

Committee: LICENSING & ENVIRONMENTAL HEALTH

Agenda Item

Date: 24 October 2012

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Title: REVISION OF THE STATEMENT OF LICENSING POLICY

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Item for decision

Summary

1. This report is to inform members of the response to the consultation on the proposed revisions to the council's Statement of Licensing Policy.

Recommendations

2. That members approve the revised Statement of Licensing Policy amended as suggested in this report and recommend the same to Full Council for adoption.

Financial Implications

3. None.

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
 - Replies received in response to the consultation.

Impact

- 5.

Communication/Consultation	Consultation has taken place with the statutory consultees (which includes all responsible authorities), all premises licence holders and licensed clubs in the district and all town and parish councillors. In addition the views of the public were sought through a press release and the council's website.
Community Safety	Public safety is one of the licensing objectives promoted by the draft policy statement.
Equalities	There are no equality issues arising from this report.
Health and Safety	Public safety is one of the licensing objectives promoted by the draft policy statement.

Human Rights/Legal Implications	The council is obliged to keep its statement of licensing policy under review and make changes when necessary.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

6. On the 18 April 2012 this committee appointed a task group to advise the committee on changes to the Statement of Licensing Policy necessary to reflect amendments to the Licensing Act 2003 made by the Police Reform and Social Responsibility Act 2011. The task group consisted of Councillors Lemon, Loughlin and Perry.
7. The group met on 14 May 2012 and carried out a review of the Statement of Licensing Policy having regard to the amendments contained in the 2011 Act and the revised government guidance issued under section 182 of the 2003 Act. The task group's report was presented to this committee on the 11 July 2012 and the Revised Statement of Licensing Policy was approved as a basis for consultation.
8. Despite the very wide consultation referred to above, only 3 responses have been received.
9. One of these was a mere acknowledgement of the consultation process. Another was concerned with enforcement issues which had no relevance to the Revised Statement of Licensing Policy. The third pointed out that in preparing the draft statement of Licensing Policy a paragraph of some importance had been inadvertently omitted. This was paragraph 5.7 of the existing policy which reads:-

“When addressing the issue of prevention of public nuisance, the applicant should consider those factors that impact on the likelihood of public nuisance. These may include:

- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
- The hours during which the licensable activities will be carried out particularly between 23:00 and 07:00.
- The closing time of the premises.
- The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.

- The design and layout of premises and in particular the presence of noise limiting features.
- The occupancy capacity of the premises.
- The availability of public transport.

Applicants for licences which include regulated entertainment will be aware of the potential of such entertainment to cause a public nuisance by reason of noise from the premises. If representations are made or a review is called for, the authority may consider imposing a condition to the effect that the licence holder shall take measures to ensure that music will not exceed a prescribed decibel limit at the boundaries of certain properties or within a location described in the condition. What may be an acceptable level of noise may vary from location to location or depending on the time of day as perception of noise from a particular source is affected by background noise levels. Directions given under the Noise Act 1996 provide that the permitted noise level for the purposes of that Act is 34 decibels where the underlying noise level does not exceed 24 decibels or 10 decibels above underlying noise levels in any other case. In the event that representations are received and the authority concludes that a noise limiting condition is required, the starting point for such a condition would be 34 decibels. If an applicant wishes to contend that a higher limit is appropriate, then the authority would expect the applicant to provide a noise survey to support such a contention.”

10. This amendment to the Statement of Licensing Policy was introduced in February 2011 following a decision in the case of Developing Retail Limited v East Hampshire Magistrates’ Court which determined that the condition which had been used by licensing authorities in accordance with government guidance (that noise should not be clearly audible at the boundaries of noise sensitive premises) was unenforceable. This amendment to the council’s Licensing Policy was subject to the same rigorous consultation as the present proposed amendments and no objections to paragraph 5.7 were received. In the circumstances, if members were minded to amend the draft statement of Licensing Policy to incorporate this provision I do not consider it is necessary to re-consult.
11. Members will be aware of recent amendments to the Licensing Act made by the Live Music Act 2012. As the effect of this Act is to remove certain activities from the definition of regulated entertainment it is not necessary for any amendments to be made to the Statement of Licensing Policy as a result. The policy is adequate to deal with circumstances where by virtue of the Act conditions can be imposed for the performance of live music as if it were regulated entertainment.

Risk Analysis

12. There are no risks associated with this report.