



AGENDA ITEM: 10

**LICENSING & GAMBLING
COMMITTEE: 25 May 2010**

COUNCIL: 21 July 2010

Report of: Executive Manager Community Services

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**SUBJECT: APPROVAL OF REVISED DRAFT STATEMENT OF LICENSING POLICY
REQUIRED BY THE LICENSING ACT 2003**

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

1.1 To request that the necessary action is taken in order to publish and consult upon the revised draft Statement of Licensing Policy as required by the Licensing Act 2003 (the Act).

2.0 RECOMMENDATIONS TO LICENSING AND GAMBLING COMMITTEE

2.1 That the revised draft Statement of Licensing Policy attached as Appendix 1 to this report be approved in principle.

RECOMMENDATIONS TO COUNCIL

2.2 That the revised draft Statement of Licensing Policy attached as Appendix 1 to this report be approved.

2.3 That the Executive Manager Community Services publish the revised draft Statement of Licensing Policy attached as Appendix 1 to this report and to conduct a period of public consultation prior to returning the final version of the Policy for approval.

3.0 BACKGROUND

3.1 Members will be aware that the Act became law on 24 November 2005 and since that time the Council, like all local authorities in England and Wales, has taken the role of 'Licensing Authority' and overseen these controls.

3.2 As part of these responsibilities, the Act requires Licensing Authorities to produce a statement of Licensing Policy to provide all stakeholders with guidance on the approach that it will take under the Act. The Act also requires Licensing Authorities to review their Policy Statements at least every 3 years. Accordingly, the current Policy Statement, which came into force on the 7th February 2008, is due to be reviewed.

4.0 CURRENT POSITION

4.1 The revised draft Statement of Licensing Policy attached as Appendix 1 to this report aims to provide a more accurate, succinct and practical document that builds upon the experience of Officers, Members, Responsible Authorities and Interested Parties since the last revision of the Policy, and it is therefore hoped that it will be of greater use to stakeholders for the next 3 years.

4.2 Several key amendments to the draft Policy Statement have resulted from changes in the legislative regime and available guidance, including:

- The use of a red/yellow card approach to review applications – approved by the Licensing and Gambling Committee on the 8th December 2009;
- New mandatory conditions designed to tackle irresponsible alcohol consumption;
- The minor variations process;
- ‘Dis-application’ of the requirement for a designated premises supervisor in community premises;
- Details of the Council’s Multi Agency Licensing Team (MALT), including the Red Amber Green (RAG) approach to enforcement;
- The EU Services Directive.

4.3 So that Members can easily see which sections of the draft Policy Statement have been amended, all changes are highlighted in bold type.

5.0 ISSUES

5.1 In order for the Council to comply with its statutory duties as Licensing Authority, it must undertake this review of its Licensing Policy. The draft Statement of Licensing Policy attached as Appendix 1 to this report must therefore be approved and subjected to public consultation before being returned to Members for final approval and publication.

5.2 The Statutory Guidance (the Guidance), issued under Section 182 of the Act recommends that consultation on draft statements of Licensing Policy last for a minimum of 12 weeks.

5.3 Furthermore, Section 5(3) of the Act lists the minimum consultees whom all Licensing Authorities must contact. These are:

- Chief Officer of Police for the Licensing Authority’s area;
- The Fire Authority for that area;

- Those representative of premises licence holders, club premises certificate holders, personal licence holders, businesses and residents in the area.

5.4 The Guidance also suggests Licensing Authorities consult on a wider basis including Community Safety Partnerships, local A&E departments, Trading Standards, local tourism representatives, local performers' representatives etc. However, the Guidance further states that it is for the Licensing Authority to decide the full extent of its consultation and should also have regard to cost and time.

5.5 Therefore, if Members approve the recommendations contained in Section 2 of this report, it is intended that the consultation exercise will be carried out in accordance with Guidance. The duration of the consultation period will be just over the required 12 weeks, running from 1 August 2010 until 31 October 2010.

5.6 To comply with statutory deadlines it is intended that, following consultation, the final version of the revised Policy Statement will be submitted to the Licensing and Gambling Committee for approval on 7 December 2010 and to Council on 15 December 2010. This will allow the Policy to be published before 7 January 2011, coming into force on 7 February 2011.

6.0 PROPOSALS

6.1 In order to meet the requirements of Section 5 of the Licensing Act 2003, the draft revised Statement of Licensing Policy attached as Appendix 1 to this report be approved.

6.2 In order to meet the requirements of Section 5 of the Licensing Act 2003, the Executive Manager Community Services be authorised to publish the revised draft Statement of Licensing Policy attached as Appendix 1 to this report and conduct a period of public consultation prior to returning the final version of the Policy for approval.

7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

7.1 This Act has the potential to impact upon many areas within the Community, particularly upon the leisure time of the public of West Lancashire. The Licensing Objectives, contained in the Act therefore, fit closely with many aspects of the Community Strategy. The proposal has the following links with the Community Strategy: Community Safety (issues A, C and E); Economy and Employment (issue D); Health and Social Care (issue A).

8.0 FINANCIAL AND RESOURCE IMPLICATIONS

8.1 The contents of this report can be delivered within existing resources.

9.0 RISK ASSESSMENT

9.1 The Council has a legal duty to carry out the functions of the Act; therefore failure to do so is a breach under the Act. Accordingly, there is significant involvement from,

and impact upon, statutory bodies, the licensed trade, the public and other interested parties associated with this legislation and its administration. The operation of the Act links closely with the Corporate Priority Action Plan, as one of the four Licensing Objectives (under the Act) is the 'prevention of crime and disorder', and therefore will be influential to 'combat crime and the fear of crime'.

10.0 CONCLUSIONS

- 10.1 The revised draft Statement of Licensing Policy will continue to have far reaching implications and aims to reflect the issues that have arisen in the Borough since the Act came into force. It therefore aims to provide improved guidance for both Officers and elected Members to ensure that decisions are made in a fair and consistent manner, as well as being an invaluable tool for applicants, residents and other occupiers of property and investors, to enable them to make plans to move or invest in the Borough with confidence.

Background Documents

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

Guidance issued under section 182 of the Licensing Act 2003 - Consolidated version published 28 January 2010

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices

West Lancashire Borough Council: Licensing Act 2003 Statement of Licensing Policy 2011