either overly prescriptive and thus open to challenge from businesses. Or alternatively, ineffective in controlling businesses and thus fails to protect local residents or promote the licensing objectives effectively.

4.6.3 The Policy must also effectively integrate and contribute towards a broad range of other policies and strategies.

4.7 Crime and Disorder

4.7.1 The Council's licensing policy forms a central part of the control and regulation of the evening and night time economies. As such, it can be viewed as having a pivotal role in the prevention of alcohol related crime and disorder.

4.7.2 The effective control of licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for alcohol related issues or mitigate their effects. This coupled with monitoring and enforcement and the appropriate use of the review process can significantly contribute towards crime reduction and an increase in public reassurance.

4.8 Data Quality

4.8.1 Every care has been taken in the development of this report to ensure that the information and data used in its preparation are accurate, timely,

consistent and comprehensive. The Council's Data Quality Policy has been fully complied with in producing this report.

4.9 Other Implications

4.9.1 There are no other implications arising from this report.

5. BACKGROUND, POSITION STATEMENT AND OPTION APPRAISAL

5.1 The Licensing Act 2003 came into effect in November 2005 and represented the first major reform of alcohol licensing for 40 years. As well as transferring the responsibility for alcohol licensing from Magistrates' to Local Authorities, the Act amalgamated six separate licensing regimes. A single piece of legislation now regulates; the sale and supply of alcohol, regulated entertainment, late night refreshment, cinemas and theatres.

5.2 The Act required the Council to consult on, publish and review triannually, a statement of licensing policy. Chester-le-Street's policy was published in January 2005 and is therefore due for review. The review is required to follow a statutory process. However, the Council's consultation will significantly exceed these requirements.

5.3 Officers have produced a draft revised Statement of Licensing Policy that is attached as Appendix A. This has been produced with due regard to new national guidance by the Local Authorities Coordinators of Regulatory Services (LACORS) and new guidance produced by Department of Culture Media and Sport under s.182 of the Act.

5.4 A broad range of bodies have been consulted on the draft revised policy, a full list is shown in the Policy. Additionally, a focus group was arranged for representatives of local residents groups on 22 November 2007.

5.5 The results of the consultation along with a discussion of them and proposed changes to the policy are attached as Appendix B.

6. RECOMMENDATIONS

6.1 Executive are recommended to:

- (i) consider the attached draft Revised Statement of Licensing Policy and recommend its adoption by Council

7. BACKGROUND PAPERS / DOCUMENTS REFERRED TO

- 7.1 The Licensing Act 2003, Guidance issued under section 182 of the Licensing Act 2003 (Department for Culture Media and Sport 2007) and LACORS Best Practice Framework for review of Licensing Policy Statements.

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18 November 2007
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Consultation Responses (Questionnaires)

Consultee	Adequately deals with Crime & Disorder	Adequately deals with Public Safety	Adequately deals with the Prevention of Public Nuisance	Adequately deals with Protection of Children from Harm	Revised policy appropriate for next 3 years	Balances between needs of local businesses and local residents	Further revisions to the Licensing Policy Statement Required	Further comments
Roseberry Sports & Community College	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Costcutter – Garden Farm Estate	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Chester-le-Street Golf Club	Yes	Yes	Yes	Yes	Yes	Yes	No	CLS golf club is in a remote and quiet location of the town and is far from public nuisance etc * ⁽¹⁾
Café Neena's	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Trading Standards	Yes	Yes	Yes	Several months plans submitted with applications have rarely indicated the position of cigarette vending machines and/or gambling machines. This may be a deliberate ploy as to prevent this service submitting objections thus delaying the licensing process.* ⁽²⁾	Yes	Yes	No	No
Pelton RAOB Club	Yes	Yes	Yes	Yes	Yes	Yes	No	No

The Plough Inn	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Lumley Castle Hotel	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Chester-le-Street Central Residents Association	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Osborne WMC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Ainsworth's – Fencehouses	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Relton Terrace WMC	No Comment	No Comment	No Comment	No Comment	No Comment	Yes	Yes	Yes	Yes	No	No
Ian McKay – Hackney Carriage Proprietor	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
John Biggs – Hackney Carriage Proprietor	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Burnside WMC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Nigel Jones - Equity											A quick observation: I have read dozens of these from other Local Authorities. Often licensable activity is regulated as something to be curbed to prevent unpleasant consequences. Your policy document is refreshing in that it is positive in seeing an opportunity to encourage culture and entertainment and recognises the values of the WMC's. In particular, para 1.6, 1.7, 1.8, 2.42, 2.44, 2.50, 6.1 are helpful.* (3)
Alcoholics Anonymous	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment
Newfield and Pelton Lane Ends Tenants and Residents	Insufficient attention has been given to the impact of alcohol bought	Yes	Staggered closing times and the creation of a second taxi rank have both	Yes – Though it would be beneficial to licensed premises and	Yes – though see earlier comments about off licences and	Yes	No	How will creation of single unitary authority and the abolition of local district councils and the need to maintain a licensing policy			

<p>Association</p>	<p>at off licences or in supermarkets e.g. access by underage drinkers, noise/rubbish, incidents of anti-social behaviour in streets / parks etc *(4)</p>	<p>helped to reduce incidences of nuisance/violence at weekends. However, re-siting the new taxi rank to the side road adjacent to the model shop etc would alleviate traffic congestion and make it easier for pedestrians. Also queue Marshals as used in Newcastle, Sunderland etc (funded by licensees and Council) would help further to alleviate problems *(5)</p>	<p>to other customers if parents were reminded that how their children conduct themselves whilst on such premises is their responsibility *(6)</p>	<p>supermarkets *(7)</p>	<p>manifest itself in terms of responsibility and accountability? Further, what structure / organisation will be in place to ensure councils can deliver this service? *(8)</p>
<p>Kevin Jones MP – Member of Parliament for North Durham</p>	<p>Yes</p>	<p>Yes</p> <p>The policy as stated is too vague. More specific measures to respond to noise and nuisance should be included. Also no mention is given to the capacity of Chester-le-Street town centre in terms of licensed premises. Many public nuisance issues arise from having too many bars / premises in one</p>	<p>You may wish to include university / student I.D. cards as a form of acceptable I.D. as more and more Durham university students are now living in the District. *(10)</p>	<p>Same reasons as previous comment</p>	<p>Item 2.39 of the statement is very weak. It suggests Chester-le-Street DC cannot impose conditions on a licence unless representations are received from Police, County Council, or other bodies. This is inadequate – Chester-le-Street DC as Licensing Authority should also have the power to impose</p>
<p>No</p>					

Consultation Responses (non questionnaire)

CONSULTEE	COMMENTS
Chairman of the Licensing Statutory Committee	<p>1. The Licensing Policy balances the needs of businesses, voluntary and community groups equitably.</p> <p>2. The Licensing Policy provides an effective framework for licensing decisions.</p> <p>3. The Licensing Policy provides an effective framework in which to conduct reviews.</p> <p>4. The Licensing Policy provides sufficient, relevant information to applications.</p> <p>5. The Licensing Policy is accessible and useable, however, there is a need to investigate into a more adequate consultation process with residents / members of the public and for the need to investigate the possibility of informing Members weekly of any applications received. *(13)</p>
Development and Building Control Manager	<p>1. I would suggest the following alternative wording for paragraph 2.48: <i>“The law requires that the relevant Planning and Licensing regimes must operate to different agendas, assessing, as material considerations, separate issues. This ensures that licensing applications are not merely a re-run of planning applications (and vice versa). However, the Council is committed to high standards of customer care, including as part of this the provision of a high quality one stop shop service for customers seeking advice on both planning and licensing issues. As such officers will always endeavour to work together to provide meaningful, joined up advice to customers seeking advice on a matter which raises both Licensing and Planning issues”</i> *(14)</p> <p>2. Paragraph 2.48 – page 13 – line 2. I'm not too sure about the reference to 'decisions made by the Licensing Department will be reported back to Planning Committee on a regular basis'. As you will appreciate this does not occur at present; and moreover I am not too sure what this would achieve. *(15)</p> <p>3. Page 24 – Our consultation address should be amended to 'Development and Building Control Manager'. *(16)</p>
British Beer and Pub Association	<p>1. Paragraph 2.33 - Proof of Age cards. Please note that the Citizen Card is but one of several PASS accredited cards, all of which are supported by the Government. It is therefore unnecessary to make specific reference to this particular card. *(17)</p> <p>2. Enforcement - We would welcome recognition at para 7.5 of the Hampton principles of inspection and enforcement in this section, which include the following:</p> <ul style="list-style-type: none"> • No inspection should take place without a reason <p>Regulators should recognised that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection *(18)</p>
Sgt Tim Robson – Durham Constabulary	<p>This is a comprehensive document that addresses effectively the changes in the licensing economy and it encompasses all relevant issues impacting on the legislation. The police do recommend that consideration should be given by licence holders impacting on the night time economy and in increasing the populous in town centres through the operation of their establishments to consider the use of taxi marshals to address the impact on the objectives in the immediate vicinity of premises especially those retailing alcohol. *(19)</p>
Focus Group Comments	<p>Please see attached</p>

**Proposed Responses to
Consultation Comments**

Comment No	Discussion	Suggested amendment to policy
1 Questionnaires	Comment not relevant to policy	None
2 Questionnaires	The Council are unable to insist on this as the information to be supplied on plans is specified in legislation	Policy to be amended to encourage applicants to specify location of cigarette vending machines.
3 Questionnaires	Observation	None
4 Questionnaires	Applications for retail outlets such as supermarkets are subject to the same process as applications for premises such as public houses. Operating schedules are still expected to show appropriate control are in place. Licensing Committee can impose additional conditions on licenses at hearing or on review	None
5 Questionnaires	The location of the Front Street (south) taxi rank has recently been the subject of a detailed review. No alternative locations are suitable and the local Police Intelligence Cell confirmed no significant rise in reported crime since the rank was commissioned.	The terms taxi marshals be added to the general list of suggested control strategies listed at 2.9 of the Policy
6 Questionnaires	The overall responsibility for all persons on a premises including children is the responsibility of the Designated Premises Supervisor Licensing Committee can impose appropriate additional conditions on individual licenses at hearing or on review	None
7 Questionnaires	Dealt with under point 3	None
8 Questionnaires	Whilst a valid question the Council is not yet in a position to answer these issues	None, but a written reply to Residents Association
9 Non-Questionnaires	Each application must be dealt with on its own merits. Statutory guidance specifically advises against the implication of blanket conditions covering all premises. The policy states that applicants are expected to identify appropriate control measures in their operating schedule. Licensing Committee also have a pool of model conditions to draw upon should they require it.	None
10 Non-Questionnaires	The Policy specifically highlights national identification schemes rather than ad hoc local schemes this is to overcome counterfeit cards.	None
11 Non-Questionnaires	The Act does not allow the Licensing Authority to raise relevant representations itself. The Local Authority Environmental Health Noise team and Planning Team are statutory consultees and can therefore raise representations.	None

12 Non-Questionnaires	Monitoring and enforcement are key requirements for the regime to run effectively. The policy contains an adequate section on this.	None, however licensing enforcement is now subject to a local performance indicator
13 Non-Questionnaires	The Act specifies the consultation process to be adopted for various different kinds of application. Significant variation from this process could lead the Authority open to legal challenge from applicants	None but future application for premises licenses or variations to be displayed on the Council's website for the duration of the consultation period and notified to all Members in confidence
14 Non-Questionnaires	Suggested alternative wording agreed	Policy amended accordingly
15 Non-Questionnaires	Advice appears to be based on Council structures where the Planning Committee is responsible for Planning Policy. As this is not the case in Chester-le-Street the proposed reporting would achieve little. Alternative wording agreed	Policy amended to remove the reporting link between Licensing and Planning Committees
16 Non-Questionnaires	Alternative wording agreed	Policy amended accordingly
17 Non-Questionnaires	As proof of age schemes are constantly changing it would be useful to have some flexibility built into the Policy in this area.	Policy amended to reflect any appropriate national proof of age scheme
18 Non-Questionnaires	The Environmental health Dept is currently consulting on a cross cutting Enforcement Policy. Hampton principals will be incorporated into this.	None
19 Non-Questionnaires	Taxi marshals have been addressed in point 5	See response 5