

LICENSING COMMITTEE

17 OCTOBER 2013

FURTHER REVIEW OF LICENSING POLICY

REPORT BY THE GROUP MANAGER ENVIRONMENTAL HEALTH & TRADING STANDARDS

SUMMARY

The Council, in its capacity as Licensing Authority, has determined that it will review its Statement of Licensing Policy annually. At its meeting in May, the Committee agreed to recommend to full Council only very minor amendments to the Licensing Policy, pro tem, because it was anticipated that changes in legislation later in the year would require a further more substantial review of the Policy to be reported to this meeting of the Committee. (The changes in May being of limited significance, it was also agreed to postpone the usual practice of consultation until the fuller review was undertaken.

In the event, the changes (as shown in **ANNEX 2** of the report) arising from the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 which came into effect in June 2013, were not as significant as expected. The resulting proposed amendments to the current Policy are set out in **ANNEX 3** of the report. The proposed mechanisms for consultation on these proposed changes are set out in paragraphs 14-16 of the report.

RECOMMENDATIONS

It is **RECOMMENDED** that the proposed changes to the Statement of Licensing Policy set out in Annex 3 of the report are approved for consultation which will be undertaken as set out in paragraphs 14-16 of the report; and

- a. the Committee determines that, where there are no responses, or only responses that support the proposed amendments to the Statement of Licensing Policy, that the amended Policy is **RECOMMENDED** to Council for approval in February 2014
- b. where responses to the consultation are not in support of the changes, or propose additional changes to the policy not already considered by Members, that a further meeting of the Committee be arranged to consider the response ahead of the February 2014 meeting of Council.

REASON FOR RECOMMENDATIONS

To undertake the annual review of the Statement of Licensing Policy under the Licensing Act 2003.

BACKGROUND

1. The Council, in its capacity as Licensing Authority, is required under the Licensing Act 2003 to approve and publish a Statement of Licensing Policy [the Policy] every five years.

2. The Authority has determined that it will undertake a review of its Policy on an annual basis.
3. The Statement of Licensing Policy sets out the arrangements the Licensing Authority will normally follow in carrying out its functions under the Licensing Act 2003, particularly when making decisions on licence applications made in respect of Premises Licences, Club Premises Certificates, Personal Licences and Temporary Event Notices.
4. The Statement of Licensing Policy also incorporates a Special Policy on Cumulative Impact which is currently subject to a separate review
5. The current Policy is given at **ANNEX 1**.
6. In May 2013, the Committee agreed minor amendments to the policy following the implementation of the Live Music Act 2012, but determined not carry out the annual review as further changes to legislation were planned to take effect this summer.

PROPOSED AMENDMENTS

7. Previous amendments to the Licensing Policy have been made following changes in legislation or on receipt of specific requests for areas of policy to be taken into consideration, such as the creation of Neighbourhood Policies and the request for a Special Policy on Cumulative Impact.
8. In June 2013 the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 came into effect, implementing changes to the Licensable Activities. Details of the changes are given in **ANNEX 2**.
9. The changes implemented by this Order were not as impactful as had been expected following the announcement by the Home Office in January 2013 of an intention to introduce legislation 'as soon as possible' to deregulate (and thereby take out of the scope of the Licensing Act) a number of entertainment activities.
10. Nevertheless, it is considered appropriate to update certain parts of the Policy to reflect these changes.
11. Proposed amendments to the current Policy are set out in **ANNEX 3**.

CONSULTATION

12. At its meeting in May, the Committee determined that the usual practice of consultation on changes to the licensing policy need not be carried out pending the review to which this report relates.
13. The Licensing Authority is obliged to consult on any reviews it makes of its Statement of Licensing Policy, and in doing so is required to consult with:
 - The Chief Officer of Police;
 - The fire and rescue authority;
 - Each Primary Care Trust or Local Health Board for an area any part of which is in the licensing authority's area
 - Persons / bodies representative of local holders of premises licences
 - Persons / bodies representative of local holders of club premises certificates
 - Persons / bodies representative of local holders of personal licences
 - Persons / bodies representative of businesses and residents in its area.

MECHANISM OF CONSULTATION

14. Recognising the large number of bodies with whom the Authority is obliged to consult, it is intended that the draft Policy will be made generally available on the Council's website.
15. Representatives of existing licence holders, resident associations and other relevant groups, together with the Responsible Authorities, will be consulted by way of written notification, advising them that the Policy is under review and directing their attention to its location on the website.
16. Printed copies of the draft Policy, including copies in large print, would be made available to all those who request it.

TIMESCALE

17. The Council, in its role as Licensing Authority, is identified in the Licensing Act 2003 as being the responsible body for determining policy, and as such an altered Policy must be presented to Council for ratification prior to its implementation.
18. It is proposed that the draft Statement of Licensing Policy be published for consultation for a period of 12 weeks beginning in November.
19. It is proposed that where no comments are received, or those received during the consultation period are in support of the proposed amendments, the revised Policy will be automatically referred to Council on 27 February for approval, in consultation with the Chair.
20. However, where comments received are not in support of the changes, or propose additional changes to the policy not already considered by Members, these will be brought to a meeting of the Licensing Committee to be convened in January or February 2014 in order that they may be discussed and a final draft policy be agreed for recommendation to the 27 February Council meeting.

FINANCIAL IMPLICATIONS

21. The proposed changes to the policy are unlikely to have any financial implications.
22. The process of consultation on each review of the Licensing Policy does bear a cost to the Authority in terms of staff time and other costs which have to be met from existing budgets.
23. In recognition that amendments made to the Licensing Policy during recent annual renewals have been largely only those relating to legislative changes or minor technical amendments, and no significant matters of general policy have changed since the introduction of Neighbourhood Policies in 2010, the Committee may wish to consider whether to revise how frequently it undertakes reviews of the Policy, given that the statutory duty is to prepare and publish its Policy once every 5 years. If a longer frequency were to be decided by the Committee, reviews could and should still be conducted in the interim if there are significant legislative changes or other policy matters.

LEGAL IMPLICATIONS

24. The licensing authority is required by the Licensing Act 2003 to approve and publish a statement of Licensing Policy at intervals of not more than 5 years, and to keep the Policy under review and undertake revisions as it considers appropriate.

EQUALITY IMPACT ASSESSMENT IMPLICATIONS

25. Whilst this report relates to the revision of policy, which would ordinarily require an EQIA, the nature of the changes being proposed are unlikely to impact directly on any particular group in the community, and it is therefore not proposed that an Impact Assessment be carried out.

ENVIRONMENTAL IMPLICATIONS

26. The Statement of Licensing Policy sets out the framework within which decisions are made that affect public nuisance, public safety and crime and disorder.

Background papers: held by the author of report David Kingstone, Environmental Health Manager (Licensing & Pollution Control) –e-mail: david.kingstone@rbk.kingston.gov.uk
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- Amended Guidance Issued under Section 182 of the Licensing Act 2003 (Home Office, October 2012)
- Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

ANNEX 1 – Current Statement of Licensing Policy under the Licensing Act 2003

ANNEX 2 – Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

ANNEX 3 – Proposed amendments to the Policy