



AGENDA ITEM:

**LICENSING AND GAMBLING
COMMITTEE: 22 JULY 2014**

Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

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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.

2.0 RECOMMENDATIONS

2.1 That the revised draft Statement of Licensing Policy attached as Appendix 2 to this report be approved for consultation.

3.0 BACKGROUND

3.1 Members will be aware that the Licensing Act 2003 (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 (Policy Statement) to provide all stakeholders with guidance on the approach that it will take under the Act. Policy Statements must be reviewed at least every 5 years and so the current Policy Statement, which came into force on the 7 February 2011, will expire on 7 February 2016. However, this Committee agreed a list of 'night time licensing options' on 1 April 2014, which included that the existing Policy Statement be reviewed during 2014/15.

4.0 CURRENT POSITION

- 4.1 The revised draft Policy Statement attached as Appendix 2 to this report builds upon the experience of Officers, Members, Responsible Authorities and Interested Parties. It aims to provide a more accurate, succinct and practical document that reflects the issues debated by this Committee (and Sub-Committee) since the approval of the previous Policy Statement in 2011.
- 4.2 The format of the draft Policy Statement is different from previous versions. It clearly states the expectations of this Licensing Authority and gives justification for this approach. It is therefore hoped that this will provide more reasoned guidance for applicants and licence holders, as well as underpinning the decisions made by Members and Officers.
- 4.3 For the benefit of Members, the key changes in the draft Policy Statement are:
- (i) Revised structure and layout, principally focusing on the four Licensing Objectives and Licensable Activities;
 - (ii) Clear guidance as to how the Licensing Authority expects applicants and existing authorisations holders to promote each of the Licensing Objectives;
 - (iii) Revised guidance on applications, notifications and their determination – including information on the nature and content of representations ;
 - (iv) Revised information relating to the consideration of Premises Licences/Club Premises Certificates, Personal Licences and Temporary Event Notices. This also includes the introduction of several ‘Licensing Principles’ which aim to demonstrate how the Licensing Authority will exercise its discretion when considering applications.

5.0 ISSUES

- 5.1 In order for the Council to comply with its statutory duties as Licensing Authority, the draft Statement of Licensing Policy attached as Appendix 2 to this report must 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 recommendation contained in this report, it is intended that the consultation exercise will be carried out under existing delegations to the Assistant Director Community Services. The consultation will be conducted in accordance with the Guidance and will include routine press statements and use of the Council's website. The duration of the consultation period will be just over the required 12 weeks, running from the 1 August 2014 until the 31 October 2014.
- 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 the 2 December 2014 and to full Council on the 17 December 2014. This will allow the Policy to be published before the 7 January 2015, coming into force on the 7 February 2015.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 The operation of the Act has the potential to impact upon many areas within the Community. The proposal links to the 'Safer Communities, Stronger Communities', the 'Economy and Jobs' and the 'Improved Health for All' Key Objectives of the Sustainable Community Strategy.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

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

8.0 RISK ASSESSMENT

- 8.1 Whilst, the Council has a legal duty to carry out the functions of the Act, it is not under a statutory obligation to review the current Policy Statement until 7 February 2016. However, the decision of the Committee outlined in paragraph 3.2 is appropriate as the content of the current Policy Statement does not accurately reflect the relevant legislation and guidance.
- 8.2 Any failure to administer a review of the Policy Statement appropriately is a breach under the Act and would render any future licensing decisions potentially unlawful. Accordingly, there is significant involvement from, and impact upon, relevant statutory bodies, the licensed trade, the public and other interested parties.

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 – June 2013

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

- 1 Equality Impact Assessment.
- 2 West Lancashire Borough Council: Licensing Act 2003 - Draft Statement of Licensing Policy 2015

Appendix 1

Equality Impact Assessment - process for services, policies, projects and strategies

1.	<p>Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people:</p> <p><i>People of different ages – including young and older people</i> <i>People with a disability;</i> <i>People of different races/ethnicities/nationalities;</i> <i>Men; Women;</i> <i>People of different religions/beliefs;</i> <i>People of different sexual orientations;</i> <i>People who are or have identified as transgender;</i> <i>People who are married or in a civil partnership;</i> <i>Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;</i> <i>People living in areas of deprivation or who are financially disadvantaged.</i></p>	<p><i>No. The legislation applies equally to all relevant activities and premises.</i></p>
2.	<p>What sources of information have you used to come to this decision?</p>	<p><i>The legislation requires that all relevant activities require a licence, without exception.</i></p>
3.	<p>How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?</p>	<p><i>The Act requires the Council to implement its licensing policy following a period of public consultation, based on the detail of a draft policy. The final version of the policy will be approved using any comments received during the consultation period.</i></p>
4.	<p>Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:-</p> <p><i>Eliminate discrimination, harassment and victimisation;</i></p> <p><i>Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of people);</i></p> <p><i>Foster good relations between people who</i></p>	<p><i>No. The recommendations contained in this report apply equally to those activities required under relevant legislation.</i></p>

<i>share a protected characteristic and those who do not share it.</i>	
5. What actions will you take to address any issues raised in your answers above?	N/A.