

MEETING:	REGULATORY COMMITTEE
DATE:	4 JANUARY 2011
TITLE OF REPORT:	REVIEW OF THE EXISTING COUNCIL'S LICENSING POLICY AND ITS CUMULATIVE IMPACT POLICY – LICENSING ACT 2003
PORTFOLIO AREA:	ASSISTANT DIRECTOR (ENVIRONMENTAL HEALTH & TRADING STANDARDS)

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

1. To review the Herefordshire Council licensing policy in respect to carrying out its functions under the Licensing Act 2003 (Attached as Appendix 1).
2. To review the special licensing policy for the cumulative impact of premises in the (Shown as 'Appendix 1' in the attached [Appendix 1]).

Key Decision

This is not a Key Decision.

Recommendation

THAT The Committee adopt the Policy as presented subject to any ratification required by Council.

Alternative Options

1. Refuse to adopt the Policy as presented
2. Adopt the policy but with amendments
3. Reach some other decision.

Key Points Summary

- The policy has been the subject of extensive public consultation
- A summary of the responses received can be found at Appendix 2.

Options

- 1
 - a. Adopt the Policy as presented
 - b. Refuse to adopt the Policy as presented
 - c. Adopt the policy but with amendments
 - d. Reach some other decision

Reasons for Recommendations

- 2 The policy has been widely consulted on with members of the public and interested parties. Any comments made have either resulted in amendments or a reasons is given as to why the suggested amendment cannot be included.

Introduction and Background

- 3 Section 4 of the Licensing Act 2003 requires the licensing authority to carry out its functions under the Act with a view to promoting the following licensing objectives:-
 - a) the prevention of crime and disorder;
 - b) public safety;
 - c) the prevention of public nuisance
 - d) the protection of children from harm.
- 4 Section 5 of the Licensing Act 2003 requires the local authority to determine every three years its policy with respect to the exercise of its licensing functions and publish a statement of that policy before the beginning of the period. The last licensing policy was reviewed on 14 December 2004.
- 5 Before determining the policy the licensing authority must consult –
 - a) The chief officer of police for the licensing authority's area.
 - b) The fire authority for that area,
 - c) Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority.
 - d) Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
 - e) Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
 - f) Such other persons as the licensing authority considers to be representative of businesses and residents in its area.

- 6 Section 182 of the Act requires the Secretary of state to issue guidance for licensing authorities on the discharge of their functions under the Act. This guidance states: - ' the authority must have regard to the Secretary of State's Guidance when making and publishing its policy. A licensing authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives'.

Cumulative impact policy.

7. "Cumulative impact" is not mentioned specifically in the 2003 Act but means in this Guidance the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one 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 licensing policy statement.
- 8 The steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are summarised below: -
- Identify concern about crime and disorder or public nuisance
 - Consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent
 - Identify the boundaries of the area where problems are occurring
 - Consult with those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation
 - Include and publish details of special policy in licensing policy statement
- 9 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 variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Consultation.

- 10 Both the Policy and the Cumulative Impact Policy has been extensively consulted on.
- 11 The chief officer of police for West Mercia has been was consulted.
- 12 The chief fire officer for Hereford and Worcester Fire & Rescue Service was consulted along with the policy officer.
- 13 All other responsible authorities have been consulted.
- 14 All premises licence and personal licence holders were written to as part of the consultation process.
- 15 All the elected members were notified of the policy by email with a link to the authority's consultation page. A hard copy was supplied for the member's room at Brockington.
- 16 All parish councils and town councils were notified of the policy consultation.
- 17 NHS Herefordshire have also been consulted.

- 18 All comments received were collated and where appropriate changes were made to the licensing policy.

Community Impact

- 19 The policy may impact on the Community.

Appendices

1. Statement of Licensing Policy
2. Consultation response
3. Amendments made to consulted policy

Background Papers

Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.