



Haringey Council

Agenda item:

[No.]

GENERAL PURPOSES COMMITTEE

On 28th June 2010

Report Title. **Consultation on the revision of the Statement of Licensing Policy under the Licensing Act 2003**

Report of **Niall Bolger – Director of Urban Environment**

Signed :

NPBolger 26th May 2010.

Contact Officer : Robin Payne – Head of Enforcement Services

Wards(s) affected: **All**

Report for: Key Decision

1. Purpose of the report

1.1. Members to take note of the changes to and to endorse the draft Haringey Statement of Licensing Policy 2011-2014 to go out for public consultation.

2. State link(s) with Council Plan Priorities and actions and /or other Strategies:

2.1. Alcohol Harm Reduction Strategy
Councils own Enforcement Policy
Community Safety Strategy
Crime and Disorder Reduction Strategy
Safeguarding Children Policy

3. Recommendations

3.1. That the General Purposes Committee take note of the proposed changes to be consulted on under s5 of the Licensing Act 2003, and give permission for consultation to commence.

4. Reason for recommendation(s)

4.1. We are obliged to review the Statement of Licensing Policy every three years.

4.2. The S182 Guidance has been revised by the Department of Culture Media and Sports (DCMS) and other new legislation which impacts on the 2003 Act has been introduced and should be incorporated into the Policy. The Local Authority must have regard to the guidance when revising its policy.

5. Other options considered

5.1. None necessary

6. Summary

- 6.1. Haringey in its role as a Licensing Authority is required to publish a policy statement to guide it through its responsibilities and decision making of applications under the 2003 Act. The policy must support the four licensing objectives as detailed at paragraph 16 below, and must be consulted upon widely as detailed at paragraph 10.
- 6.2. In following the details given in section 17 of this report and the timetable stated, the Licensing Authority will be able to publish its policy statement in compliance with the Licensing Act 2003. This will enable the authority to be compliant with the law.

7. Chief Financial Officer Comments

The costs of preparing this report and implementing the associated recommendations can be contained within existing budgets.

8. Head of Legal Services Comments

8.1. The Legal implications are fully set out in the body of the Report. Under the Councils Constitution, the General Purposes Committee has the responsibility for recommending the Statement of Licensing Policy for adoption to full Council. The General Purposes Committee also makes the decision on going out to consultation on the revised Statement of Licensing Policy.

9. Equalities & Community Cohesion Comments

Consultation in respect of this policy will include those organisations and bodies who have responsibilities to protect the young, the elderly, and other groups within our authority. As such we will amongst other consultees include faith groups, voluntary and community organisations.

10. Consultation

- 10.1. The 2003 Act requires the Licensing Authority to consult the following on the licensing policy statement or any subsequent revision:
- The chief officer of police for the authority's area;
 - The fire authority for the area
 - Such persons the authority considers to be representative of holders of premises licences issued by the authority.
 - Such premises as the licensing authority considers to be representative of holder of club premises certificates issued by that authority.
 - Such persons as the licensing authority considers to be representative of holders of personal licences issued by this authority and
 - Such persons as the licensing authority considers to be representative of businesses and residents in its area.
- 10.2. In addition, the revised draft statement will be placed on the Council's website together with supporting explanation and guidance.

11. Service Financial Comments

There are no significant financial implications arising from the recommendation in this report. Any costs associated with the consultation process will need to be met from the currently approved cash limit for Enforcement Services.

12. Use of appendices /Tables and photographs

- 12.1. Appendix 1 – Draft revised Statement of Licensing Policy
12.2. Appendix 2 – Existing Licensing Policy

13. Local Government (Access to Information) Act 1985

- 13.1. Section 182 Guidance to Local Authorities under The Licensing Act 2003 issued by the Department of Culture Media and Sports
- 13.2. The Licensing Act 2003.
The Policing and Crime Act 2009

14. Background

The Licensing Act 2003 (the '2003 Act') introduced a new regime under which the responsibility for the licensing of the sale of alcohol, regulated entertainment and late night refreshment transferred from the Magistrates Court to the licensing authority, i.e. the local authority.

One of the key requirements under the 2003 Act was to prepare and publish a Statement of Licensing policy which sets out the basis on which the authority will make its licence application decisions. This was first published on 7th January 2005, after widespread consultation. The legislation requires that the Statement of Licensing Policy be reviewed at least every three years. The Licensing Authority is required under the Act to consult on their policy (and any subsequent revisions) and the requirements of this consultation are also detailed in statute.

15. Description of changes to the policy

The areas of the policy which have been revised reflect the revision of the S182 Guidance, the changes brought in by various legislation and the demands being made on the Service. The additions made to the Policy are as follows:

- I. Editing the Policy to make it more easily understood and to improve its effectiveness. **(throughout document)**
- II. Clarification on the expectations of the Licensing Authority on applicants wishing to apply for licences. **(pages 18-27)**
- III. Following legislative changes, information has been added dealing with Minor Variations, the new Mandatory Codes introduced by the Policing and Crime Act 2009. **(introduction and pages 4 & 6)**
- IV. Additional reference to measures operators would be expected to include in their operating schedule for particular types of premises. **Pages 18-27**
- V. Minor variations process **page 37**
- VI. Adult entertainment – guidance on what the Licensing Authority will require to be clarified in premises that choose to use the slip rule allowed by the amendment in the Policing and Crime Act 2009. **pages 6 & 22**
- VII. Updated guidance on carrying out risk assessments to be carried out by applicants in relation to fire safety, crowd control, audience and artists profiling. Fuller guidance to applicants. Further guidance is given to applicants on possible conditions that they should consider when addressing the four licensing objectives in their Operating Schedule. **Pages 18-27**
- VIII. The EU Services Directive is now in place and this has required us to ensure that all licensing processes are available to be applied for and determined online from any where in the EU member states. **Page 6**
- IX. Tables and Chairs Policy with the introduction of the Health Act 2006 and the smoking ban taking effect. There has been an increase in applications for tables and chairs outside premises, it is important that the impact of noise nuisance is considered when granting these permits as well as the permitted hours of use are stated on the licences issued. **Page 22**
- X. Updating the policy in line with the revised 182 Guidance
The main guidance has been revised and our policy reflects the revisions made to s182 Guidance **throughout document**
- XI. An overview of the new powers available to Elected Members as Interested Parties in their right with the ability to make representation against an application and call for a review of an application. **Page 38-39**

- XII. Information is also provided in relation to the New Licensing Panels which will consist of a panel of Officers to deal with premises that are a cause for concern but not yet at a review stage. The Licensing panel will be able to draw up working agreements with badly performing premises to assist them to turn things around before they are reviewed. This will be done by using the Yellow Card Red Card proposals as a means to bring about compliance **pages 40-43**
- XIII. Street Drinking Zones explanation and list of wards affected pages 29-30
- XIV. Case Law that affects the way matters are determined by the Licensing Sub Committees **page 40**
- XV. Updated guidance on Personal Licences and the role of the DPS (Designated Premises Supervisor) **page 32-33**

16. Fundamental Principles

The Act contains four licensing objectives which underpin the functions that the Licensing Authorities will perform.

These are

- prevention of crime and disorder;
- public safety;
- prevention of public nuisance
- protection of children from harm

The Licensing Authority's Statement of Licensing Policy must show how these licensing objectives will be achieved and must have regard to the S182 guidance published by the Department of Culture Media and Sports.

17. The timescale for the consultation is as detailed below

The revised policy has been produced and it is now necessary to track this through to final publication in line with the timetable as detailed below :

- 27th May 2010 consult Licensing Committee.
- 03rd June 2010 Cabinet Advisory Board
- 28th June 2010 – report goes to GPC to give permission for consultation to commence.
- 23rd September 2010 - Final draft policy completed goes GPC to report back on outcome of consultation (late responses will have to be tabled)
- 18th October Full Council to adopt
- Public notice to be given for 28 days