

<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>5 JULY 2011</b>
<b>TITLE OF REPORT:</b>	<b>MINOR AMENDMENTS TO THE LICENSING POLICY – LICENSING ACT 2003</b>
<b>PORTFOLIO AREA:</b>	<b>HEALTH &amp; WELLBEING SERVICE PEOPLE'S SERVICE DIRECTORATE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Countywide

### **Purpose**

To make minor amendments to the Herefordshire Council licensing policy in respect of carrying out its functions under the Licensing Act 2003. (Attached as Appendix 1).

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

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

### **Key Points Summary**

- The amendments are the subject of public consultation

### **Options**

- 1 a. Adopt the amendments as presented (subject to no adverse comment on the consultation)  
b. Refuse to adopt the amendments as presented  
c. Adopt the amendments (subject to no adverse comment on the consultation) but with amendments  
d. Reach some other decision

### **Reasons for Recommendations**

- 2 The minor amendments will ensure that the Licensing Authority fulfils its requirements under the licensing act by complying with a number of recent stated cases in respect of conditions.

## 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 current statement of licensing policy had effect from 1<sup>st</sup> February 2011.
- 5 Section 5(4) of the Act states that:

During each three year period, a licensing authority must keep its policy under review and make such revisions to it, at such times, as it considers appropriate.
- 6 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.
- 7 There have been a number of recent stated cases which have looked at the issue of conditions being attached to licences. The Secretary of State's Guidance issued under Section 182 of the Act for licensing authorities on the discharge of their functions under the Act has now been amended to reflective these cases. This guidance states that conditions should be: -
  - necessary for the promotion of the licensing objectives

- enforceable
- unequivocal/unambiguous
- proportionate and
- do not duplicate other statutory provisions

- 8 As a result of this a 'Pool of Model Conditions' has now been drawn up to assist applicants when making application (although this will not form part of the policy, as it is likely to be regular updated).
- 9 Whilst the consultation is not complete, due to the nature of the proposed changes it is felt that no adverse comment will be received.
- 10 The committee are therefore asked to consider the matter with a view to agreeing it, subject to their being no adverse comments from the consultation, bearing in mind that the matter could not come before the committee again until 4<sup>th</sup> October 2011.

## **Consultation.**

- 11 The amendments are the subject of consultation at the moment.
- 12 The chief officer of police for West Mercia has been consulted and fully supports the amendments.
- 13 All other consultees as listed at 6 above are currently being consulted.
- 14 All the elected members were notified of the amendments by email with a link to the authority's consultation page.
- 15 All parish councils and town councils were notified of the amendment consultation.

## **Community Impact**

- 16 The policy may impact on the Community.

## **Appendices**

- 17 a. Amendments to Licensing 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.**