

FULL COUNCIL On 21ST January 2008

Report Title: **Feedback following Consultation on the new Statement of Licensing Policy for Licensing Act 2003**

Forward Plan reference number (if applicable): Not applicable

Report of: **Director for Urban Environment, Niall Bolger**

Wards(s) affected: **All**

Report for: **Decision**

1. Purpose

1.1 To seek adoption of the statement of licensing policy.

2. Introduction by Cabinet Member (if necessary)

2.1 [click here to type]

3. Recommendations

3.1 To determine and adopt as the Council's new Statement of Licensing Policy the document attached at Appendix 2 to this report with effect from 23rd January 2008

3.2 To instruct officers to publish the new Statement of Licensing Policy on the Council's website and to make copies of the new Statement of Licensing Policy available at Council offices to the public.

Report Authorised by: **Robin Payne , Assistant Director**

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4. Director of Finance Comments

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

5. Head of Legal Services Comments

The legal implications are fully set out in the body of the Report. Under the Councils' Constitution, the General Purposes Committee on 20th December 2007, recommended the Statement of Licensing Policy for adoption to Full Council. This does not prevent informal consultation with the Licensing Committee and CAB.

6. Local Government (Access to Information) Act 1985

6.1 S182 Guidance to Local Authorities under The Licensing Act 2003 issued by the Department of Culture Media and Sports

6.2 The Licensing Act 2003.

7. Background

7.1 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.

7.2 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 license 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.

7.3 Guidance provided by the Local Authorities Coordinators of Regulatory Services (LACORS) is that in addition to the planned review of policy, a republished policy should be available within 3 years of the original publication. This has created the need to bring forward arrangements for consultation and formal adoption.

7.4 The 2003 Act contains four licensing objectives which underpin the functions that both the Commission and Licensing Authority 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

8. Description

8.1 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 were as follows:

- I. All reference to the transitional stage has been removed
This section is no longer required as the Transitional stage ended in August 2005
- II. Clarification on the application of gaming machines in alcohol licensed premises, up to 2 machines is an automatic entitlement. This Authority has delegated to officer level the ability to authorise up to 4 machines at any one premise. Applications for more than 4 will be required to show reasons for the higher number and how it will be managed; such applications will be put before the Licensing Sub Committee.
- III. Adult entertainment – guidance on what the Licensing Authority will require to be clarified in any such application. Entertainment comprising of nudity, striptease, table and pole dancing falls within the remit of the Licensing Act 2003. The Licensing Service is receiving an increasing amount of calls enquiring about what rules the Authority applies to establishing seeking to provide such entertainment. It is proposed that the Statement of Licensing policy will now contain criteria that will be considered for any such application. This includes proximity to sensitive locations, protection of children, management arrangements to avoid crime and disorder, and a code of conduct for dancers.
- IV. Risk assessments to be carried out by applicants in relation to fire safety, crowd control, audience and artists profiling. London Councils in association with the Association of Chief Police Officers (ACPO) have asked all authorities to ensure that systems are in place to gather information from club promoters/DJs (disc jockeys) and the like to enable officers to adequately assess the type of event and likelihood for crime and disorder
- V. 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.
- VI. Planning and Licensing Interface.
Clarity is given that the Licensing and Planning are separate regimes.
- VII. 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 advantageous that all applications are consulted on and permitted hours of use are stated on the licences issued.
- VIII. An overview of the new powers available to the Police to apply for accelerated reviews of a premises license, and extra powers available to authorised officers to enable them to serve penalty notices on licensees allowing or cause noise nuisance to emanate from within their properties.

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

- 15th November 2007 Cabinet Advisory Board asked to approve consultation
- 16th November Full Consultation began (6 weeks)
- 20th December – report went to General Purposes Committee
- 17th December 2007 report went to Licensing Committee
- 28th December 2007 consultation ended – all responses analysed
- 21st January 2008 – policy recommended for adoption by full Council

9. Equalities Implications

9.1 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.

9.2 In addition, the revised draft statement was placed on the Council's website together with supporting explanation and guidance.

9.3 The timescale for the consultation is as detailed in 8.3 above.

11. Summary and Conclusions

11.1 The consultation was undertaken for a period of 6 weeks which ended on 28th December 2007. We have received feed back from HAGA, Local Safeguarding Childrens Board, British Pub and Beer Association, The Environmental Health Noise Team and The Safer Community Team.

11.2 The comments and requests submitted are detailed at Appendix1, with comments as to whether or not they warrant changes to the draft policy.

11.3 Haringey in their role as a Licensing Authority are required to publish a policy statement to guide them in their responsibilities and decision making of applications

under the 2003 Act. The policy must support the four licensing objectives as detailed at para 8.2 above.

11.4 In following the details given in section 8 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.

12. Use of Appendices / Tables / Photographs

12.1 Appendix 1 – Consultation Feedback form

12.2 Appendix 2 - Statement of Licensing Policy