



LICENSING COMMITTEE – 24TH SEPTEMBER 2015

SUBJECT: LICENSING ACT 2003 – REVIEW OF STATEMENT OF LICENSING POLICY

REPORT BY: CORPORATE DIRECTOR, SOCIAL SERVICES

1. PURPOSE OF REPORT

- 1.1 To inform Members of the necessity to review the Statement of Licensing Policy and the result of consultations carried out. The report is seeking the views of Members prior to its presentation to Council.

2. SUMMARY

- 2.1 The Licensing Act came into force on 7 February 2005, and requires the Authority to publish a Statement of Licensing Policy to determine how applications would be considered. The Authority is required to review the statement every five years.
- 2.2 The current Policy was published in January 2011. The Council must, therefore, review the current Policy and, based upon the results of consultation undertaken, approve a revised Policy for publication in January 2016.

3. LINKS TO STRATEGY

- 3.1 The Statement of Licensing Policy contributes to the Prosperous, Healthier, and Safer Caerphilly Priorities within the Caerphilly Local Service Board single integrated plan, Caerphilly Delivers and also contributes to a number Objectives under the Council's Strategic Equality Plan 2012.

4. THE REPORT

The Licensing Act 2003

- 4.1 In accordance with the above Act, the Council, as Licensing Authority, is responsible for issuing licences and certificates for the supply of alcohol, entertainment, late night food and other licensable activities. The Council has a duty to prepare and publish a Statement of Licensing Policy, having firstly consulted a wide range of bodies and individuals and to review it every five years.
- 4.2 The Authority has conducted a review of the Policy and consulted with relevant bodies. In addition, residents and businesses throughout the Caerphilly Borough have been invited to comment by means of public advertisements placed in local newspapers and by accessing the Council's website.

- 4.3 When preparing the revised Statement of Licensing Policy, the Council, in accordance with Section 182 of the Act, must have regard to the Guidance issued by the Home Office who hold responsibility for the Licensing Act 2003. Revised Guidance was issued in March 2015 and, where appropriate, this has been reflected in the Council's revised Policy. There have also been a number of legislative changes that have a direct effect on the Policy.
- 4.4 The format of the Statement of Policy has been reviewed and rearranged to improve ease of reference and provide greater continuity. The context of the Policy remains unchanged other than those amendments changes arising from legislative changes, additional information and the inclusion of a reference document with regard to conditions.
- 4.4.1 The relevant section of the policy which addresses Equalities issues has been updated to reflect the introduction of the Welsh Language (Wales) Measures 2011.
- 4.4.2 Legislative changes and the effect on the Licensing Act 2003 are set out in Annex 5 (page 40) to the policy. The Deregulation Act 2015 introduces a change in respect of the number of temporary events that may be held in a year from 12 to 15 with effect from 1 January 2016.
- 4.4.3 Integrating Strategies. A number of statutory controls, which have an effect on the Licensing function, are set out in the revised policy at point 4.1.1 to 4.1.5. Attention is drawn to point 4.1.2 as the Anti-Social Behaviour, Crime and Policing Act 2014 has been implemented since the current policy was published. The Act provides powers to the Police and Local Authority to immediately close licensed premises, which are a source of anti-social behaviour in the community. This power has recently been exercised by Gwent Police.
- 4.4.4 Welsh Health Survey 2014. The Police Reform and Social Responsibility Act 2011 added Primary Care trusts and local Health Boards as a responsible authority and as such they were consulted. Information was provided on 'Indicators of Public Health' and relevant data in respect of alcohol misuse at points 13.11 to 13.13 of the revised policy.
- 4.4.5 Pools of Conditions. Conditions attached to licences or club premises certificates should be tailored to individual premises and standard or blanket conditions may not be applied. As a consequence the Licensing Officers developed a pool of conditions to assist applicants and Responsible Authorities when drawing up and considering applications for premises licences. Use of the pools of conditions assists in attaching enforceable and consistent conditions, the conditions are attached as Annex 6 to the revised policy. At the time of writing this report the Institute of Licensing are consulting Local Authorities and leading Licensing Experts on proposed nationally agreed pools of conditions.
- 4.5 The revised policy does not include references to the following issues addressed in the current policy:
- 4.5.1 Vicinity. Prior to September 2011 representations from residents or businesses could only be taken into account if the resident or business was in the vicinity of the application venue. The Police Reform and Social Responsibility Act 2011 removed this consideration when determining the relevancy of representations.
- 4.5.2 Implementing the Determination of the Magistrates Court has not been addressed in the revised policy as such determinations cannot be affected or altered by policy.
- 4.6 Attached as Appendix 1 to this report is the revised Statement of Licensing Policy. The Policy will also be presented to Council in November, with a view to the document being finally approved in readiness for publishing in January 2016.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications.

6. PERSONNEL IMPLICATIONS

6.1 There are no personnel implications.

7. CONSULTATIONS

7.1 Details of consultees on the amended policy are listed on page 33 of the attached policy document. Comments received from the bodies or individuals consulted, in particular the Responsible Authorities have been considered and, where necessary, amendments or inclusions have been made. No responses have been received from external consultees as a result of the formal consultation process.

7.2 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

8. RECOMMENDATIONS

8.1 That Members review the revised Statement of Licensing Policy offering appropriate comments prior to presentation of this Report to Council for approval.

9. REASONS FOR THE RECOMMENDATIONS

9.1 In order to give effect to the statutory obligations imposed by the Licensing Act 2003 and in Regulations made under the Act.

10. STATUTORY POWER

10.1 Licensing Act 2003 and any Regulations made under the Act. The decision is the responsibility of the full Council.

Author: Myra McSherry, Licensing Manager
Consultees: Councillor J Bevan, Chair, Licensing and Appeals Committee
Councillor D Preece, Vice Chair, Licensing and Appeals Committee
Councillor Nigel George, Cabinet Member for Community and Leisure Services
Dave Street, Corporate Director, Social Services
Rob Hartshorn, Head of Public Protection
Jacqui Morgan, Trading Standards and Licensing Manager
Gail Williams, Interim Head of Legal Services and Monitoring Officer
Mike Eedy, Finance Manager
Trish Reardon, Employee Service Centre Manager.
David Thomas, Senior Policy Officer (Equalities and Welsh Language)

Background Papers:

Current Licensing Policy

http://www.caerphilly.gov.uk/CaerphillyDocs/Public-protection/licensing_policy.aspx

Licensing Act 2003. Guidance issued under Section 182 of the Licensing Act 2003. Legislation as set out in Appendix 5 of the policy

Appendices:

Appendix 1 Revised Statement of Licensing Policy