

Meeting:	Council
Meeting date:	6 March 2015
Title of report:	Review of the implementation of the Licensing Policy and Special Cumulative Impact Policy
Report by:	Regulatory Committee

Classification

Open

Key Decision

This is not an executive decision.

Wards Affected

County-wide

Purpose

To approve the Licensing Act Policy and Special Cumulative Impact Policy.

Recommendation

That: the Licensing Act Policy and Special Cumulative Impact Policy appended to the report be approved.

Alternative Options

- 1 To decide not to agree the policy. This is not recommended because it would in effect mean that the policy was not in line with current legislative requirements.

Reasons for Recommendations

- 2 The revised policy will meet the requirements of the Licensing Act 2003.
- 3 Legislation requires this policy to be approved by Council.

Key Considerations

- 4 On 26 September 2014 Council approved the draft Licensing Policy 2015 – 2020, including the Special Cumulative Impact Policy for consultation.
- 5 The Regulatory Committee considered the outcome of the consultation exercise on 19 February 2015. It has recommended approval of the Licensing Policy and the Special Cumulative Impact policy as appended to this report

- 6 Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act.
- 7 “Cumulative impact” is not specifically mentioned in the Act but means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance on a town or city centre is a large concentration of licensed premises in that part of the local licensing authority area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its policy statement.
- 8 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.

Community Impact

- 9 The statement is likely to have some impact on the community. However the authority has a responsibility to promote the four licensing objectives of the prevention of crime and disorder, public safety, public nuisance and the protection of children from harm. This policy helps to promote this requirement.

Equality duty

- 10 There are no equality or human rights issues in relation to the content of this report.

Financial implications

- 11 The licensing section is required to operate the function on a full cost recovery basis. The fees for Licensing Act applications are set by central government. A robust policy which is fit for purpose is essential if full cost recovery is to be monitored and maintained.

Legal Implications

- 12 The Licensing policy has been drafted to reflect current legislative requirements. All applications for licences, changes to licences, temporary event notices and personal licences have to be made and determined in accordance with the legislation. However where discretion is allowed then the authority must consider the Guidance issued under Section 182 of the Act and their licensing policy in reaching their decision. Under the relevant legislation, the authority must have in place a relevant policy. Failure to do so would leave the authority in breach and open to challenge.

Risk Management

- 13 Failure to reach a decision could result in an application for Judicial Review being made.

Consultees

- 14 The consultation period ran from 10 October to 21 November 2014.
- 15 In accordance with Section 5(3) of the Licensing Act 2003 the Licensing Section has

consulted with the following parties:

- (a) the chief officer of police for the licensing authority's area (West Mercia Police)
 - (b) the fire and rescue authority for that area, (Hereford and Worcester Fire and Rescue Service)
 - (c) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority, (The HAND [Herefordshire Against Night Time Disorder] for Hereford, Ross on Wye, Ledbury, Kington, Leominster and Bromyard)
 - (d) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority, (The HAND [Herefordshire Against Night Time Disorder] for Hereford, Ross on Wye, Ledbury, Kington, Leominster and Bromyard)
 - (e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, (The HAND [Herefordshire Against Night Time Disorder] for Hereford, Ross on Wye, Ledbury, Kington, Leominster and Bromyard)
- and
- (f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.(Parish Councils).

- 16 The consultation document was published on the council website.
- 17 An advertisement was also placed in the Hereford Times advising of the consultation.
- 18 West Mercia Police have made representations that they wished the areas shown within the 'special policy' to be included and have provided evidence to support this request. It is recommended that this should be adopted.
- 19 Responses received were considered by the Regulatory Committee on 9 February 2015.

Appendices

Appendix 1 – Licensing Act Policy and Special Cumulative Impact Policy

Background Papers

- None.