



<b>REPORT OF:</b>	HEAD OF ENVIRONMENTAL HEALTH SERVICES
<b>AUTHOR:</b>	DIANNE MITCHELL
<b>TELEPHONE:</b>	01737 276411
<b>E-MAIL:</b>	di.mitchell@reigate-banstead.gov.uk
<b>TO:</b>	LICENSING AND REGULATORY COMMITTEE
<b>DATE:</b>	7 <sup>TH</sup> SEPTEMBER, 2004

<b>AGENDA ITEM NO:</b>	4	<b>WARD(S) AFFECTED:</b>	ALL
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<b>SUBJECT:</b>	LICENSING POLICY CONSULTATION
<b>PURPOSE OF THE REPORT:</b>	TO ENSURE THAT THE COMMITTEE IS CONSULTED ON THE DRAFT LICENSING POLICY STATEMENT
<b>RECOMMENDATIONS:</b>	
<p>1. The Committee is recommended to submit any views for consideration to the Licensing Act Scrutiny Review Panel as part of the consultation process.</p>	

## Background

- On 31<sup>st</sup> July 2003 the Executive resolved that the Director of Policy and Environment be authorised in consultation with the Executive Member for Community Safety and Transport to draft a Statement of Licensing Policy, develop and carry out a programme of statutory consultation, and report back to Executive with a proposed policy [Minute 45 page 157].
- On 15<sup>th</sup> July 2004 following publication of the statutory Guidance issued under section 182 of the Licensing Act the above parties agreed a Draft Statement of Licensing Policy along with a proposed strategy and programme of consultation. The timetable agreed is reproduced below:

19 <sup>th</sup> July 2004 – 18 <sup>th</sup> September 2004	Period of statutory consultation (9 weeks)
September/October 2004	Responses analysed and Policy amended
TBA Oct 2004	Draft agreed By Overview & Scrutiny Committee
18 <sup>th</sup> November 2004	Final version presented to the Executive along with copies of responses.
9 <sup>th</sup> December 2004	Policy formally adopted by full Council
7 <sup>th</sup> February 2005	1 <sup>st</sup> Appointed Day - Applications to the Council to be determined, but remain dormant until brought into force on 2 <sup>nd</sup> Appointed Day
November 2005	2 <sup>nd</sup> Appointed Day - New licences and certificates come into effect

3. A list of consultees is attached to the draft Licensing Policy statement at Appendix 1. In addition a letter was sent to approximately 360 business in the Borough advising them of the draft policy and enclosing a leaflet 'Changes that may affect you'
4. Members of the Licensing Act Scrutiny Review Panel, Executive and this Committee have previously been supplied with coloured copies of the consultation documents, which include an introductory letter and questionnaire. A full colour copy of these documents is available in the Members Room, and copies can also be viewed on the Council web site through a link on the front page 'Consultation over new licensing laws'.
5. The Department for Culture, Media and Sports (DCMS) indicated on 20 August that it expects to provide one document containing drafts of five Regulations in the first week of September, 2004 for public consultation which is planned to be completed in eight weeks. These five Regulations cover the following items but exclude fees (DCMS has not yet indicated when the draft fees will be distributed):-
  - (a) Personal Licences
  - (b) Hearings
  - (c) Premises Licences and Club Premises Licences
  - (d) Transitional Order
  - (e) Licensing Register Regulations.

These Regulations should contain drafts of the application forms.

### **Factors for Consideration**

6. Some aspects of the draft Policy e.g. the four licensing objectives, are enshrined in the Licensing Act 2003 and reproduced faithfully whereas other text has been developed in accordance with the statutory Guidance. It is considered unlikely that there is much scope to change such aspects of the policy without substantial evidence. Officers have therefore specifically sought comments through a questionnaire on areas of the policy which have been introduced through informal consultation with interested parties i.e. Police and Trading Standards, or where they have sought to clarify procedures. Such aspects are reproduced in blue type and may or may not be included in the final document.
7. The Committee may wish for consistency to respond with their views based on the questionnaire previously provided.
8. The Licensing Act 2003 requires that the above policy is determined by the authority as a whole, however it does not prohibit consultation with the existing licensing committee who by their position will have a special interest and increased level of expertise in licensing matters. However it must be noted that any views will be considered in exactly the same way as any others, as to give any special status to the opinions of this Committee could be viewed as *ultra vires*.

## **Resource Implications**

9. A Resource bid was previously submitted in November 2003, and approved by Council

## **Human Rights Issues**

10. In determining policy, the Council must take into account that, under the Human Rights Act 1998, local residents have the right to respect for their private and family life and their home (Article 8, European Convention on Human Rights). The Council cannot interfere with that right unless such interference is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others. Any interference must be proportionate to the aim to be achieved.
11. Both the applicant and 'interested parties' have the right to peaceful enjoyment of their possessions (Article 1 of the First Protocol to the European Convention on Human Rights). A licence is classed as a possession for this purpose. The Council may not deprive a person of his/her possessions except in the public interest and subject to conditions provided by law.

Background Papers: None