

MEETING:	REGULATORY COMMITTEE
DATE:	1 FEBRUARY 2011
TITLE OF REPORT:	REVIEW OF THE LICENSING POLICY AND CUMULATIVE IMPACT POLICY – LICENSING ACT 2003
PORTFOLIO AREA:	ENVIRONMENTAL HEALTH & TRADING STANDARDS PUBLIC HEALTH DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

1. To review the Herefordshire Council licensing policy in respect to carrying out its functions under the Licensing Act 2003 (Appendix 1 – this will be sent separately to Members with tracked changes).
2. To review the special licensing policy for the cumulative impact of premises (Shown as Appendix 1 in the licensing policy).

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 the reason is shown why the suggested amendment cannot be included.

Introduction and Background

- 3 Members will recall that this matter appeared before them on 4th January 2011 when the matter was deferred until this meeting in order to allow members to attend a workshop to discuss it more fully. This workshop took place on 18 January and as a result some changes were made to the policy.
4. The Licensing Section was also asked to extend the period of consultation until the 20th January to allow Town and Parish Councils more time to respond. They were advised of this by email.
- 5 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.
- 6 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.
- 7 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.
- 8 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 that: - *'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.

9. "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.
- 10 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, and
 - Include and publish details of special policy in licensing policy statement.
- 11 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.

- 12 Both the Policy and the Cumulative Impact Policy have been extensively consulted upon.
- 13 The chief officer of police for West Mercia has been consulted.
- 14 The chief fire officer for Hereford and Worcester Fire & Rescue Service was consulted along with their policy officer.
- 15 All other responsible authorities have been consulted.

- 16 All premises licence and personal licence holders were written to as part of the consultation process.
- 17 All the elected members were notified of the policy by email with a link to the authority's consultation page. A hard copy was then supplied for the members' room at Brockington. A Workshop was also delivered by officers on 18 January 2011 for members so that the consultation could be as full and meaningful as possible. This was well attended and comments were taken on board (See Appendix C).
- 18 All parish councils and town councils were notified of the policy consultation and the consultation time period extended at the behest of members on the 4 January Regulatory meeting.
- 19 NHS Herefordshire have been consulted.
- 20 All comments received were collated and where appropriate changes were made to the licensing policy.

Community Impact

- 21 The policy may impact on the Community.

Appendices

- 22
 - a. Statement of Licensing Policy
 - b. Consultation response
 - c. Amendments made to consulted policy following the 18 January workshop with members

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.