

SUBJECT:	Licensing Act 2003 Policy Review 2017 Consultation Outcome
REPORT OF:	Interim Director of Services – Anita Cacchioli
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WARD/S AFFECTED	All

1. Purpose of Report

1.1 To advise members of the outcome of the consultation on the revised draft Licensing Act 2003 Policy Statement (“the draft Policy”) and for members to consider the responses received so that the draft Policy can be recommended to Full Council for adoption.

1.2 RECOMMENDATION

1.3 It is recommended that

- i) the responses to the consultation in Appendix 2 be considered by members.
- ii) the draft Policy attached at Appendix 1 be recommended for adoption with or without modification by Full Council.
- iii) Members note that it is intended to report to Council on 17th October 2017 recommending the adoption of the final draft Policy with effect from 13th November 2017.

2. Reasons for Recommendations

2.1 It is important that the consultation responses are given consideration by members and the draft policy be amended if appropriate in light of those responses before recommending the draft Policy to Full Council for adoption. .

2.2 The Council has a statutory responsibility to ensure that the Licensing Act Statement of Policy is reviewed at least every 5 years. For the draft Policy to be adopted within this statutory timescale, a report recommending its adoption must go to the meeting of the Council on 17th October.

3. Background

3.1 Following the Licensing & Regulatory Committee meeting on 30th March 2017 and consultation with the Chairman, the draft Policy was subject to an eight week consultation.

3.2 The Guidance issued under section 182 of the Licensing Act 2003 (“the 2003 Act”) states that before determining its policy for any five year period, the Licensing Authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- the Chief Officer of Police for the area;
- the Fire and Rescue authority for the area;
- each Primary Care Trust or Local Health Board for an area any part of which is in the licensing authority’s area
- persons/bodies representative of local holders of premises licences;
- persons/bodies representative of local holders of club premises certificates;

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- persons/bodies representative of local holders of personal licences; and
 - persons/bodies representative of businesses and residents in its area.

3.3 The Council has consulted with all of the above named consultees and the Town and Parish Councils have also been consulted. The draft policy was publicised on the Council's website, and via the Council's social media accounts.

4. Discussion

4.1 There were 3 responses received to the consultation, attached in Appendix 2. One was a positive response from The British Beer & Pub Association and was entirely in support of the draft Policy. The other 2 responses were from local councillors and related to the same issue – the notification of local residents when a licensing application is submitted to the Council regarding premises in their area. Some local authorities do this, and it is often referred to as 'Neighbour Notification'.

4.2 Some examples of Neighbour Notification policies are attached in Appendix 3. In Buckinghamshire, South Bucks District Council does notify close neighbours, Aylesbury Vale and Wycombe District Councils do not. It has been difficult to find many examples from slightly further afield, Slough do not have such a policy, and Reading advised that they have moved away from such procedures as they now rely on their website more.

4.3 The legal requirement for publication of a licensing application for a premises licence or club certificate is for copies of the application to be provided to all of the responsible authorities (detailed in Appendix 4), place an advert in the relevant local newspaper, and erect a notice at the premises.

4.4 In addition to this, the Council ensures that all applications received are made available on Public Access, an online register that automatically displays the relevant information once applications are loaded onto the Council's licensing database. It is possible for any person interested in any type of application, for any defined area, to register on the Public Access system to automatically receive notifications of applications. This system is already in place and available, however, it has been difficult to successfully publicise its existence and encourage individuals to sign up.

4.5 The licensing process, in line with many functions of the Council, is supposed to be carried out as transparently as possible. Therefore, in light of the representations received, if members feel that the current publication of an application does not provide sufficient notification for residents who live near to the proposed licensed premises to be likely to be aware of an application, it may be considered appropriate to introduce Neighbour Notification. Hard copy posted notifications posted through the relevant doors is the most likely way to guarantee that local residents are aware of applications. Officers are required to attend the address of premises where applications are made to ensure that the required notice is displayed, so any additional notifications could be posted at this time to minimise the impact of the additional work connected to the application.

4.6 The Licensing team has previously sought to encourage sign ups to the Public Access system, particularly by town and parish councils through their clerks, with limited success. As town and parish councils are not responsible authorities under the Licensing Act, they are not notified as part of the formal process when an application is being made (applicants are responsible for ensuring that responsible authorities are provided with a full application).

4.7 In an effort to encourage much wider signup to Public Access, the Licensing team is currently undertaking a project to get as many of the town and parish councils signed up as possible. The outline of the approach that is planned is: To develop the existing guidance that is available to instruct individuals how to go about signing up and registering for updates (picking up on common issues that may cause difficulties), circulating this to the clerks, and following this up with tailored 1-1

support where required. The Town and Parish Councils will also be notified of applications in their areas by email with a link provided to Public Access for more information.

4.8 Whilst the project described in para 4.6 is only aimed at parish and town councils at the moment, it is hoped that once this is delivered successfully, this can be communicated widely, with the help of those councils and the Council's own communication tools to encourage wider sign up by residents, and guidance documents developed during the project will be made available on the website. Further information on this project is available from the Licensing Manager.

4.9 Following consideration of the information in this report, Members will need to consider whether more should be done to notify residents, taking into consideration the work that is currently taking place to improve this, and the associated implications with the options available:

Option 1 - decide not to include a Neighbour Notification Policy within the Licensing Policy.

Option 2 – decide that a Neighbourhood Notification Policy should be included the Licensing Policy

4.10 Option 1 is recommended, as the Council already does more than is legally required, and is doing more to promote the systems that it has in place which is a cost effective way of publicising applications. However, if Members are minded to include a requirement for Neighbour Notification in the draft Policy, it is recommended that the Neighbourhood Notification follow the Bracknell Forest Borough Council wording in Appendix 3, which has been tried and tested, and the draft Policy be amended by adding reference thereto between paragraphs 4.3 and 4.4 (with required amendments to numbering being made).

5. Corporate Implications

5.1 Legal

The 5 year review of the Statement of Licensing Policy is a statutory requirement under the 2003 Act.

Increasing the amount of consultation led by the Council, could lead to challenge by applicants via appeal or judicial review if it is considered that the Council has solicited representations. However, neighbour notification is common around the country, and so long as any information provided in the consultation is neutral it is considered that there is a low risk of a successful challenge.

5.2 Financial

Increasing the level of consultation that takes place by the Council will increase the cost of determining an application made under the 2003 Act, and may lead to an increase in the need for licensing sub-committees if it is the case as reported by respondents that residents are not currently becoming aware of the applications and therefore do not submit representations objecting to an application. However, this may lead to reduced costs of monitoring the licence once granted as a result of improved conditions on licences, and potentially less likelihood of complaints from residents if their concerns are addressed during the application process.

5.3 Equality Act 2010

An Equalities Impact Assessment (EIA), in accordance with the requirements of the Equality Act 2010, has been undertaken in connection with the review of the Licensing Policy Statement. The EIA undertaken, a copy of which can be viewed by contacting the Licensing Team, did not identify any adverse equality issues and as a result no further action or mitigation is considered appropriate.

6. Links to Council Policy Objectives

6.1 The publication of an effective Statement of Licensing policy links to all 3 of the Council’s headline objectives:

1. Delivering cost- effective, customer- focused services
2. Working towards safe and healthier local communities
3. Striving to conserve the environment and promote sustainability.

7. Next Steps

The next steps will be as stated in the recommendations.

Background Papers:	
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