

REPORT OF:	HEAD OF ENVIRONMENTAL HEALTH SERVICES
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TO:	LICENSING COMMITTEE
DATE:	13 SEPTEMBER 2007

AGENDA ITEM NO:	4	WARD(S) AFFECTED:	ALL
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SUBJECT:	LICENSING ACT 2003: REVIEW OF LICENSING POLICY.
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RECOMMENDATIONS:

1. The Committee is requested to examine the revised draft statement of licensing policy at Annex 1 and submit its views for consideration as part of the consultation process to the Executive on 8 November 2007.

SUMMARY

1. The Licensing Act 2003 requires a 3-year review of the existing policy. Since the Policy was formally adopted on 9 December 2004, it has not been considered necessary to make any revisions to the policy.
2. A process of consultation was agreed with the previous portfolio holder. This included seeking the early views of the Licensing Committee on the 8 March 2007 and responsible authorities (as listed in Annex 4 to the Policy) so that their comments could be included in the public consultation.
3. A draft-revised policy is attached at Annex 1, and the views of this Committee are requested as part of the formal consultation process.

STATUTORY POWERS

1. The Licensing Act 2003 (the Act) required local authorities to produce an initial Statement of Licensing Policy prior to the implementation of the Act on 7 February 2005. The Act also requires that during each subsequent three-year period, the Policy is kept under review, and that revisions are made to it at such times as are considered appropriate. In addition, the policy is required to have been reviewed by the end of the three-year period. Any revision is required to follow a similar consultation process as was applied to the original determination of the Policy.
2. The Act specifically excludes the Licensing Committee from making decisions in relation to the determination of the Policy and therefore requires the Council to approve any such Policy.

ISSUES

3. The proposed draft revisions to the Policy, as approved by the portfolio holder, are highlighted in tracked changes in Annex 1. For ease of reading, minor grammatical and numbering changes have been accepted and are not shown. Alongside each proposed revision is the justification for the change, which also incorporates the pre consultation comments received from this Committee, and responsible authorities for Fire, Health & Safety, Trading Standards, Child Protection and Police.
4. A revised version of the Guidance to Licensing Authorities issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act (Guidance) was issued in June 2007. This can be found on the Department for Culture, Media and Sport website at www.culture.gov.uk. Any revisions that impact upon matters in the Policy have been incorporated in the revised draft Policy at Annex 1 (see paragraphs 5.8, 5.11, 10.1, 12.1).
5. In addition to the above proposed changes, there are some additional matters listed below that are being further considered and clarified by officers during the consultation period;
 - (i) Relationship between planning and licensing regimes (Paragraph 11.2)
The Licensing committee on 8 March 2007 requested further clarification regarding respective responsibilities. The revised Guidance seeks to provide additional advice on this issue, which will be the subject of further officer discussion and proposed amendment to the Executive.
 - (ii) Policy framework (Paragraph 11.5)
These statements and their impact are under review by the Policy Manager and her comments will be included in the proposed amendments.
 - (iii) Enforcement Protocols (Paragraph 12.3)
On 8 March 2007, this Committee asked if these had been established. Whilst preliminary work has been undertaken at County level through the Surrey Licensing Forum, there is more work to be undertaken at a local level

6. The Committee may wish for consistency to respond with their views based on the questionnaire provided with the draft policy at Annex 2.
7. The following timetable identifies significant dates in the current process;

31 May 2007	Responsible authorities submit initial views to be considered for consultation draft
29 June -14 September	11 week consultation period
4 September 2007	Overview & Scrutiny Committee
13 September 2007	Licensing Committee
17 - 29 September 2007	Responses analysed and Policy amended
8 November 2007	Final version presented to the Executive along with copies of responses
9 December 2007	Policy formally adopted by full Council

LEGAL IMPLICATIONS

8. The three-year review period is set by statute, and runs from the 7 January 2005 as specified by the Licensing Act 2003 (Licensing statement period) Order 2004. Therefore the policy has to have been reviewed and be in place by the 7 January 2008.
9. Under the Constitution, this authority has designated the Licensing Policy as a Level 3 document under Article 4. Therefore under the Policy Framework and Budget Procedure Rules, the Executive would normally approve the Policy and it would not require Full Council approval. However in this instance, given the legislative requirements, it is recommended that Executive submit its recommendations to full Council in order to reduce the opportunity for legal challenge from outside bodies or individuals.

FINANCIAL IMPLICATIONS

10. During implementation of the Act, the Council was advised that fee levels under the Act would be set by the Secretary of State to provide full cost recovery of all licensing functions including the preparation and publication of Policies. The cost of the review process will therefore need to be met from existing resources.

Background Papers: None

Annexes:

Annex 1 Revised draft Licensing Policy

Annex 2 Consultation Questionnaire