

**TELFORD & WREKIN COUNCIL**

**LICENSING COMMITTEE – 18TH NOVEMBER 2009  
COUNCIL – 26TH NOVEMBER 2009**

**REVIEW OF STATEMENT OF LICENSING POLICY – LICENSING ACT 2003.**

**REPORT OF THE: BUSINESS MANAGER – PUBLIC PROTECTION, ADULTS & COMMUNITY WELL BEING**

**1. Purpose**

- 1.1 Following consultation, to present for information a revised Statement of Licensing Policy for the Borough of Telford & Wrekin under the Licensing Act 2003.

**2. Recommendations**

- 2.1 That Council is recommended to approve the revised Statement of Licensing Policy for the Licensing Act 2003 for the Borough of Telford & Wrekin.

**3. Summary**

- 3.1 The Licensing Act 2003 requires the Licensing Authority to review, consult, determine and publish a Statement of Licensing Policy every three years detailing how it will exercise its licensing functions under the 2003 Act.
- 3.2 The first Statement of Licensing Policy issued by this Licensing Authority came into effect on 7<sup>th</sup> January 2005. The first statutory review of licence resulted in the approval of the second Statement of Licensing Policy which came into effect from 7<sup>th</sup> January 2008 after approval of full Council on 29<sup>th</sup> November 2007. The revised Statement of Licensing Policy, which is the subject of this Report, will need to be approved and republished to take effect from January 2010.

**4. Previous Minutes**

- 4.1 Minute 49. Full Council Meeting. 23<sup>rd</sup> November 2004.

## 5. Information

### 5.1 Background

- 5.1.1 The Licensing Act 2003 transferred responsibility for issuing permissions in respect of licensed premises from the Courts to Local Authorities in the guise of Licensing Authorities. At the time of drafting this Report and since the First Appointed Day on 7<sup>th</sup> February 2005, the Licensing Authority for the Borough of Telford & Wrekin has issued 599 premises licences and 1074 personal licences.
- 5.1.2 A particular feature of the legislation is that Licensing Authorities are required under s.5 of the 2003 Act to review, consult, determine and publish their Statement of Licensing Policy every three years. The first Statement of Licensing Policy issued by this Licensing Authority was approved by Full Council on 23<sup>rd</sup> November 2004 and took effect on 7<sup>th</sup> January 2005. This was then reviewed and the last version took effect on in January 2008. A copy of this Statement of Licensing Policy is attached at **Appendix A** for reference.
- 5.1.3 To assist Licensing Authorities in the drafting of a revised Statement of Licensing Policy, the Department for Media, Culture and Sport (DCMS) has issued Guidance under s.182 Licensing Act 2003. The most recent version of the guidance has been followed when reviewing the policy document.
- 5.1.4 There were two consultations to this policy. The first commenced on 14<sup>th</sup> November 2008 and ran for 12 weeks. Conscientious consideration was given to all relevant responses (detailed at **Appendix B**), as far as was possible within the remit of the Licensing Act 2003. The responses to the first consultation shaped the revised document which went out to consultation from 25<sup>th</sup> June 2009 to 13<sup>th</sup> October 2009. The responses were combined with legal interpretation, case law and information from staff who have been working in the Licensing Service, since the implementation of the Licensing Act 2003.
- 5.1.5 Sections were added to the policy on busking, the licensing of public spaces, lotteries, tombola etc, which are the subject of frequent queries to the Licensing Service. It is anticipated that this will reduce the administrative burden on the authority of advising over the telephone on such queries, and allow officers to devote more time to work that will add to more customer value focussed activities. The policy has been revised to ensure the document is more user-friendly for applicants, officers, responsible authorities and the public.
- 5.1.6 A benchmarking exercise was carried out with members of the family group of comparable geographic and economic councils prior to the formulation of this amended policy. The initial consultation was brought about at the request of the Regulation and Resilience Manager who identified a review necessary on the following grounds:

- a) It failed to take account of the Council's new Alcohol Harm Reduction Strategy as agreed by members. This point has now been incorporated into the new policy at page 9.
- b) It failed to make reference to other possible alcohol control measures such as 'Alcohol Free Zones' and 'Alcohol Disorder Zones'.

Alcohol Free Zones (or Designated Public Places) are not a matter for licensing and are delegated to other local authority officers under The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 that implement **Section 13 of the Criminal Justice and Police Act 2001**.

Alcohol Disorder Zones are also not a matter for licensing and are delegated to other local authority officers under **The Local Authorities (Alcohol Disorder Zones) Regulations 2008** which implement **Chapter 2 of Part 1 of the Violent Crime Reduction Act 2006**.

It would be misleading to detail these measures in this policy as these are not addressed by the Licensing Act 2003. However reference to other powers under additional legislation and reference to the Safer and Stronger Communities Partnership are detailed at page 8 of the revised policy.

- c) That the section on integrating strategies should take a more holistic approach to linking all of the Equality strand relating to Age, Gender, Disability, Sexual orientation, and religion (as well as to Race).

The section has been amended and is detailed at pages 10 and 11 of the revised policy.

- d) Integration of the development of the Night Time Economy into in the Policy.

This has been amended and is detailed at page 6 and 8 of the revised policy.

- e) The statement that the Council will not impose conditions that 'restrict lawful competition' should be reviewed in relation to certain lawful yet ill considered practices.

This section remains in the policy as it is in accordance with the Department of Culture, Media and Sport Guidance issued under Section 182 of the Licensing Act at 10.38. However, it has been amended to advise that the statement is made in accordance with this guidance.

- f) The development of the Council's own set of 'pick and mix' licence conditions to reflect the individual nature of the borough's economy is to be encouraged.

This has not been implemented as the Act and the DCMS guidance (see above) is clear that a Licensing Authority can only impose

conditions on a licence when its discretion has been engaged further to the receipt of relevant representations and that it has been considered necessary to promote one or more of the licensing objective, at a hearing of a Licensing Sub-Committee.

However, the pool of conditions (Annex D-H) provided by the DCMS in their guidance, relating to the four licensing objectives, have been replicated at the end of the Statement of Licensing Policy, in an attempt to offer guidance. These are also replicated in premises licence application and variation packs. It is recognised that this is not an exhaustive list and could be used where necessary and appropriate to the individual circumstances of a licensed premises. It is also noted that they should not be applied universally and treated as standard conditions irrespective of circumstances.

- 5.1.7 Prior to the commencement of the second consultation, mindful of the DCMS Guidance issued under s.182 Licensing Act 2003, the policy was amended significantly. All amendments are highlighted in blue on the revised policy document at **Appendix C**.
- 5.1.8 Section 5 Licensing Act 2003 requires the Licensing Authority to consult with the Police and Fire Authority for the district together with persons that the Licensing Authority considers to be representative of holders of existing licences, registered clubs and those who represent businesses and residents in its area. In addition to the statutory consultees, the Licensing Authority has also written to all premises licence holders in the area inviting representations. The revised Statement of Licensing Policy has also been made available at Council Offices and local libraries and a copy has also been posted on the Council's website similarly inviting representations. A full list of those consulted as part of the review of the Statement of Licensing Policy is listed in the appendices of the revised policy document, and the letter to consultees and response form is attached to this report at **Appendix E**.
- 5.1.9 **The revised Statement of Licensing Policy has taken account of representations made by the consultees.** The first consultation resulted in 28 responses from a mix of premises licence holders, responsible authorities, town and parish councils and individual residents of Telford & Wrekin. The comments were given full consideration and shaped the revised policy that went to second consultation.
- 5.1.10 Further to the second consultation the comments and responses were collated and considered and the relevant document is attached at **Appendix D**. Any amendments that could be made within the constraints of the Licensing Act 2003 have been duly made and are highlighted in red on the revised document (**Appendix C**).
- 5.1.11 The revised Statement of Licensing Policy for consideration and approval is attached to this Report at **Appendix C**. The Statement of Licensing Policy also includes the model pool of conditions to be

attached to licences taken from the DCMS Guidance issued under s.182 Licensing Act 2003 (Annexes D-H).

## **5.2 Equal Opportunities**

5.2.1 As described in the revised Statement of Licensing Policy and as part of the consultation process, a wide range of organisations, bodies and individuals concerned with liquor licensing and regulated entertainment were approached or had the opportunity to make their views known in relation to the revised Statement.

5.2.1 Equalities Impact Assessments have been carried out both pre and post consultation. Monitoring forms have been completed and collated so that we are aware of the customer equality base profile and can prove that no one group is disproportionately affected by the policy

5.2.2 The legislation is designed through the promotion of the licensing objectives to take account of the interests of local residents and businesses and the protection of children from harm in determining any application.

## **5.3 Environmental Impact**

5.3.1 Not applicable for the purposes of this Report.

## **5.4 Legal Comment**

5.4.1 Section 5 (1) of the Licensing Act 2003 requires a licensing authority for each 3 year period to determine its statement of licensing policy with respect to the exercise of its licensing functions and to publish a statement of that policy before the beginning of that period.

5.4.2 Section 5 (4) of the Licensing Act 2003 states that during each 3 year period that a licensing authority must keep its policy under review and make such revisions to it as it considers appropriate. Where revisions are made the licensing authority must publish the revised licensing statement.

## **5.5 Links with Corporate Priorities**

5.5.1 This report has links to the shared Vision of the Council and Telford & Wrekin Partnership for the community we serve which is that of a successful, prosperous and healthy community which offers a good quality of life for all the people of Telford & Wrekin. The Statement of Licensing Policy aims to encourage and assist licence holders in delivering their businesses without it being detrimental to the people who live in our community and therefore has links to the following community priorities.

- Maintaining a High Quality, Attractive and Sustainable Environment
- Giving Children & Young People the Best Possible Start in their lives

- Strengthening the Local Economy & the Skills of Local People
- Promoting Healthy Communities and Improving the Quality of Life of Vulnerable and Older People
- Creating a Safe, Strong and Cohesive Communities
- An Efficient, Effective and Customer-Focused Council that delivers Value-For-Money for the Community
- It links to transforming Telford & Wrekin through the development of leisure and cultural facilities and the revitalising of the Borough's towns.

## **5.6 Financial Comment**

5.6.1 There are no financial implications arising from the revised policy. It may lead to a reduction in time spent by officers in answering telephone queries and this will be utilised in other licensing work. The revisions to the policy do not impact on the level of fee income generated.

## **5.7 Risks and Opportunities**

5.7.1 In proposing the decision to be made concerning the review of the Statement of Licensing Policy under the Licensing Act 2003, the Corporate Risk Management Methodology has been complied with. This approach is not intended to eliminate risks but to identify the risks and manage them. However, not all risks can be managed all of the time and some risks may not have been identified.

5.7.2 The following key risks and opportunities associated with this decision is a failure to publish the Statement of Licensing Policy and in a form that is too prescriptive or significantly deviates from Guidance issued under s.182 Licensing Act 2003 could give rise to challenge by way of judicial review. Having identified this risk, processes and procedures have been put in place to ensure that the review of the Statement of Licensing Policy is carried out in a manner and within a timescale that should minimise such a risk so far as possible.

## **6. Ward Implication**

6.1 Borough Wide Implications

## **7. Background Papers**

7.1 Licensing Act 2003

7.2 DCMS. Guidance issued under s.182 Licensing Act 2003.

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<b>Appendices Contents</b>	
<b>Appendix A</b>	Copy of the current Statement of Licensing Policy that was approved by full Council on 29 <sup>th</sup> November 2007 and came into force on 7 <sup>th</sup> January 2008.
<b>Appendix B</b>	Consideration of responses table relating to the first consultation (Nov 08 – Feb 09)
<b>Appendix C</b>	Revised version of the Statement of Licensing Policy incorporating the responses from both consultations.
<b>Appendix D</b>	Consideration of responses table relating to the second consultation (Jun 09 – Sept 09)
<b>Appendix E</b>	List of consultees and copies of letter/Proforma and monitoring form.